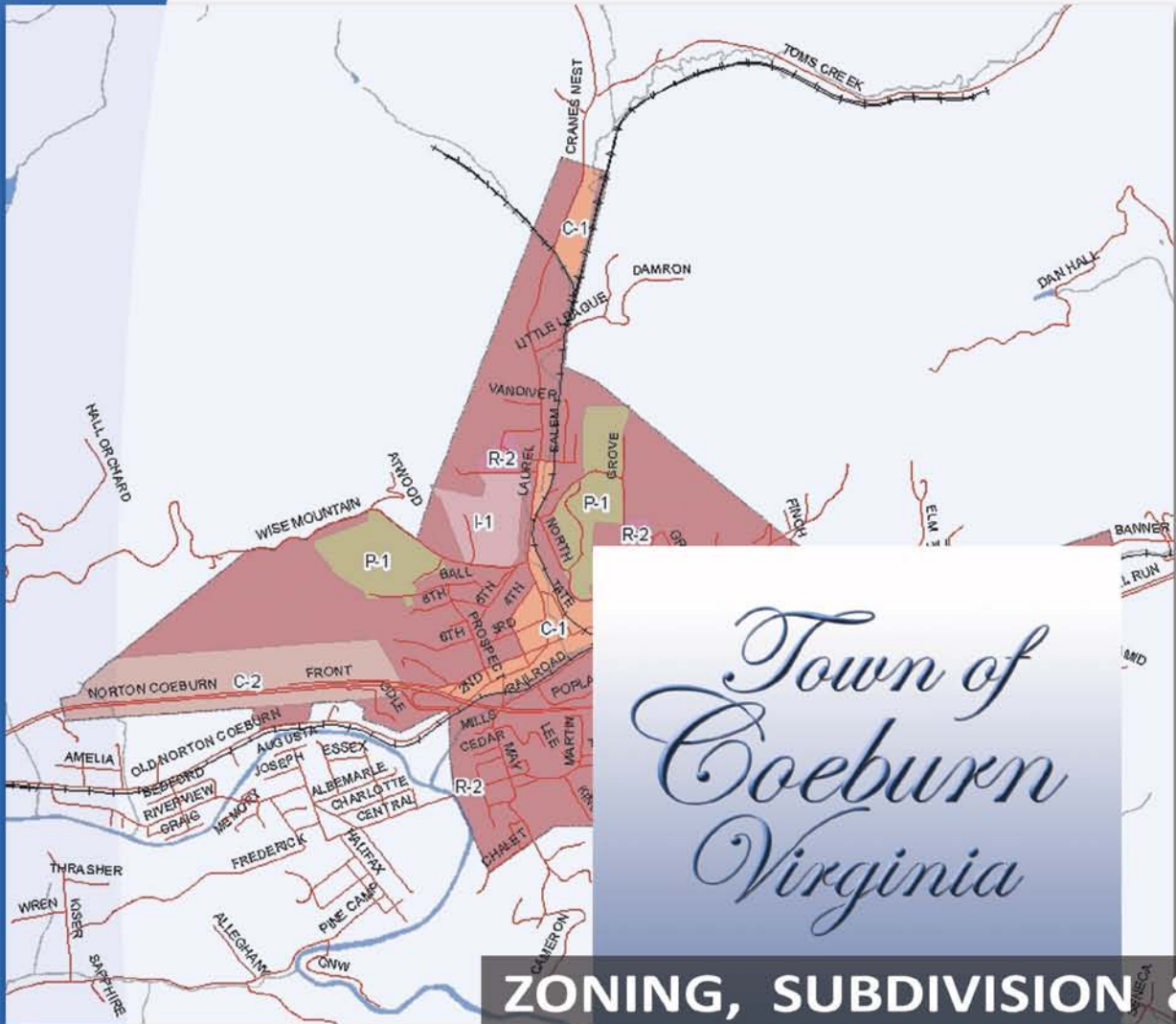


Town of Coeburn Flood Plain Ordinance



*Town of  
Coeburn  
Virginia*

**ZONING, SUBDIVISION &  
FLOODPLAIN ORDINANCE**

*Effective Date March 1986  
Amendments June 15, 2009*

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Carole Boone  
Carles Collins  
Jess Powers

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# Town of Coeburn Zoning

## **ARTICLE I: SECTION 1 IN GENERAL**

### **Statement of general intent.**

Whereas, by act of the General Assembly of Virginia as provided in Section 15.2-2280-2316 Code of Virginia, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purposes of this chapter, and in each district it may regulate, restrict, permit, prohibit and determine the following:

- (1) The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;
- (2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;
- (3) 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;
- (4) The excavation or mining of soil or other natural resources.

Therefore, be it ordained by the Town Council of Coeburn, Virginia, for purposes of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of section 15.2-2283 that the following provisions of this chapter be adopted as the Zoning Ordinance of Coeburn, Virginia. This chapter has been designed:

- (1) To provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- (2) To reduce or prevent congestion in the public streets;

*Town of Coeburn Zoning, Subdivision and Floodplain Ordinances*

- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To 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;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base; and
- (8) To provide for the preservation of agricultural and forest lands and other lands of significance for the protection of the natural environment.

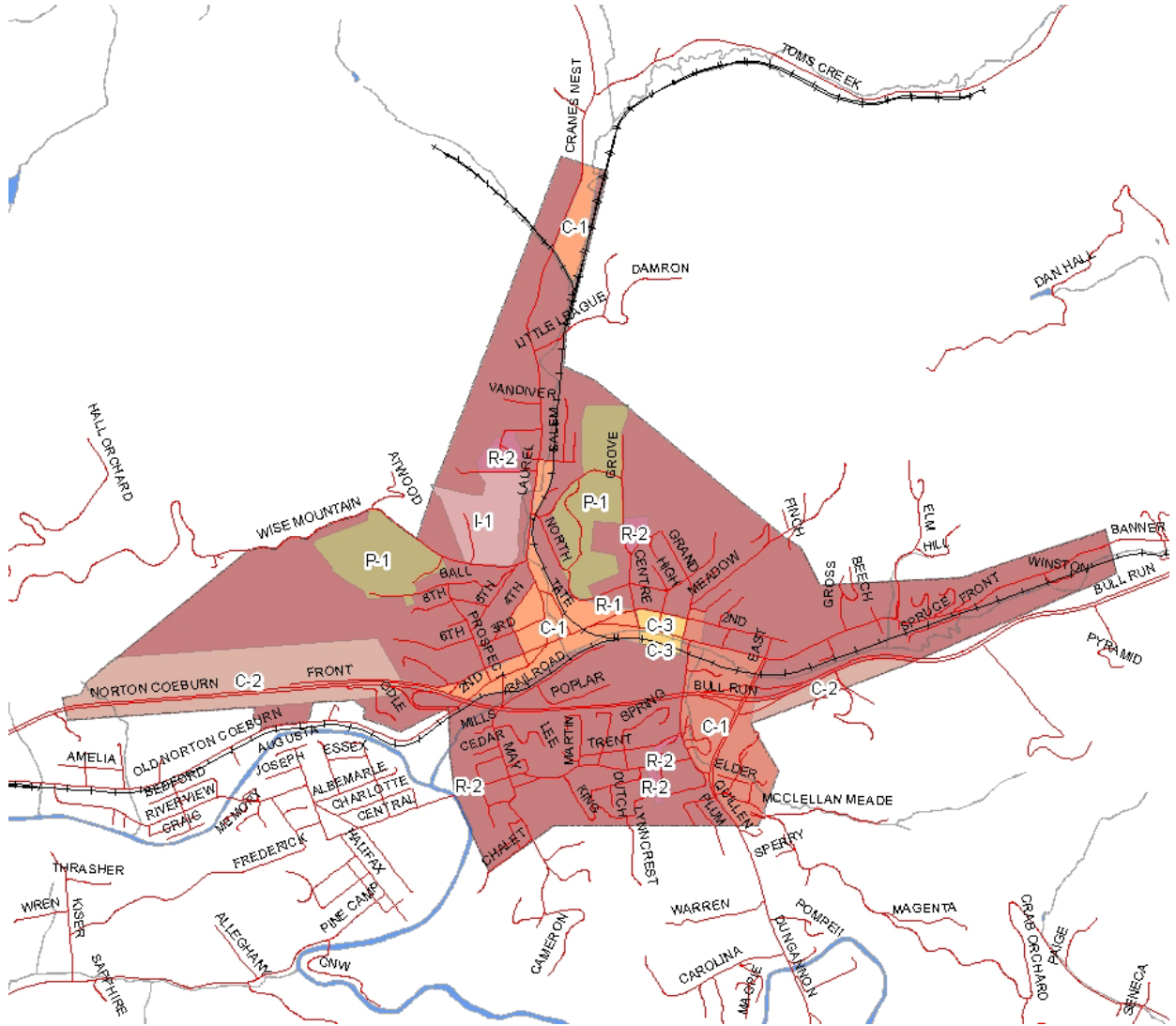
This chapter shall be known as "The Zoning Ordinance of The Town of Coeburn".

**ARTICLE I: SECTION 2  
DISTRICTS**

For the purpose of this chapter, the incorporated area of Coeburn, Virginia, is hereby divided into the following districts:

Residential District	R-1
Manufactured Housing District	R-2
Community Business District	C-1
Travel Business District	C-2
Historic Business District	C-3
Industrial District	I-1
Public Land District	P-1
Floodplain District	(overlay district)

2.1 Zoning Map





**ARTICLE I: SECTION 3  
DEFINITIONS**

For the purpose of this chapter, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

**3.1.1 Accessory building** means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

**3.1.2 Accessory use or structure** means a subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

**Adjusted tract area** means the gross area of the tract less:

- (1) all areas within public and private road rights-of-way;
- (2) 50% of the area of the tract within designated floodplain districts; and
- (3) 50% of the area of the tract exhibiting slopes in excess of twenty percent.

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

**3.1.4 Alley** means a public way which affords only a secondary means of access to abutting property.

**3.1.5 All-weather surface** means concrete, asphalt, macadam, brick, cobblestone or similar surface paving for business, industrial, multifamily residences or townhouse uses, and gravel, crushed rock, concrete, asphalt, macadam, brick or similar surface paving for single and two-family residential uses, which shall constitute an all-weather surface in conjunction with the provisions of this chapter related to driveways and off-street parking.

**3.1.6 Automobile graveyard** means any lot or place which is exposed to the weather, upon which more than five unlicensed, un-inspected and unregistered motor vehicles of any kind are placed.

**3.1.7 Automobile service station** means a building used or intended to be used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles, may include the space and facilities for the installation of such commodities and, in addition, the space for facilities for the storage, minor repair and servicing of such vehicles, but not to include body repair, painting, steam cleaning, rust-proofing and refinishing.

**3.1.8 Basement** means a story having part but not more than one-half 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.



**3.1.9 *Bed and Breakfast*** means a dwelling in which lodging and breakfast meals only are provided to travelers and short-term guests for compensation.

**3.1.10 *Block*** means the property bounded on all sides by one side of a street or a combination of street line, railroad right-of-way, unsubdivided land, river, live stream or any other barrier to the continuity of development.

**3.1.11 *Board*** means the Board of Zoning Appeals of Coeburn, Virginia.

**3.1.12 *Boardinghouse*** means a building in which lodging and meals are provided for up to fourteen persons for compensation.

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

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

**3.1.15 *Cash payment in lieu of open space dedication*** means a cash payment to the Town of Coeburn, specifically accepted and approved by the Town Council, which may be made by a developer in lieu of setting aside required open space in a development. As a condition to acceptance by the Town Council, the Council must find that the in lieu payment is appropriate to the particular circumstances of the development and the payment shall be reasonably related to the alternative cost of the open space. The in lieu payment shall be deposited and kept by the Town in a special escrow account set up especially for open space payments and may only be appropriated on open space and recreation-related projects within the corporate limits of the Town.

**3.1.16 *Cemetery*** means any land or structures used for the interment of human remains.

**3.1.17 *Commission*** means the Planning Commission of Coeburn, Virginia.

**3.1.18 *Conservation area*** means an area of naturally vegetated or landscaped land set aside to serve as a visual and/or recreational amenity within a private development. Such land may include limited paved areas, such as sidewalks, trails, and recreational courts. Such land shall not include streets, parking areas, structures, private yards, or aboveground public facilities, except as may be approved for recreational purposes in a site plan or subdivision plat.

**3.1.19 *Coverage, building*** means the percentage of the total lot area which may be occupied by buildings.

**3.1.20 *Coverage, lot*** means the percentage of the total lot area which may be occupied by impervious and all-weather surfaces.

**3.1.21 *Dairy*** means a commercial establishment for the manufacture and sale of dairy products.

**3.1.22 *Density*** means the maximum number of dwelling units permitted per area of land calculated by dividing the total number of dwelling units by the adjusted tract area.

**3.1.23 *Depth*** means the average horizontal distance between the front and rear lot lines.

**3.1.24 *District*** means districts as referred to in the Code of Virginia, Section 15.2-2280.

**3.1.25 *Dwelling*** means any structure which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses, tourist cabins, apartments and automobile trailers.

**3.1.26 *Dwelling, attached*** means a dwelling having any portion of each of two walls above ground, above grade, in common with adjoining dwellings.

**3.1.27 *Dwelling, detached*** means a dwelling which is entirely freestanding on the same lot.

**3.1.28 *Dwelling, multiple-family*** means a structure arranged or designed to be occupied by more than one family.

**3.1.29 *Dwelling, two-family*** means a dwelling having two dwelling units, one above the other or a dwelling having two units side by side, both using a common exterior entrance.

**3.1.30 *Dwelling, single-family*** means a structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

**3.1.31 *Duplex*** means a residential building with two separate dwelling units, attached above ground, each unit with its own outside entrances.

**3.1.32 *Family*** means one or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, lodging house, bed and breakfast or hotel.

**3.1.33 *Fence*** means a barrier, usually made of posts and wire or boards, intended to prevent escape or intrusion or to mark a boundary. Fences as used in this ordinance may not be made of fragile, readily flammable materials, such as paper, cloth or canvas. Fences as used in this ordinance shall not be constructed into the street right-of-way, and no fence shall be constructed that obstructs motorists' vision at any intersection as determined by the zoning administrator and the state department of highways and transportation. Fences as used in this ordinance shall not exceed a height of eight feet, as measured from the topmost point thereof to the ground or surface along the centerline of the fence in commercial or industrial zones, except fences surrounding public playgrounds, institutions or schools may not exceed a height of fourteen feet.

**3.1.34 *Flaglot*** means a lot without required street frontage connected to the street with a strip of land or easement on which a driveway could be located for access.

**3.1.35 *Flex-Tech*** means a development concept that accommodates aspects of retail, manufacturing, wholesale and warehousing by an individual user within a single structure. Such development is designed to accommodate users that require flexibility in their square footage allocation. A typical flex-tech user would be small business that initially requires a relatively small square footage but may increase the business' square footage as the strength of the business improves.

**3.1.36 *Floor area ratio*** means the ratio of the gross floor area of all buildings, excluding parking structures, to the total area of the lot in square feet.

**3.1.37 *Floorplate*** means the horizontal land area occupied by a building at a finished grade including projections and overhangs.

**3.1.38 *Frontage*** means the minimum lot width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

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

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

**3.1.41 *Height of building*** means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

**3.1.42 *Home occupation*** means an occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and no one is employed other than members of the family residing on the premises, such as professional offices, including medical, dental, legal, engineering and architectural offices, conducted within a dwelling by the occupant.

**3.1.43 *Hotel*** means a building in which lodging is provided to travelers and short-term guests for compensation with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

**3.1.44 *Impervious surface*** means ground surface covered by paving, buildings, or other structures such that natural rain water is unable to penetrate and be absorbed into the soil.

**3.1.45 *Inn*** means an historic building in which lodging is provided to travelers and short-term

guests for compensation, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

**3.1.46 *Junkyard*** means the use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard" as defined in Chapter 304, Acts 1938, Code of Virginia.

**3.1.47 *Kennel*** means a place to house, board, feed, handle or otherwise keep or care for dogs and/or cats for sale or in return for compensation.

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

**3.1.49 *Lot, corner*** means a lot fronting on two or more intersecting streets.

**3.1.50 *Manufacture and/or manufacturing*** means 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.

**3.1.51 *Motel*** means a building with separate outdoor entrances in which lodging is provided to travelers and short-term guests for compensation, without meals, and in which provision is not generally made for cooking in individual rooms or suites.

**3.1.52 *Natural waterway*** means a creek, stream, run, or other annual or perennial waterway identified on United States Geologic Survey, Commonwealth of Virginia, or Town of Coeburn maps.

**3.1.53 *Nonconforming lot*** means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

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

**3.1.55 *Nonconforming structure*** means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**3.1.56 *Off-street parking*** means space provided for vehicular parking outside the dedicated

street right-of-way.

**3.1.57 *Open space*** means lands that are conservation areas, cemeteries, or public parks.

**3.1.58 *Parking space*** means a designated area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits, and being fully accessible for the storage or parking of permitted vehicles.

**3.1.59 *Personal service establishment*** means a shop in which the principal business is the delivery of personal services directly to its customer, such as a barber shop, stylist or hairdresser, beauty shop in which makeup is applied and similar services.

**3.1.60 *Professional office*** means a structure designed for use by a person or persons in offering a service which requires specialized knowledge gained by intensive academic preparation such as medicine, law, engineering, dentistry and other like endeavors, which are licensed as professional by the Commonwealth of Virginia.

**3.1.61 *Public water and sewer systems*** mean a water or sewer system owned and operated by a municipality or county, or a Sanitation Authority.

**3.1.62 *Public park*** means land owned by the Town of Coeburn that is open to the public and is maintained in a natural or wooded condition and/or is developed into public recreational uses, not including streets.

**3.1.63 *Restaurant*** means any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops and refreshment stands which are not temporary (i.e. less than seven days in operation per year).

**3.1.64 *Restoration, beginning of*** means the clearing of debris of or from an area, use or structure which has been totally or partially damaged or destroyed.

**3.1.65 *Retail, stores and shops*** means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumberyards), such as the following which will serve as illustration: auto parts store, drugstore, newsstand, food store, candy shop, dry goods and notions store, hardware store, household appliance store, furniture store, florist, optician, music and radio store, barber shop and beauty salon, video stores.

**3.1.66 *Sawmill*** means a sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

**3.1.67 *Setback*** means the minimum distance by which any building or structure must be separated from the front lot line.

**3.1.68 *Shopping center*** means any conglomeration of commercial activities sharing a parcel

of land which is held in single ownership and sharing parking facilities.

**3.1.69 Sign** means any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to or as a part of a structure, surface or any other thing including, but not limited to, the ground, any rock, tree or other natural object, which is visible beyond the boundaries of the parcel of land on which the same is made. This definition specifically does not include structure numbering/street address numbers.

**3.1.70 Sign, business** means a sign which directs attention to a product, commodity or service available on the premises.

**3.1.71 Sign, directional** means a sign (one end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called, four square feet or less in area, giving the name only of the farm or business responsible for the erection of the same.

**3.1.72 Sign, general advertising** means a sign which directs attention to a product, commodity or service not necessarily available on the premises.

**3.1.73 Sign, home occupation** means a sign not exceeding two square feet in area directing attention to a product, commodity or service is clearly a secondary use of the dwelling.

**3.1.74 Sign, structure** means and includes the supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, v-type or otherwise exhibiting a sign.

**3.1.75 Sign, temporary** means a sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions or sale of land. Temporary signs shall conform in size and type to directional signs.

**3.1.76 Special use permit** means a permit issued for uses permitted under conditions as required in this chapter or as deemed necessary by the Town Council after consideration of recommendations to the Planning Commission.

**3.1.77 Specialty shop** means a small shop to serve retail and service needs of the town's residents. Such shops will occupy no more than 2,000 square feet of floor space and will generate a minimum of automobile traffic. Examples of specialty shops include the following: antique shops, artist studios, gallery or frame shops, a small bake shop, special clothing boutiques, gift shops, hobby shops, gourmet or health food shops where merchandise is sold for off-premises use, photo shops and tailor shops. Examples of businesses not intended as specialty shops are those with more regular traffic patterns, such as auto parts stores, newspapers or magazine stores and video stores.

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

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

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

**3.1.81 *Street*** in this zoning ordinance also means a public thoroughfare which affords principal means of access to abutting property.

**3.1.82 *Structural alteration*** means any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams or girders, or any change in the width or number of exits, or any substantial change in the roof.

**3.1.83 *Structure*** means any form or arrangement of building materials above or below ground involving the necessity of providing proper support, bracing, tying, anchoring or other protection against the forces of the elements, including but not limited to buildings, sheds, mobile homes, and site improvements such as roads, utilities, towers, and earthworks.

**3.1.84 *Town*** means the Town of Coeburn, Virginia.

**3.1.85 *Town Council*** means the Town Council of Coeburn, Virginia.

**3.1.86 *Townhouses*** means attached dwelling units attached above ground forming a continuous structure, each being separated by a common or party walls of masonry construction void of openings or means of ingress or egress from the basement to the roof, with individual exterior entrances at grade.

**3.1.87 *Travel trailer*** means a mobile unit less than 29 feet in length and less than 4,500 pounds in weight and designed for human habitation; this does not include a mobile home.

**3.1.88 *Use*** means the specific activity for which land or buildings are designed, arranged, and intended.

**3.1.89 *Variance*** means a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

**3.1.90 *Wetlands*** means areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions, do support a



prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**3.1.91** *Width* means the average horizontal distance between side lot lines.

**3.1.92** *Yard* means an open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein and includes space required in front, side or rear.

**3.1.93** *Yard, front* means an open 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.

**3.1.94** *Yard area, landscaped* means that space on the same zoning lot and contiguous to the principal building or buildings which is either landscaped with shrubs, planted with grass, or developed and maintained for recreational purposes, and excludes that portion of the lot which is utilized for off-street parking purposes.

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

**3.1.96** *Zoning permit* means a permit issued by the zoning administrator to the applicant before the applicant may proceed with any work affected by any provision of this chapter.

## **ARTICLE I: SECTION 4 VIOLATIONS, PENALTY**

**4.1.A** All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter.

**4.1.B** Any person, firm or corporation, whether as principle, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, may be fined not less than \$10.00 nor more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the Court shall order the violator to abate or remedy the violation or abate the Zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, at any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period, punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

**ARTICLE I: SECTION 5  
AMENDMENTS**

**5.1** The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the Town Council provided;

- A. (1) That a public hearing shall be held at which parties in interest and citizens shall have an opportunity to be heard.
- (2) Notices shall be given of the time and place of such hearings by publication in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, following the standards as amended in the Code of Virginia, Sec. 15.2-2204. After enactment of any such plans, ordinance or amendment, further publication shall not be required.
- (3) Changes shall be made by the Town Council in this chapter or the zoning map only after such changes have been referred to the Planning Commission for a report. Action shall be taken by the Town Council only after a report has been received from the Planning Commission, unless a period of ninety days has elapsed after date of referral to the Commission, after which time the Town Council shall assume the Commission has approved the change or amendment.
- (4) Individual property owners may petition the Town Council to have their property rezoned by submitting their request in writing, accompanied by a certified check for the appropriate fee as set forth in the schedule of fees, to the zoning administrator. After proper public hearing, the Planning Commission shall make its recommendation to the Town Council, which will then act upon the applicant's request. If the Planning Commission makes no recommendation within ninety days from the date of referral, the Town Council shall assume that the Commission concurs with the applicant.

**ARTICLE I: SECTION 6  
IMPACT ANALYSIS**

**6.1** A report analyzing the impacts of any rezoning shall be required to be submitted by the applicant with any written petition for rezoning. The Administrator may exempt rezoning petitions from this requirement, if no significant impacts are anticipated. The report shall be prepared as follows:

- (1) The impact analysis shall assume the maximum density or intensity of development allowed under the rezoning classification, unless a lesser density or intensity is proffered in conjunction with a conditional rezoning. The impact analysis may be based on a particular development or site plan only if that plan is proffered as a condition of the rezoning.

- (2) The impact analysis shall include the following:
- (a) A description of the use of surrounding land and the potential economic, physical, visual, nuisance and other impacts of the proposed rezoning/proffered development on those surrounding land uses.
  - (b) The anticipated traffic and circulation impacts of the rezoning/proffered development: entrances, trips generated, changes in area traffic patterns and turning movements, impacts on the capacity and efficiency of existing and planned roads, and any other related matters as requested by the Administrator or VDOT.
  - (c) The proposed methods by which sewer and water facilities will be provided to the site.
  - (d) For residential rezoning, the projected increase in total population.
  - (e) The projected additional demand for schools and facilities, emergency services facilities and other public facilities.
  - (f) Anticipated stormwater impacts and the methods used to reduce these impacts.
  - (g) The location of important environmental features on the site, anticipated environmental impacts, and the methods used to reduce those impacts.

**ARTICLE I: SECTION 7  
CERTIFICATE OF ORDINANCE**

A certified copy of the Zoning Ordinance of Coeburn, Virginia, shall be on file in the Town Office at Coeburn, and in the Office of the Clerk of the Circuit Court of Wise County, Virginia.

## ZONING FEES ORDINANCE

AN ORDINANCE TO ESTABLISH THE VARIOUS FEE SCHEDULES FOR ZONING MATTERS.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF COEBURN, VIRGINIA THAT THE FOLLOWING FEE SCHEDULE FOR ZONING MATTERS, PERMITS AND OTHER ADMINISTRATIVE MATTERS REGARDING ZONING IN THE TOWN OF COEBURN, VIRGINIA IS HEREBY ESTABLISHED AS FOLLOWS:

<b>ZONING PERMIT FEE</b>	\$35
<b>REZONING</b>	
Minor (1 lot) < 1 acre	\$100
2+ lots or > 1 acre	\$100
<b>MASTER DEVELOPMENT PLAN</b>	\$100
<b>SUBDIVISIONS</b>	
Residential Minor (2-4 lots)	\$25/plat + \$1/lot or acre
Residential 5+ lots	\$25/plat + \$1/lot or acre
Non-Residential	\$25/plat + \$1/lot or acre
Boundary Line Adjustment	\$100
Lot Consolidation	\$100
<b>SITE PLANS</b>	
Minor Residential (1 lot)	\$50
Residential 2+lots	\$100
Non-residential	\$100
Special Use Permit	\$100
Variance	\$100
Zoning Certification Letter	\$0
Zoning Determination Letter	\$0
Residential Erosion Control Permit	N/A
Commercial Erosion Control Permit	N/A

## **ARTICLE II. ADMINISTRATIVE PROVISIONS**

### **ARTICLE II: SECTION 1 IN GENERAL**

#### **1.1 Administration**

- (a) This chapter shall be enforced by the Administrator who shall be appointed by the Town Council. The Administrator shall serve at the pleasure of the Town Council. Compensation for such shall be fixed by resolution or salary appropriation by the Town Council.
- (b) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to the effective date of this chapter. However, such construction must commence within thirty days after this chapter becomes effective and be completed within a period of one year after construction is initiated. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which such operation is located.

#### **1.2 Interpretation**

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

1. Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such centerlines or lines at right angles to such centerlines shall be construed to be such boundaries, as the case may be.
2. Where a district boundary is indicated to follow a river, creek or branch or other body of water, such boundary shall be construed to follow the centerline at low water or at the limits of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
3. If no distance, angle or curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on such zoning map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

### **1.3 Special Use Permits**

A special use permit is a permit which the Zoning Administrator may issue upon application only for such special uses as allowed within the terms of this chapter upon which the Town Council specifically acts upon. The granting of a special use permit, when specifically authorized by the terms of this chapter, shall be subject to the following standards and criteria:

- (1) Such use shall be one which is specifically authorized as a special use in the zoning district where the applicant seeks a special use permit.
- (2) Such permits shall only be granted subject to any applicable condition and safeguards as required by this chapter.
- (3) Such permit may be granted subject to additional reasonable conditions and safeguards as may be deemed by the Town Council to be advisable and appropriate.
- (4) Such use shall be found by the Town Council to be in harmony with the general purpose and intent of this chapter.
- (5) Such use shall not adversely affect the character of the zoning district, nor the conservation of property values, neither the health and safety of residents or workers on adjacent properties and in the general neighborhood.
- (6) Such use shall be of such size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
- (7) Such use shall not conflict with any comprehensive plan or portion thereof which has been adopted by the Town Council.
- (8) Applications for special use permits 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 rules adopted by the Town Council. The application and accompanying maps, plans or other information shall be transmitted promptly to the Town Manager who shall place the matter on the agenda. No such special use permits 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 Commission, which shall send a recommendation to the Council or appear as a party at the hearing.

#### **1.4 Zoning Administrator – Generally**

The Zoning Administrator shall be appointed by the governing body to administer and enforce this chapter. The Zoning Administrator may hold any other office within the town.

#### **1.5 Same – Duties and Powers**

It shall be the duty of the Zoning Administrator to enforce the provisions of this chapter and he shall have such duties and powers as are conferred on him by this chapter and as are reasonably implied for that purpose. The Zoning Administrator’s duties shall include, but are not limited to, the following:

- (1) Receive applications for and issue zoning permits and sign permits as permitted by the terms of this chapter.
- (2) Keep an official record of all business and activities including complaints of violation of any of the provisions of this chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection, except the names of the complaining party, which the Zoning Administrator may keep confidential. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as they remain in existence.
- (3) Make inspections as required to fulfill his duties.

#### **1.6 Enforcement**

It shall be the duty of the Zoning Administrator and such deputies as are appointed by him to enforce the provisions of this ordinance and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said ordinance. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him any seeming violation in new construction, reconstruction, or land use.



## **ARTICLE II: SECTION 2 SITE PLANS**

### **REQUIREMENTS**

#### **2.1 Statement of Intent**

The purpose of these requirements is to promote the orderly development of certain activities in the Town and to insure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the site plan shall be used to review the following:

- (1) Compatibility with the environment.
- (2) Ability of the traffic circulation system to provide for the convenient and safe internal movement of vehicles and pedestrians.
- (3) Quantity, quality, utility and type of project.
- (4) Required community facilities.
- (5) Location and adequacy of the project's provision for drainage and utilities.

#### **2.2 A site plan is required:**

- (1) For all buildings, structures or uses as noted in this chapter.
- (2) Where a change of use of an existing structure requires additional parking or other requirements applicable to a new use.

#### **2.3 Waiver of requirements:**

- (1) Any requirement of this division may be waived in writing by the Administrator where the waiver is not adverse to the purpose of this division and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this division or that the requirement is unreasonable.
- (2) The Administrator may waive the requirements for site plan review for additions to buildings, structures and uses if, in his opinion, such addition does not substantially affect the purpose and intent of this division.

## **2.4 Site plan specifications**

Every site plan shall be prepared in accordance with the following specifications:

- (1) The scale shall not be smaller than one inch equals fifty feet.
- (2) All site plans shall be submitted on twenty-four inch by thirty-six inch sheets.
- (3) If the site plan is prepared on more than one sheet, match lines shall clearly indicate where the sheets join.
- (4) Horizontal dimensions shall be in feet and decimals of feet to the closest one-hundredth of a foot.

## **2.5 Site plan contents**

The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture or land surveying shall be prepared by qualified persons and shall be certified by an architect, engineer or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall provide the following:

- (1) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor and/or
- (2) Developer and a signature panel for the Administrator's approval.
- (3) The north point, scale and date.
- (4) Vicinity map at a scale of between one inch equals one foot to one inch equals 4,000 feet. Such map shall show the location of the project in relation to corporate limits and streets in the town.
- (5) Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties.
- (6) The present use of all contiguous or abutting property.
- (7) The boundaries of the property involved by bearings and distances, certified by a land surveyor licensed to practice in the Commonwealth of Virginia.

*Town of Coeburn Zoning, Subdivision and Floodplain Ordinances*

- (8) All existing property lines, existing streets, buildings, watercourses, waterways or lakes and other existing physical features in or adjoining the project. Those physical features such as watercourses, waterways or lakes on adjoining properties need only be shown in approximate scale and proportion.
- (9) Topography of the project area with contour intervals of five feet or less.
- (10) The location and sizes of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities.
- (11) The location of all off-street parking, loading spaces and walkways, indicating: types of surfacing, size and angle of stalls, width of aisles and a specified schedule showing the number of parking spaces.
- (12) The location, height, type and material of all fences, walls, screen planting and landscaping details of all buildings and grounds, and the location, height and character of all outdoor lighting systems.
- (13) The location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general use for each building, and the number, size and type of dwelling units, where applicable.
- (14) Provisions for the adequate disposition of stormwater indicating location, sizes, types and grades of ditches, catch basins and pipes and connection to existing drainage system.
- (15) Provisions and schedule for the adequate control of erosion and sedimentation in accordance with applicable erosion and sedimentation control ordinances and regulations.
- (16) Proposed finished grading by contour, supplemented where necessary by spot elevations.
- (17) The location, character, size, height and orientation of proposed signs.
- (18) The location and dimensions of proposed recreation, open space, and required amenities and improvements, including details of disposition.

- (19) Any necessary notes required by the Administrator to explain the purpose of specific items on the plans.
- (20) To the extent not provided for above, the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and other such information as is also required by the subdivision ordinance.

## **2.6 Improvements and standards**

The following improvements and minimum standards, as applicable, shall be required and provided for in a site development plan:

- (1) All street and highway construction standards shall be in accordance with those specified in this Code.
- (2) The paving of vehicular travel lanes, driveways or alleys designed to permit vehicular travel on the site and to and from adjacent property.
- (3) Cul-de-sacs shall be designed and constructed in accordance with the street standards specified in subdivisions section of this Code, and may not be construed or employed as a parking bay.
- (4) Minimum utility easement width shall be twenty feet.
- (5) All required screening shall be sufficiently dense to screen development effectively from the adjacent properties.

## **2.7 Review and approval of site plan**

- (1) Five copies of the plan shall be submitted to the Administrator. The Administrator shall circulate the plan to the relevant departments, boards and Planning Commission for written comments, and notify the applicant of the action taken, which may be approval, approval subject to conditions, or disapproval.
- (2) Site plans for the Planning Commission shall be submitted to the Administrator at least seven days prior to the next regularly or specially scheduled Planning Commission meeting. The site plan shall be considered approved unless the Planning Commission acts within sixty days from the date of submission of the final site plan.

## **2.8 Site plan termination or extension**

An approved site plan shall expire and become null and void if no building permit has been obtained for the site within twelve months after the approval.

## **2.9 Amendments to approved site plan**

If it becomes necessary for an approved site plan to be changed, the Administrator shall, at the applicant's request, either administratively approve an amendment to the site plan or, if the change is major, require that a new site plan be drawn and submitted for review and action in accordance with this division.

## **2.10 Site plan prerequisites to issuance of permits**

No building permit shall be issued to construct, erect or alter any building or structure or any permit or authorization granted to improve or develop land subject to the provisions of this division, unless a site development plan has been submitted and approved.

## **2.11 Site Plan Review Required for Certain Uses**

For the purposes of assuring careful use of difficult topography and good arrangement, appearance, function, and harmony with surroundings and adjacent uses and the objectives of the Comprehensive Plan, and compliance with the requirements of these regulations, site plans for the following major uses shall be submitted and reviewed in accordance with the requirements and procedures of this Ordinance.

1. Uses permitted by approval as a Conditional Use.
2. Mobile home parks or subdivisions.
3. Multiple-family dwellings.
4. Townhouses or attached two-family dwellings.
5. Churches, temples, and synagogues.
6. Drive-in facilities, all types.
7. Automobile service stations.

8. Hotels, motels, or motor lodges.
9. Shopping centers.
10. Business buildings, office buildings, commercial buildings, or industrial buildings, if such buildings are to contain more than 5,000 square feet of floor area.
11. Any parking lot or parking facility which is to contain more than 10 spaces.
12. All uses which utilize common facilities such as entrances and exits, parking and loading facilities.
13. Any use noted as subject to site plan review.

Unless specifically stated to the contrary, a use noted as subject to site plan review shall be subject to administrative site plan review by the Planning Commission under the provisions of this Ordinance. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of this Ordinance and the requirements of the subdivision regulations.

## **ARTICLE II: SECTION 3 ZONING PERMITS**

### **3.1 Permits**

No building shall be erected, constructed, altered, moved, converted, extended, or enlarged, without the owner or owners first having obtained a building permit. Such permit shall require conformity with the provisions of this Ordinance.

No mobile home or trailer or modular home for any purpose shall be placed for occupancy at any location outside a mobile home park without the owner or owners first having obtained a placement permit therefore from the Administrator. Separate permits shall not be required for each mobile home as authorized in an approved mobile home park or as authorized within the limits of a mobile home park as established prior to the enactment of applicable zoning regulations.

No building permit by the Administrator or other authorized official, lawfully issued prior to the effective date of this Ordinance, or of any amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of this Ordinance, or any such amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and ordinances, rules, and regulations pertaining thereto, and in

effect at the time of the issuance of such permit; provided, that all such permits shall expire not later than six months from the effective date of this Ordinance, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

### **3.2 Plans to Accompany Applications for Permits**

All applications for building permits shall be accompanied by a drawing or plan in duplicate or as required by the Administrator showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary and required in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans. The buildings, including drawings shall contain suitable notations indicating the proposed use of all land and buildings, including the number of families or dwelling units or rental units proposed. A careful record of the original copy of such applications and plans shall be kept in the offices of the Administrator and a duplicate copy shall be kept at the building at all times during construction. In a particular case, the Administrator may waive the requirement for plans when such plan is clearly unnecessary to a decision or the record on the case.

### **3.3 Site Plan Review – Procedures Generally**

Where certain uses require review and approval of site plans meeting the requirements of this Ordinance, the procedure for processing site plans varies depending on the agency assigned responsibility for preliminary and final approval as follows:

1. Administrative Site Plan Review to be conducted by the Planning Commission with preliminary and final approval by the Commission. Unless specifically stated to the contrary, administrative site plan review is intended. An appeal from the Commission's decision may be taken to the Town Council, in which case the decision of the Town Council would be final. Site plans in this category are generally for uses having a more limited area of impact or uses where the basic policy decision regarding general appropriateness of the use has been made by the terms of the district regulations and the remaining responsibility is to insure careful design and compatibility with neighboring conditions in accordance with the terms of the Ordinance.
2. Site Plan Approval by the Town Council after Report by the Planning Commission. These site plans generally cover uses having impact on a substantial area, public and semi-public uses generally covered in the Comprehensive Plan, and uses the appropriateness of which involves a major planning policy decision. Such uses include those listed as conditional uses.

In all cases the review begins with the Administrator. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of this Article and the requirements of the subdivision regulations. Generally, approval is required first for



preliminary plans followed by approval of final plans which agree with approved preliminary plans and conditions attached thereto. Where a project is large enough that accomplishment by stages is appropriate the site plan will generally be subject to preliminary and final approval with plans in three forms: 1) general site plan for the overall project, which is called an overall project design; 2) detailed site plans for development units or stages as they are to be developed; 3) detailed engineering drawings for development units or parts thereof as they are to be developed. An overall project design would include generally the same items as specified for preliminary site plans but with detail modified as appropriate to the scale of the project.

### **3.4 Requirements for Site Plans, Content and Form Preliminary Site Plans**

The preliminary site plans shall be clearly drawn to scale as specified below and shall show the following:

1. The proposed title of the project, owner or owners of the land, and name of the engineer, architect, designer, or landscape architect, and the developer.
2. The north point, scale, and date.
3. Location of the project by an insert map at a scale of not less than one inch equals two thousand feet, indicating the scale, the north arrow, and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns, and magisterial districts or other landmarks sufficient to clearly identify the location of the property.
4. Existing zoning and zoning district boundaries and proposed changes in zoning, if any.
5. The boundaries of the property involved, municipal boundaries, the general location of all existing easements and property lines, existing streets, buildings, or waterways, major tree masses and other existing physical features in or adjoining the project.
6. Uses of adjoining properties and names of owners.
7. Topography of the project area with contour intervals of two feet or less, unless waived by the Administrator as clearly unnecessary to review of the project or proposal.
8. The approximate location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures, existing and planned, in or near the project.

9. The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas, (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.
10. The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.
11. Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height of all proposed buildings and structures, accessory and main, or major excavations.
12. Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.
13. General location, height, and material of all fences, walls, screen planting, and landscaping.
14. General location, character, size, height, and orientation of proposed signs.
15. A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross or net as required by district regulations.

The Administrator may establish additional requirements for preliminary site plans, and in special cases, may waive a particular requirement if, in his opinion, the inclusion of that requirement is not essential to a proper decision on the project. Site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. Each plan sheet shall reserve a blank space three inches wide and five inches high for the use of the approving authority. Site plans shall be prepared to a scale of one inch equals fifty feet, or such other scale as may be approved by the Administrator as appropriate to a particular case.

### **3.5 Final Site Plans**

The final site plan or final plat shall comply with all laws, regulations and ordinances governing the approval of subdivisions and in addition shall show the following:

1. All of the features required on the preliminary site plan with sufficiently accurate dimensions, construction specifications and computations to support the issuance of construction permits.

2. All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the County or other utility system.
3. Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the Town indicating the location, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system, and provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
4. Existing topography with two-foot contour intervals or such intervals as approved by the Administrator. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary, but not more than fifty feet apart in both directions.
5. Proposed finished grading by contours supplemented where necessary by spot elevations.

### **3.6 Procedures, Administrative Site Plan Review**

When these regulations require site plan review for certain major uses for which Town Council action is not required, including certain major uses as listed in Section 5 of Article 6 and not otherwise listed as conditional uses, five copies of a preliminary site plan for any of the specified uses shall be submitted to the Administrator for review of the plans for compliance with these regulations and the requirements for preliminary site plans and who shall transmit said plans to the Planning Commission for review at the next regular monthly meeting of the Commission if plans are submitted 21 days prior to said meeting.

The applicant is advised to review his plans in general or sketch form with the Administrator prior to drafting for submittal to the Planning Commission.

The Planning Commission shall examine the proposed site plan with respect to the requirements of this Ordinance, with respect to the traffic and circulation patterns, internal and external, relation to major thoroughfares, utilities, drainage, and community facilities, existing or proposed, surrounding development, existing or future, considerations of topography, flood plains, and the natural environment, the preservation of trees or historic sites, provision for open space, and in general with the objective of insuring a durable, harmonious, and appropriate use of the land in accord with the objectives of the Comprehensive Plan. Except as specified below, no public hearing shall be required. The plans shall be returned to the applicant within 10 days following the Commission meeting as approved, approved subject to conditions, or disapproved.

Unless otherwise specified, approval shall be valid for a period of one year prior to issuance of building permits.

If specified conditions are met in revised plans, the Administrator may approve issuance of building permits accordingly, and may approve additional minor changes, if, in the opinion of the Administrator such changes do not substantially affect the original approval or conditions attached thereto. Other changes and amendments may require return of the site plan to the Planning Commission or such other procedures under this Ordinance as the case may require.

The applicant shall submit written proof of notification of all adjoining property owners as to the nature of the proposal and where site plans may be viewed. No site plan shall be approved within five days of any such notice.

In any case where the Administrator is of the opinion that a proposed project subject to administrative site plan review is of such scale and impact that a decision on the site plan should be reached only after a public hearing thereon, the Administrator may schedule such hearing before the Planning Commission in accordance with the procedures and notice specified for such hearings in the rules of the Commission. The applicant shall submit evidence that all adjacent property owners have been notified of the nature, time and place of the public hearing.

Nothing in this section shall be interpreted to permit a grant of a variance to the regulations of this Ordinance or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.

### **3.7 Appeal from Planning Commission Decision**

In any case where the applicant or other party who has a substantial interest in a proposed project is aggrieved by a decision of the Planning Commission regarding a site plan, said applicant or party in interest may file a written Notice of Appeal with the Town Manager who shall place the matter on the agenda of the next regular meeting of the Town Council provided said Appeal is filed within ten working days of the decision. Upon hearing the Appeal, the Town Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission and may take such action as it believes appropriate.

### **3.8 Procedures for Approval of Site Plans for Conditional Uses Which Require Approval by the Town Council.**

Five copies of a preliminary site plan or plans shall be filed with the Town Council through the Administrator. The preliminary site plan shall comply with Section 7 above and the applicable written requirements of Articles 4 and 6, and be accompanied by such other written or graphic

material as may be necessary or desirable in aiding the decisions of the Council and the Planning Commission. The Administrator shall forthwith forward the plans and a copy of the application to the Planning Commission.

The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance. Before recommending approval of a site plan, the Planning Commission may make reasonable additional requirements, including, but not limited to, those which may be imposed by the Board of Zoning Appeals contained herein, and especially requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, screening, accessways, curb cuts, traffic control, height of buildings and setback of buildings, to protect adjoining residentially zoned lots or residential uses. The site plan shall be amended in accord with the requirements of the Planning Commission before being submitted to the Town Council with a recommendation for approval. The Planning Commission shall review the plans and prepare its report within a reasonable time, but in no case longer than 60 days after the first public hearing unless the applicant requests additional time in order to prepare revised plans. The Town Council shall not advertise its public hearing until the report and plans shall have been received from the Planning Commission.

Approval by the Town Council of a preliminary site plan for a conditional use shall be valid for a period of one year. Following preliminary approval by the Council, a final site plan in the form of a final plat shall be prepared and filed.

This final plat may be approved by the Administrator and shall comply with the specifications of the Council and the requirements of this Article and applicable laws, regulations, and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed plat.

### **3.9 Temporary Site Plans**

A temporary site plan may be approved for a proposed development or land use for a period not to exceed one year, where development is in progress and all buildings are of a temporary nature. The drainage, erosion, and sediment control practices, parking, screening, fencing, services, and utility requirements of this Ordinance and this Section may be modified for the purpose of a temporary plan.

Prior to the approval of such temporary site plan a cash bond or letter of credit approved by the Town Attorney, may be required to guarantee that all structures erected under the plan will be removed at the expiration of the period for which the permit was issued.

Items to be shown on a temporary site plan shall be the same as required for preliminary site plans under Section 7 above except as these may be waived by the Administrator.

### **3.10 Amendments and Additions to Site Plans Approved by the Town Council**

The procedure for amendment of the boundaries of or the extent of land use for an approved conditional use shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved conditional use, or other site plan approved by the Town Council, may be approved by the Planning Commission at a regular meeting after written reports by the Administrator and without a public hearing, provided such change or amendment:

1. Does not alter a recorded plat,
2. Does not conflict with the specific requirements of this Ordinance,
3. Does not change the general character or content of an approved development plan or use,
4. Has no appreciable effect on adjoining or surrounding property,
5. Does not result in any substantial change of major external access points,
6. Does not increase the approved number of dwelling units or height of buildings, and,
7. Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

### **3.11 Revocation of Permits**

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this Article except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the Administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

### **3.12 Agreement and Bond**

Prior to approval of a building permit there shall be executed by the owner or developer, an agreement to construct such required physical improvements as are located within public rights-of-ways or easements, or as are connected to any public facility in form and substance as approved by the Town; and, the Planning Commission may require a bond with surety or conditions acceptable to the Town Attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions, or agencies responsible for such improvements. The aforesaid agreement, bond, or conditions shall be provided for

completion of all work covered thereby or for subsequent defects therein, within the time to be determined by the Planning Commission, which time may be extended by the Planning Commission upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond hereunder shall be determined by the Town Attorney.

### **3.13 Approval and Extension**

Approval of a site plan submitted under the provisions of this Article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Administrator made within ninety days before the expiration of the approved site plan. The Administrator shall acknowledge the request and shall make a decision regarding the requested extension within thirty days after receipt of the request.

### **3.14 Right of Developer to Continue Project**

Subject to the time limits and conditions specified in this Ordinance, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

### **3.15 Inspection and Supervision of Improvements**

The owner or developer shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by Administrator of Inspectors.

Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the Administrator, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.

The installation of improvements as required in this Article shall in no case serve to bind the Town to accept such improvements for the maintenance, repair, or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

### **3.16 Filing Fees**

All persons, firms, or corporations appealing to the Board of Zoning Appeals, necessitating the publication of notices in the newspaper shall be required to pay, in advance, for expenses relative thereto.

All persons, firms, or corporations applying for conditional uses under the provisions of this



Ordinance or applying for an amendment to the Zoning Ordinance or a change in the classification of the district or a portion thereof, necessitating the publication of notices in the newspaper shall be required to pay in advance. No fee shall be required for actions initiated by the Town Council or the Planning Commission.

The payment of such money in advance to the Administrator as specified shall be deemed a condition precedent to the consideration of such appeal, conditional use application or amendment. Fees shall be refunded on written request if an application is withdrawn before publication.

### **3.17 Violation and Penalties.**

In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land used in violation of this Ordinance, the Administrator is authorized and directed to institute any appropriate action to put an end to such violation.

Where there is reasonable cause to believe that a violation of this Ordinance has occurred, the Administrator or his authorized representatives may, with written consent of the owner or of occupier of the premises in question on a form provided by the Administrator, enter the premises for the purposes of inspection. Where permission to enter is withheld, the Administrator shall seek a court order from the General District Court of Wise County or a search warrant from a magistrate of the jurisdiction as may be appropriate.

Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith, or with any of the requirements thereof, or who shall use any land or build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not less than ten dollars nor more than one thousand dollars, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as hereinbefore provided.

### **3.18 Conflict of Interest**

No member of the Town Council, Planning Commission or Board of Zoning Appeals, shall participate in the deliberations or vote on any ordinance, resolution, motion, or other proceedings involving any matter in which he, a member of his immediate family, his partner or agent, has a financial interest other than as an owner of not more than five percent of the stock of a corporation, or as a citizen of the Town.

If such interest exists, it shall be the duty of such member to take no part in the deliberations with regard to such matters.

The provisions of this section do not apply to adoption of a comprehensive zoning plan or ordinance applicable throughout the Town.

**ARTICLE II: SECTION 4  
CERTIFICATE OF OCCUPANCY**

**4.1**

No vacant land shall be occupied or used, except for agricultural uses associated with the conduct of a farm, until a certificate of occupancy shall have been issued by the Administrator.

No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, until a certificate of occupancy and compliance have been issued by the Zoning Administrator, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.

Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within 10 days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Administrator.

A certificate of occupancy may be issued for a part of a building or development or section thereof completed in accord with the terms of this Ordinance even though the entire building or development or section thereof has not been completed.

No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.

A certificate of occupancy shall be required of all nonconforming uses.

Application for a certificate of occupancy for nonconforming uses shall be filed with the Administrator within 12 months from the effective date of this Ordinance.

The Administrator may issue a temporary and contingent certificate of occupancy and compliance for a period not to exceed six months where, because of the unusual nature of the uses, a trial period of operation is in his opinion the most appropriate way to determine actual compliance with the terms of this Ordinance.

**ARTICLE II: SECTION 5  
SUPPLEMENTARY REGULATIONS**

**OFF-STREET PARKING REQUIREMENTS**

**5.1 Specific requirements by use.**

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, accessory off-street parking spaces shall be provided as follows:

<b><u>Use or Use Category</u></b>	<b><u>Off-Street Parking Spaces Required</u></b>
Single-family or two-family dwelling	1 per dwelling unit
Townhouse	2 per dwelling unit
Multiple-family dwelling, three or more dwelling units:	
Apartments for the elderly	0.5 per dwelling unit
Efficiency apartments	One per dwelling unit
One or more bedroom apartments	1.5 per dwelling unit
Roomers	One for each roomer
Church, temple, synagogue, or similar place of assembly	1 per 5 seats or bench seating spaces (seats in main auditorium only)
College or high school	1 per 5 seats or bench seating spaces (seats in main auditorium, gymnasium, or field house only, whichever is larger, or one for each 5 students, whichever is greater)
Elementary, junior high, or nursery school	1 per 10 seats in main assembly room or 2 per classroom, whichever is greater
Private club without sleeping rooms	1 per 5 members or 1 for each 400 Square feet of flood area, whichever is greater
Public library, museum, art gallery, or community center	10 per use plus 1 additional for each 300 square feet of floor area in excess of 1,000 square feet
Private clubs, fraternities, sororities and lodges, with sleeping rooms	2 per 3 sleeping rooms or 1 per 5 active members, whichever is greater

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Sanitarium, convalescent home, home for the aged, or similar institution	1 per 3 patient beds
Motel, motor hotel, motor lodge, hotel, or tourist court	5 spaces plus 1 per sleeping room or suite
Rooming, boarding, or lodging house	1 per sleeping room
Hospital	2 per patient bed
Hospital, veterinary	1 per 400 square feet of floor area; 4 spaces minimum
Office or office building (other than medical), post office, studio	1 per 400 square feet of floor area; 3 spaces minimum
Medical offices or clinic	1 per 200 square feet of floor area; 10 spaces minimum for clinic
Funeral home	1 per 50 square feet of floor area excluding storage and work area; 30 spaces minimum
Restaurant or other establishment for consumption of food or beverages inside a building on the premises	1 per 100 square feet of floor area; 3 spaces minimum
Restaurant, drive in	1 per 100 square feet of floor area; 10 spaces minimum
Retail store or personal service establishment and banks	1 per 200 square feet of floor area; Retail food stores over 4,000 square feet: 1 per 100 square feet of floor area
Automobile service station	3 for each service bay
Furniture or appliance store, machinery, equipment, and automobile and boat sales and service	1 per 300 square feet of floor area; 2 spaces minimum; Automobile sales and service, 10 minimum
Auditorium, theatre, gymnasium, stadium, arena, or convention hall	1 per 4 seats or seating spaces
Bowling alley	5 per lane
Food storage locker	1 per 200 square feet customer service area

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Amusement place, dance hall, skating rink, swimming pool, or exhibition hall, without fixed seats	1 per 100 square feet of floor area; does not apply to accessory uses
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting station	1 per 2 employees on premises; auditorium for broadcasting station requires space as above
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse, or similar establishment	1 per 2 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry

**5.2 Interpretation of specific requirements.**

1. The parking requirements above are in addition to waiting spaces or stacking spaces necessary for the operation of drive-in or drive-through facilities. Waiting spaces on the premises must be adequate to avoid obstruction of traffic on the public way.
2. The parking requirements above are in addition to space for storage of trucks, campers, recreation vehicles, or other similar vehicles used in connection with any use.
3. The parking requirements in this Article do not limit the parking requirements contained in the district regulations.
4. The parking requirements in this Article do not limit the special requirements which may be imposed approval of a conditional use.
5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
7. The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.
8. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by

more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

9. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Article for an increase in parking spaces of 10 percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than 10 percent of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of 10 percent or more.

### **5.3 Joint use and off-site facilities.**

1. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building or other nonresidential building served. For the purpose of this requirement, land used for employee parking but located immediately across a street or alley from the building or use served shall be considered as located on the same lot.
2. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence.

### **5.4 Design standards.**

1. Minimum Space Area. For the purpose of these regulations, an off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet (18 feet deep and 9 feet wide minimum), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

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2. Entrances and Exits. Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the Virginia Department of Highways and Transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall not be located within 50 feet of a street intersection or be greater than 50 feet in width. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
3. Drainage and Maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and shall be paved in accordance with an approved plan or in accordance with applicable Town specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee.
4. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged, installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in a Residential District or 30 feet in a Business District.
5. Design in General. All parking lots shall be arranged for functional efficiency and convenience and in general shall be designed to present a pleasing appearance so as to reduce adverse impact on surrounding public or private property.

**ARTICLE II: SECTION 6  
OFF STREET LOADING**

**6.1 Off-street loading requirements.  
Specific requirements by use.**

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted, for the uses listed below, when such buildings contain the floor areas specified, accessory off-street loading spaces shall be provided as required below or as required in subsequent sections of this Article.

<u>Use or Use Category</u>	<u>Floor Area (sq ft)</u>	<u>Loading Spaces Required</u>
Retail or department store	2,000-10,000	One
Restaurant, wholesale house,	10,000-20,000	Two
Warehouse, general service	20,000-40,000	Three
Manufacturing, or industrial	40,000-60,000	Four
Establishment	Each 50,000 over 60,000	One Additional
Apartment building, motel, hotel,	5,000-10,000	One
offices or office building,	10,000-100,000	Two
hospital or similar institutions,	100,000-200,000	Three
or places of public assembly	Each 100,000 over 20,000	One Additional
Funeral home or mortuary	2,500-4,000	One
	4,000-6,000	Two
	Each 10,000 over 6,000	One Additional

**6.2 Interpretation of specific requirements.**

1. The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in the district regulations.
2. The loading space requirements in this Article do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use.

**6.3 Mixed uses in one building.**

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



#### **6.4 Design standards.**

1. Minimum Size. For the purpose of these regulations a loading space is a space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.
2. Loading Space for Funeral Homes. Loading spaces for a funeral home may be reduced in size to 20 by 25 feet and vertical clearance reduced to eight feet.
3. Entrances and Exits. Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approved directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

### **ARTICLE II: SECTION 7 ACCESSORY USES AND STRUCTURES**

**7.1** Accessory uses and structures may be commonly found and associated with principal use types. Principal uses which are allowed by right or by special use may include accessory uses and activities, provided such accessory uses and activities are appropriate and incidental to the principal use, and provided they are designed and located in accordance with the intent and provisions of this ordinance.

#### **7.2 Accessory Uses: Residential Use Types**

Residential use types may include the following accessory uses, activities or structures on the same site or lot:

1. Private garages and parking for the principal use.
2. Recreational activities and uses used by residents, including structures necessary for such uses.
3. Playhouses, gazebos, incidental household storage buildings, swimming pools, and other similar accessory structures.
4. Garage or yard sales provided that such sales occur no more than seven days in a two month period.
5. Other uses and activities necessarily and customarily associated with purpose and function of residential use types, as determined by the administrator.

### **7.3 Accessory Uses: Civic Use Types**

Civic use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory dwellings commonly associated with or necessitated by the location and operation of the principal use.
3. Food services operated incidental to the principal use and operated primarily for the convenience of employees, residents or users of the principal use. Typical examples include cafeterias and dining halls.
4. Convenience commercial facilities clearly incidental to the principal use and operated primarily for the convenience of the employees, residents, and users of the principal use. Typical examples include museum gift shops, college bookstores, or snack bars clearly incidental to the principal use.
5. Other uses and activities necessarily and customarily associated with purpose and function of civic use types, as determined by the administrator.

### **7.4 Accessory Uses: Office Use Types**

Office use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the office use type.
3. Day care facilities available only to the employees of the office use type.
4. Other uses and activities necessarily and customarily associated with purpose and function of office use types, as determined by the administrator.
5. One accessory dwelling unit occupied by employees responsible for the security of the use.
6. Other uses and activities necessarily and customarily associated with purpose and function of office use types, as determined by the administrator.

### **7.5 Accessory Uses: Commercial Use Types**

Commercial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory storage buildings or areas.
3. One accessory dwelling unit occupied by employees responsible for the security of the use.
4. Other uses and activities necessarily and customarily associated with purpose and function of commercial use types, as determined by the administrator.

### **7.6 Accessory Uses: Industrial Use Types**

Industrial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the industrial use type.
3. Day care facilities available only to the employees of the industrial use type.
4. Cafeterias and sandwich shops available only to the employees of the industrial use type.
5. Incidental retail sale of goods associated with the industrial use type provided the square footage does not exceed 10 percent of the gross floor area or 3,000 square feet, whichever is less.
6. One accessory dwelling unit occupied by employees responsible for the security of the use.
7. Other uses and activities necessarily and customarily associated with purpose and function of industrial use types, as determined by the administrator.

## **ARTICLE II: SECTION 8 GENERAL SIGN REGULATIONS**

### **8.1 Sign definitions.**

For the purpose of this section, certain terms and words pertaining to signs are hereby defined. The general uses of construction contained herein are applicable to these definitions.

1. **Sign.** An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land, rock, tree, or other natural object and which directs attention to a product, place activity, person, institution, or business.

2. ***Sign area.*** That area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area; for other signs with more than one face, each side shall be included in a computation of sign area. The area of a cylindrical or spherical sign shall be computed by multiplying one-half of the circumference by the height of the sign.
3. ***Accessory sign.*** A sign relating only to uses of the premises on which the sign is located, or products sold on the premises on which the sign is located, or indicating the name or address of a building or the occupants or management of a building on the premises where the sign is located.
4. ***Detached sign.*** A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.
5. ***Double-faced sign.*** A sign with two parallel or nearly parallel faces, back to back, and located not more than 24 inches from each other.
6. ***Flashing sign.*** An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. A clock or thermometer or similar instrument with moving hands or a sign which has letters or numbers which change at intervals of not less than five seconds shall not be considered a flashing sign.
7. ***Flat sign.*** Any sign attached to, and erected parallel to the face of, or erected or painted on the outside wall of, a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.
8. ***General advertising sign.*** Any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations.
9. ***Illuminated sign.*** Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

10. ***Indirectly illuminated sign.*** A sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself, or a sign of translucent non-transparent material illuminated from within but with no exposed or exterior bulbs, tubes, or other light source.
11. ***Projecting sign.*** A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term projecting sign includes a marquee sign.
12. ***Sign, height.*** The vertical distance from the street grade or the average lot grade at the front setback line, whichever produces the greater vertical distance, to the highest point of the sign.

## **8.2 General requirements, all signs.**

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this Ordinance:

1. No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this Article and in these regulations, until a permit has been issued by the Administrator. Before any permit is issued, an application especially provided by the Administrator shall be filed, together with two sets of drawings and/or specifications (one to be returned to the applicant) as may be necessary to fully advise and acquaint the Administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, the number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. All signs which are electrically illuminated shall require a separate electrical permit and inspection. All signs shall be erected on or before the expiration of 30 days from the date of issuance of the permit; otherwise, the permit shall become null and void and a new permit shall be required. Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises. Fees for sign permits shall be in accordance with the schedule adopted by ordinance, a copy of which is maintained in the office of the Administrator.
2. Structural and safety features and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is found to be in compliance with all the requirements of this Ordinance and applicable technical codes.

3. The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code:
  - (a) Official traffic signs or sign structures and provisional warning signs or sign structures, when erected or required to be erected by a governmental agency, and temporary signs indicating danger.
  - (b) Changing of the copy on a bulletin board, poster board, display encasement, or marquee.
  - (c) Temporary, non-illuminated paper signs in show windows in a business district.
  - (d) Temporary non-illuminated election campaign signs.
  - (e) Temporary non-illuminated signs, not more than six square feet in area, advertising real estate for sale or lease or announcing contemplated improvements of real estate, and located on the premises, one such sign for each street frontage.
  - (f) Temporary non-illuminated signs not more than 16 square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.
  - (g) Non-illuminated signs warning trespassers or announcing property as posted.
  - (h) Temporary non-illuminated portable signs, not exceeding six square feet in area, in a business or industrial district, one for each 50 feet of street frontage. (All portable signs shall be included in the measurement of permitted sign area.)
  - (i) Sign on a truck, bus, or other vehicle, while in use in the normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
4. The Administrator, upon application, as required in this Article, may issue temporary permits for the following signs and displays for a period of not exceeding 30 days, when in his opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property:

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- (a) Signs advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting, sponsored by a governmental, civic or charitable organization.
  - (b) Special decorative displays used for holidays, public demonstrations, or promotion for non-partisan civic purposes.
  - (c) Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.
5. Pennants, banners, streamers, and all other fluttering, spinning or similar type signs and advertising devices are prohibited except for national flags and flags of political subdivisions of the United States, and except for flags of bona fide civic, charitable, fraternal, and welfare organizations, provided that during nationally recognized holiday periods, or during a special civic event, pennants, banners, streamers and other fluttering, spinning, or similar type advertising devices pertaining to said periods or events may be displayed by temporary permit as provided above in this Article, and further provided that the Administrator may approve special flags and flag poles when, in his opinion, they form an integral design feature of a building or group of buildings and not an ordinary advertising device.
6. No flashing signs shall be permitted in any district.
7. No sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building and no projecting sign shall extend over or above the roof line or parapet wall of a building.
8. Applications for unusual signs or displays which give rise to questions of interpretation of these regulations may be referred by the Administrator to the Board of Zoning Appeals for the purpose of interpretation by the Board and recommendation for action on the application by the Administrator. If, in the opinion of the Board, the application is not adequately covered by these regulations, the Board may make recommendations for amendment of this Ordinance.
9. No sign shall be constructed, erected, used, operated, or maintained which:
- (a) Displays intermittent lights resembling, or seeming to resemble, the flashing lights customarily associated with danger or such as are customarily used by police, fire, or ambulance vehicles, or for navigation purposes.

- (b) Is so located and so illuminated as to provide a background of colored lights blending with traffic signal lights to the extent of confusing a motorist when viewed from normal approaching position of a vehicle at a distance of 25 to 300 feet.
- 10. Permitted signs for a nonconforming business or industrial use in a residence district shall consist of those signs permitted in the C-1 Business District.
- 11. Except as otherwise specifically provided in these regulations, all signs shall be subject to the provisions of this Ordinance governing non-conforming uses.
- 12. Except as otherwise provided, these regulations shall be interpreted to permit one sign of each permitted type, in accordance with applicable regulations, for each street frontage, for each permitted use on the premises. For the purpose of this regulation, sign “types” are flat, detached, and projecting signs, or special purpose signs specifically listed in the district regulations.
- 13. Except as otherwise provided, any sign may be a flat, detached, or projecting sign, and, except as otherwise provided, no detached sign shall exceed a height of 15 feet.
- 14. Signs of permitted types and sign area may be placed on front walls or on walls of buildings other than the front except that signs may not be placed on side or rear walls facing, and within 100 feet of, a Residential District.
- 15. Unless otherwise specified in these regulations, all signs shall comply with the yard requirements of the district in which they are located, provided that one sign, accessory or otherwise, may occupy required yards in a district where such sign is permitted by these regulations, if such sign is not more than 50 square feet in area, and other requirements of these regulations are complied with.
- 16. Portable signs, on wheels, carriages, or on fixed supports shall be considered as detached signs and shall be included in any measurement of permitted sign area whether or not a permit is required.
- 17. No sign, portable or otherwise, is to be placed or located to conflict with the vision clearance or other requirements of this ordinance or applicable traffic ordinances.
- 18. No signs shall be attached to trees, utility poles, or any other unapproved supporting structure.



19. No signs shall project over public right-of-way without express permission of the Town Council except for permitted flat signs which may so project not more than 18 inches.
20. The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Administrator.
21. All signs shall be maintained in good condition and appearance. After due notice has been given as provided below, the Administrator may cause to be removed any sign which shows gross neglect or becomes dilapidated, or which by reason of a change in occupancy no longer relates to a use conducted on the property.
22. The Administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within 30 days after receiving written notice of violation from the Administrator.

Removal of a sign by the Administrator shall not affect any proceedings instituted prior to removal of such sign.

## **ARTICLE II: SECTION 9 APARTMENTS**

**9.1** Apartment construction shall comply with all regulations set forth in the district regulations and also the following:

- (1) General regulations.
  - (a) There shall be no more than 24 units contained in any one structure and no more than eight units per floor.
  - (b) A site plan drawn in accordance with this Ordinance shall be reviewed by the Planning Commission and approved or rejected by the Town Council.
  - (c) Each apartment structure and/or apartment parking area shall have access on a dedicated public street.

(d) All apartments must be connected to a public water and public sewer connection.

(2) Management of open space.

(a) Should the units be for rental purposes, the developer or rental agent shall be responsible for maintenance and management of open space.

(b) If the units are to be sold separately, a nonprofit association, corporation, trust or foundation of all individuals or corporations owning residential property within the planned development shall be established to own and insure the maintenance, management and/or operation of the open space land, including recreation space and facilities, for their intended purposes as shown on the final site plan in accordance with the Condominium Act, Code of Virginia, as amended.

(c) The developer must establish the organization prior to the sale of any lots/or units.

(d) Membership in the organization shall be mandatory for all residential property owners, present or future, within the planned community.

(e) The horizontal distance between groups of apartment structures shall be:

1. Two times the average height of the two groups of apartments for front or rear walls facing front or rear walls;

2. One-and-one-half times the average height of the building for front or rear walls facing side walls; and;

3. Equal to the height of the highest building for side walls facing side walls.

(f) Required open space and recreation space: The required open space shall not be less than forty percent (40%) of the adjusted tract area. All floodplains shall be included in the open space. In apartment developments, all open space shall be classified as conservation area. For developments of 30 or more units, at least 200 square feet per unit within the open space set aside shall be developed into recreation space to include a playground, multi-purpose court, swimming pool, paved trail, or regulation softball, baseball or soccer field. For adults-only developments, an adult-oriented recreation space shall be provided to include any recreation facility listed above and/or a landscaped park with seating, tables, and trails.

(3) Landscaping.

- (a) Site screening needs shall be a part of the site plan as reviewed by the Planning Commission and approved by the Town Council. Screening shall conform to all other requirements of the Town Code.
- (b) A planting plan specifying the type, size and location of existing and proposed planting material shall be submitted with the application for the permit.

(4) Parking facilities.

- (a) Off-street parking, whether in a garage or on-lot, shall be provided on the premises at the rate of two spaces for each apartment unit as referenced herein.
- (b) Required parking spaces shall be provided on the same lot as the building served and shall be reviewed by the Planning Commission and approved by the Town Council.
- (c) All streets, cul-de-sac, parking areas and parking area drives shall be suitably paved with all weather surface coverings.
- (d) Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.
- (e) Entrance and exit ways to parking areas shall have a minimum width of twelve feet for each lane of traffic entering or leaving the site, but shall at no time exceed thirty feet in width at the street line.

(5) Drainage.

- (a) A storm runoff and drainage system shall be installed by the developer in accordance with best management engineering practice so as to adequately drain the project site, to adequately dispose of all runoff and drainage away from the project site, and so as not to permit excess flow of water across streets or adjoining properties. Plans for such drainage system shall be submitted and approved with the application for the permit.
- (b) All provisions of town ordinances and regulations regarding storm drainage shall be complied with.

(6) Lighting.

Lighting of buildings, accessways and parking areas shall be provided for safety and convenience of the residents, but it shall be so arranged as not to reflect toward public streets or cause disturbance to building occupants or surrounding land; and shall be downward directed lighting only.

(7) Storage of trash and rubbish.

Exterior storage areas for trash and rubbish shall be well screened on three sides and contain vermin-proof containers. Interior storage areas for trash and rubbish shall at all times be kept in an orderly and sanitary fashion.

(8) Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated road, provided the parcel borders a publicly dedicated road, provided the parcel borders a publicly dedicated road. Corner lots may face any of the public roads which border the property.

**ARTICLE II: SECTION 10  
TOWNHOUSES**

**10.1 Townhouses, generally.**

**10.2 Maximum number of units.**

The number of townhouse units per building, or structure, shall not exceed twelve.

**10.3 Minimum lot area, lot width and yard requirements.**

Townhouse lots for sale shall adhere to the following minimum requirements.

- A. Lot area: Each townhouse shall be located on a lot of not less than one thousand two hundred (1,200) square feet in area and no more than ten (10) townhouse units shall be allowed for each acre of developable tract of land.
- B. Unit width: A minimum width of sixteen (16) feet per lot shall be maintained.
- C. Front yard: There shall be a minimum ten-foot front yard (area between front door and front of lot, or parking area, or other common area.)

- D. Side yard: There shall be a side yard of not less than sixteen (16) feet in width at each end of a group of units (not to be shared between units).
- E. Rear yard: There shall be a rear yard with a depth of not less than twenty five (25) feet for each unit (not to be shared between units).

**10.4 Perimeter yard requirements.**

Each townhouse development shall have a perimeter yard on the rear and side property lines of the total site equal to at least twenty-five (25) feet, which may include the required side and rear yards for townhouse, except where the development is within or abuts a residential subdivision in which case the perimeter yard shall be at least fifty (50) feet. A minimum setback of nineteen (19) feet shall apply for the townhouse development along the front property line of the total site which may include the required front yard for each townhouse.

**10.5 Height restrictions.**

Height of the townhouse structure shall be no more than forty (40) feet measured from the average level of the ground adjacent to the front exterior wall.

**10.6 Maximum lot coverage.**

The maximum lot coverage for interior townhouse units for sale shall be fifty (50) percent and end/or corner lots shall be forty (40) percent.

**10.7 Common areas.**

Each townhouse development shall provide at least ten (10) percent of the development site for areas of common use which includes such uses as parking, walkways, streets not dedicated to the Virginia Department of Transportation, recreation facilities, picnic areas, refuse collection, utility easements, and similar activities. The following minimum requirements for common areas shall be adhered to:

- A. Off-street parking shall meet the requirements set forth in the zoning ordinance. Required parking spaces shall be provided within the perimeter of the townhouse development and no farther than two hundred (200) feet from the facilities served. Off-street parking shall be designed to produce the minimum possible interference with pedestrian circulation within the townhouse development.
- B. Lots and swimming areas shall be adequately enclosed, and all recreational areas shall be located away from the concentrations of vehicular traffic.
- C. Common walks of a width of at least four (4) feet shall be provided from each dwelling unit to common areas within the townhouse development, and wherever concentrations of pedestrian traffic can be expected, as between recreational facilities,

walks may be incorporated into the street curb. Walk grades shall not exceed ten (10) percent; lights shall be provided sufficiently to illuminate steps.

**10.8 Preservation and maintenance of common areas.**

All common areas shall be preserved for their intended purpose as expressed in the approved subdivision plat. The preservation and maintenance of all common areas within the townhouse development shall be in accordance with the following requirements:

- A. All deeds shall include appropriate restrictions to ensure that common areas are permanently preserved according to the subdivision plat. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.
- B. All common areas shall be specifically included in the development schedule and be constructed and fully improved by the developer.
- C. All common areas shall be placed in the ownership and control of a nonprofit association capable of providing adequate maintenance.
- D. The developer shall establish a nonprofit association, corporation, trust or foundation of all individuals or corporations owning property within the townhouse development to ensure the maintenance of common areas. Said organization shall conform to the following requirements:
  - (1) The developer must establish the organization prior to the sale of any lot or property and shall relinquish control of said organization when voted upon by the membership of the organization.
  - (2) Membership in the organization shall be mandatory for all owners, present and future, within the townhouse development, and the organization shall not discriminate in its members or shareholders.
  - (3) The organization shall manage all common areas within the townhouse development, shall provide for the maintenance, administration and operation of said land and improvements and shall secure adequate liability insurance on the common areas.
  - (4) The organization shall conform to the Condominium Act, Sections 55-79.39 through 55-79.103, Code of Virginia, 1950, as amended.

**10.9 Streets and utilities.**

All streets and utilities within the townhouse development shall meet the following requirements:

- A. The traffic circulation pattern, the street dimensions, curbs and gutters (if provided)

and curb cuts shall meet the specifications of paragraph 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of the Entrances to State Highways and be approved by the resident engineer.

- B. All dwelling units shall be connected to public water and sewage systems approved by the Administrator and health department and shall be open to inspection.
- C. The site storm drainage system shall drain to any existing natural drainage system. On-site retention of stormwater is encouraged provided that it is in compliance with the requirements of Section 15.1-867 of the Code of Virginia, 1950, as amended, and the sediment basin design standards of the soil erosion and sediment control ordinance.
- D. All utilities shall be underground.

## **ARTICLE II: SECTION 11 SHOPPING CENTERS**

### **11.1**

The general plan for a shopping center shall include evidence and facts showing that it has considered and made provision for, and the development shall be executed in accordance, with the following essential conditions:

1. The development shall consist of a selection of uses in such manner as to constitute a grouping of buildings, service and parking areas, circulation and open spaces, planned and designed as an integrated unit, in such manner as to constitute a safe, efficient and convenient retail shopping center.
2. The proposed development shall be constructed in accordance with an overall plan and shall be designed as an architectural unit with appropriate landscaping.
3. No more than twenty percent of the lot area shall be occupied by buildings.
4. The distance at the closest point between any two buildings or groups or units of attached buildings shall not be less than twelve feet.
5. The maximum height of any building or structure erected or enlarged in this district shall be thirty-five feet, except that the height of any such other building may be increased to a maximum of sixty-five feet when approved by the Town Council; provided, that for every foot of height in excess of thirty-five feet there shall be added to each yard requirement one corresponding foot of width or depth.

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6. Adequate areas shall be provided for loading and unloading of delivery trucks and other vehicles; servicing of shops by refuse collection, fuel, fire and other service vehicles; automobile accessways; and pedestrian walks. Service areas shall be screened from view from any abutting roadway and from within the parking area.
7. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways servicing the center without undue congestion to or interference with normal traffic flow. All points of vehicular access to and from public streets shall be located not less than two hundred feet from the intersection of any public street lines. The Town Council shall satisfy itself as to the adequacy of the thoroughfare to carry the additional traffic engendered by the shopping center.
8. No building may be located closer than one hundred feet to the ultimate right-of-way of any public street, no closer than fifty feet to a side or rear property line adjacent to an agricultural or residential district or within twenty-five feet of any property line.
9. No parking access and service area may be located closer than twenty-five feet to a side or rear property line adjacent to a residential district.
10. Not less than one automobile parking space with suitable access shall be provided for each 100 square feet of floor area devoted to patron use.
11. Parking, loading or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.
12. Lighting facilities shall be arranged in a manner which will protect the highway and neighboring properties from unreasonable direct glare or hazardous interference of any kind; lighting shall be directed downward only.
13. The shopping center shall be permanently fenced from adjoining and contiguous residential districts by a wall, fence, adequate evergreen hedge and/or other suitable enclosure a minimum height of five feet and a maximum height of eight feet, placed at least ten feet inside the property line, and allowing no separation between elements of the fence, except for driveways. The area between such enclosure and the property line shall be landscaped to form a permanent screening area. The Town Council may waive the requirement for a screening enclosure and/or screening area if equivalent screening is provided by existing parks, parkways, recreational areas, or by topography or other natural conditions.



14. A landscaped planting area shall be provided along street frontage occupied by a shopping center at least seven feet in width and must be located between the property line and a line parallel to and seven feet inside the property line.
15. No shopping center shall be erected or used that is not adequately served with both sanitary sewers and public water unless authorized as a special exception and upon submission of satisfactory evidence to the fact that sanitary sewers and public water supply are not feasible in the particular location in question. Such evidence may include, but shall not be limited to, a specific recommendation from the county engineer, official representative of the state health department, and/or the county sanitation authority.
16. For the purpose of calculating the minimum area, lot dimension and yard requirements established by this section, a single planned shopping center district cannot lie on two sides of a public street or alley. Any area designated as being a shopping center and lying on both sides of a public street shall be deemed to be two shopping centers, and all minimum requirements shall be met by buildings on each side of such public street as separate districts.

## **ARTICLE II: SECTION 12 SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS**

### **12.1 Reference to Virginia Condominium Act.**

1. Nothing in this Ordinance shall be interpreted to prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this Ordinance which would permit a physically identical project or development under a different form of ownership.
2. All condominium projects or developments hereafter constructed shall comply with the provisions of this Ordinance, including the requirements for approval of site plans. Whenever an existing project or certain land areas to be held as common elements, limited or otherwise, a site plan shall be filed showing the extent and ownership of such holdings. Nothing in this requirement shall be interpreted to abridge any rights said project or development may hold as a nonconforming use.
3. Any declaration of restrictions to be filed in connection with any project covered by the provisions of this Ordinance shall comply in all respects with the provisions of the

Virginia Condominium Act not in direct conflict with the requirements of this Ordinance.

**12.2 Lot area.**

1. Requirements for lot area per family do not apply to dormitories, fraternities, sororities, and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms or apartments.
2. Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge or tourist home or rooms in a rooming, boarding or lodging house.

**12.3 Yards and open space generally.**

1. Every part of a required yard shall be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.
2. More than one main building may be located upon a lot or tract in the following instances:
  - (a) Institutional buildings.
  - (b) Public or semi-public buildings.
  - (c) Multiple-family dwellings or condominiums under approved site plans.
  - (d) Convalescent or nursing homes and homes for the aged.
  - (e) Commercial and industrial buildings under approved site plans.

The provisions of this exception shall not be construed to allow the location or erection of any building or portion of a building outside of the buildable area of the lot.

3. Where a lot is of such unusual configuration that none of the provisions of this Ordinance regarding yards and open spaces apply precisely, the Administrator may use his discretion to apply an interpretation which most nearly meets the requirements of this Ordinance; and where by reason of difficult or unusual topography an improved building site may be achieved by a minor modification of yard space requirements (up to 1.5 feet) such modification may be approved by the Administrator; provided, however, that this section does not give the Administrator any power to grant variances reserved to the Board of Zoning Appeals contained herein.

**12.4 Front yards.**

1. Where an official line has been established by an officially adopted detailed plan on file with the Administrator for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
2. On through lots the required front yard shall be provided on each street.
3. Telephone booths and bus shelters, when permitted by district regulations, may be located in a required front yard.
4. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front yard not more than six feet.
5. Where the street frontage in a block, or within 400 feet of the lot in question, is partially built up, the minimum front yard for a new building shall be the average of the existing front yards on either side thereof in the same block with a variation of five feet permitted; provided, however, that except as provided in development standards for specific uses no front yard in a residential district shall be less than 10 feet or need to be more than 50 feet under this provision. Where 40 percent or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.

**12.5 Side yards.**

1. Open, unenclosed porches, platforms, or paved terraces, not covered by roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the side yard not more than six feet.
2. For the purpose of the side yard regulations, a group of office, business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.

**12.6 Rear yards.**

Open or lattice-enclosed fire escapes, outside stairways and balconies and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than five feet, but only where the same are so placed not to obstruct light and ventilation.

# Town of Coeburn Zoning Districts

## **ARTICLE III: ZONING DISTRICTS**

### **RESIDENTIAL DISTRICT R-1**

#### **101.0 Statement of Intent**

This district is composed of certain quiet, medium-density areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to prohibit all activities of a non-residential commercial nature. To these ends, development is limited to moderate concentration; and permitted uses are limited basically to dwellings providing homes for the residents plus certain public facilities that serve the residents of the district.

**101.1** In Residential District R-1, structures to be erected or land to be used shall be for one (1) or more of the following uses:

- (a) Agriculture and home gardens.
- (b) Apartments, with a Special Use Permit.
- (c) Boarding houses.
- (d) Single-family dwellings; conventional, site-built, single unit construction or modular housing as defined.
- (e) Two-family duplexes and multiple-family dwellings.
- (f) Family care home, foster home or group home.
- (g) Cemeteries, with a Special Use Permit.

- (h) Churches and other religious institutions, including parish houses and parsonages.
- (i) Convalescent homes, nursing homes or homes for the aged.
- (j) Home occupations as defined.
- (k) Off-street parking as required by this ordinance.
- (l) Accessory uses and structures permitted as defined; however, garages or other accessory structures such as carports, porches and stoops attached to the main building shall be considered part of the main building. No accessory use or structure may be closer than three (3) feet to any property line.
- (m) Public Utilities: poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities, telephone lines, booths and other communication facilities, and street lighting. Transmission lines, transmission towers, and electrical substations are not deemed necessary facilities under this section, and these require a Special Use Permit.
- (n) Signage as provided for in the ordinance.
- (o) Yard sales and garage sales for the disposal of personal property.
- (p) Nursery schools, kindergartens, child care centers, day nursery or day care centers.
- (q) Government offices, with a Special Use Permit.
- (r) Double-wide housing as defined.

### **101.2 Area regulations.**

For lots containing or intended to contain a single permitted use served by public water and sewer, the minimum lot area shall be seventy-five hundred (7,500) square feet.

For lots containing or intended to contain a single permitted use served by public or individual water but having individual sewerage disposal, the minimum lot area shall be twenty thousand (20,000) square feet. The required area for any such use shall be approved by the Health Official. The Administrator may require a greater area if considered necessary by the Health Official.

For lots containing or intended to contain a single permitted use served by individual water and

sewerage systems, the minimum lot area shall be thirty thousand (30,000) square feet. The required area for any such use shall be approved by the Health Official. The Administrator may require a greater area if considered necessary by the Health Official.

**101.3 Setback regulations.**

Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line.”

**101.4 Frontage regulations.**

For permitted uses the minimum lot width at the setback line shall be sixty (60) feet.

**101.5 Yard regulations.**

The minimum side yard for each main structure shall be ten (10) feet. Each main structure shall have a minimum rear yard of twenty-five (25) feet.

**101.6 Height regulations.**

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

- 101.6.1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.
- 101.6.2 Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. Satellite dishes shall be placed in the rear yard.
- 101.6.3 No accessory structure which is within twenty (20) feet of an adjoining owner lot line shall be more than one story high. All accessory structures shall be of less height than the main building on the lot.
- 101.6.4 Off-street parking and loading standards and space requirements for particular uses are found in parking requirements.

**101.7 Corner lots.**

Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.

The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

## **MANUFACTURED HOUSING R-2**

### **201.0 Statement of intent.**

The purpose of this district is to provide for manufactured housing at moderate low-densities in subdivisions or park developments together with such churches, recreational facilities, public uses, and accessory uses as may be necessary or are normally compatible with residential surroundings. Agricultural and open uses are permitted, but in general, urbanization is planned and utilities and public services exist or are planned which will be adequate for the type or types of development contemplated.

### **201.1 Regulations.**

A building or land shall be used for the following purposes:

- (a) Single-family dwellings, conventional, site-built, single unit construction, modular housing as defined, or double-wide housing as defined.
- (b) Manufactured and/or modular housing. No more than three (3) manufactured housing units may be placed on lots with adjoining property lines except as allowed in this ordinance. Property separated only by streets, roads and other rights-of-way shall be considered adjoining properties for the purpose of this section. Four (4) or more manufactured housing units shall constitute a manufactured housing park.
- (c) Manufactured housing parks subject to the design standards of this section.
- (d) Cemeteries with a Special Use Permit.
- (e) Churches and other religious institutions, with parish houses and parsonages.
- (f) Convalescent homes, nursing homes or homes for the aged with a Special Use Permit.
- (g) Family care homes, foster homes or group homes with a Special Use Permit.
- (h) Public utilities: poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities, telephone lines, booths and other communication facilities, and street lighting. Transmission lines, transmission towers, and electrical substations are deemed necessary facilities under this section, and these require a Special Use Permit.
- (i) Home occupations as defined.
- (j) Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- (k) Radio or television transmission or receiving tower.

- (l) Signage as provided in this ordinance.
- (m) Agriculture.
- (n) Yard sale or garage sale for disposal of personal property.
- (o) Accessory uses and structures permitted as defined; however, garages or other accessory structures such as carports, porches and stoops attached to the main building shall be considered part of the main building. No accessory use or structure may be closer than three (3) feet to any property line.

### **201.2 Area regulations.**

For lots containing or intended to contain a single permitted use served by public water and sewer, the minimum lot area shall be six thousand (6,000) square feet, with a minimum lot width of fifty (50) feet and a minimum lot depth of one hundred (100) feet.

For lots containing or intended to contain a single permitted use served by public water but having individual sewerage disposal, the minimum lot width of one hundred (100) feet and minimum lot depth of one hundred fifty (150) feet.

For lots containing or intended to contain a single permitted use served by individual water and sewerage systems, the minimum lot area shall be thirty thousand (30,000) square feet, with a minimum lot width of one hundred fifty (150) feet, and minimum lot depth of two hundred (200) feet. The required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

### **201.3 Setback regulations.**

Structures shall be located twenty (20) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or sixty (60) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line”.

### **201.4 Yard regulations.**

The minimum side yard for each main structure shall be seven (7) feet. Each main structure shall have a minimum rear yard of twenty (20) feet.

### **201.5 Special Regulations for Manufactured Housing Parks.**

The following provisions apply to the creation and expansion of manufactured housing parks.

- (a) The park shall contain not less than two contiguous acres and shall be under single ownership or control, except that minimum area may be one acre where the proposed



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park is to be located adjacent to an existing manufactured housing park containing an area of one acre or more.

- (b) The minimum width and minimum depth for a manufactured housing park shall be 200 feet.
- (c) A portion of a manufactured housing park consisting of not more than 25 percent of the area of the park may be designated for temporary parking of boats or other recreational vehicles for storage purposes.
- (d) The overall density of the manufactured housing park shall not exceed seven (7) units per gross acre and the net density of any particular acre within such park, whether used for manufactured housing or storage, shall not exceed ten (10) units per acre. Land subject to flooding or otherwise unsuitable for residential use shall be excluded from density computations.
- (e) Manufactured and/or modular housing units shall be placed no closer than fifteen (15) feet from any property line or manufactured housing site line, and none shall occupy more than twenty-five (25%) percent of the area of the site on which it is situated. A minimum of thirty (30) feet shall be maintained between manufactured and/or modular housing units. The minimum width for each site shall be 2.5 times the width of the manufactured and/or modular housing unit, or fifty (50) feet, whichever is greater. Minimum site widths shall be measured at right angles to the long axis of the site at the setback line or rear of the parking stand, whichever is less. No more than one manufactured and/or modular housing unit shall be parked on any one site and no manufactured housing sites shall be offered for sale or sold. Once established, no manufactured housing park shall be subdivided. Minimum site area for travel trailer or camper sites shall be 2,000 square feet.
- (f) The manufactured housing park shall comply with all sanitary and other requirements prescribed by law or regulations. Each manufactured housing site shall be provided with individual water and sewer connections to central sewer and water systems designed to serve the entire manufactured housing park.
- (g) The park owners shall provide at least two (2) refuse containers of the type and size prescribed by the Administrator or each manufactured and/or modular housing unit located in the park. A central refuse collection enclosure shall be placed in a location prescribed by the Administrator for disposal and collection of park refuse. One (1) such enclosure is required for each seven (7) manufactured and/or modular housing units. The enclosure shall be completely screened from view with a latching gate.
- (h) Each manufactured housing site shall be provided with electrical outlets installed in accordance with applicable Codes and ordinances.
- (i) No manufactured and/or modular housing units shall be parked closer than 50 feet from a public street or road, 10 feet from an interior access drive, or 15 feet from any other accessory building.

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- (j) Access to the manufactured housing park shall not be from a public street or road having less than a forty (40) foot wide right-of-way. Number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no manufactured housing space shall be designed for direct access to a street outside the boundaries of the park. Interior access drives shall be properly lighted at 250 foot intervals and at least 50 feet in width, hard surfaced and curbed and maintained at least 20 feet in width in accord with applicable Town specifications. Turning radius at the end of a cul-de-sac shall be a minimum of 35 feet.
- (k) At least two (2) off-street hard-surfaced parking spaces shall be provided on each manufactured housing site, and in addition one off-street parking space shall be provided per manufactured and/or modular housing unit in other locations convenient to groups of homes. Additional parking area shall be designated for accessory storage of boats, boat trailers, or other recreational vehicles. No parking shall be permitted on the street.
- (l) The topography of the site shall be such as to facilitate drainage and adequate drainage facilities shall be provided.
- (m) The overall design shall evidence a reasonable effort to preserve the natural amenities of the site, particularly mature trees.
- (n) Each manufactured housing park shall provide not less than one multiple purpose developed recreational area of at least 2,500 square feet in area for the use of occupants of the park.
- (o) Any part of the manufactured housing park not used for buildings or other structures, off-street parking, recreational uses, drives and pedestrian walks, garbage and trash collection stations or other uses shall be planted with appropriate ground cover, trees, flowers, shrub and grass lawns, all of which shall be properly maintained. Where no trees exist, at least two shade trees shall be planted and properly maintained on each manufactured unit site. The area of the park which abuts any public street or road or any other developed property shall be planted in row trees, hedges or other shrubbery sufficient to afford privacy to the park occupants and adjoining property owners. The owner(s) of the park shall at all times maintain these plantings in good order and appearance. Such plantings shall provide cover at least five (5) feet from grade.
- (p) The park owner shall require and the unit owner shall insure that open space beneath each manufactured and/or modular housing unit shall be skirted with approved material in accordance with the requirements of the Administrator.
- (q) Corners for each manufactured housing site shall be clearly defined by permanent ground markers corresponding to the approved site plan.
- (r) No manufactured housing park existing at the effective date of these regulations shall be enlarged or extended unless the enlargement area is in compliance with all

requirements for a new manufactured housing park. Manufactured and/or modular housing units may be added within the established boundaries of an existing manufactured housing park so long as the overall density within said boundaries does not exceed seven (7) units per gross acre.

- (s) Buildings and uses not related to the manufactured housing park, but located within the park boundary, shall comply with the provisions of this ordinance inclusive.
- (t) A site plan of the proposed park shall be submitted for review and approval to the Administrator. The Administrator shall submit said plan to the council for its recommendations.

**201.6 Corner lots.**

Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

The side yard on the side facing the side street shall be at least 20 feet for both main and accessory structures.

**201.7 Height regulations.**

Buildings may be erected up to 35 feet in height from grade except that:

The height limit for dwellings may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use each of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet.

Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles, television antennae and radio aerials, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest. Satellite dishes shall be placed in the rear yard.

No accessory structure which is within 20 feet of any adjoining owner lot line shall be more than one story high. All accessory structures shall be of less height than that of the main buildings on the lot.

Off-street parking and loading standards and space requirements for particular uses are herein contained.

**COMMUNITY BUSINESS DISTRICT C-1**

**301.0 Statement of Intent.**

The Community Business District C-1 is intended to provide small business areas to serve the

surrounding residential neighborhoods while preserving the essential residential and historical character of this area. Such uses and business activities permitted in this district shall insure that there is compatibility with surrounding residential neighborhoods, and shall have a minimum visual impact by preserving the historic and residential characteristics of the town. Uses permitted shall consist primarily of retailing, personal service, and office uses carried on inside, primarily during daytime hours, and not frequented by trucks other than deliveries. Outside displays and storage, congregation of people, outside business activities, extensive visible parking facilities, and offensive lighting, noise and odors are discouraged.

**301.1 Use regulations.**

In Community Business District C-1, structures to be erected or land to be used shall be used for uses that are appropriate to the existing historic structures and landscape such as the following:

- (1) Bakeries, where products are sold at retail on the premises.
- (2) Banks.
- (3) Barber and beauty shops.
- (4) Family game and billiard parlors.
- (5) Book stores.
- (6) Cab stands and bus stops for the pickup and discharge of passengers.
- (7) Churches.
- (8) Church bulletin boards and identification signs.
- (9) Drugstores.
- (10) Fences.
- (11) Service clubs and lodges.
- (12) Funeral homes.
- (13) Furniture stores.
- (14) Gift, record, tobacco, and specialty shops.
- (15) Small neighborhood grocery stores.
- (16) Hardware stores.

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- (17) Bed and breakfasts, and inns.
- (18) Household appliance sales and services.
- (19) Laundries, laundromats, and dry cleaners.
- (20) Libraries.
- (21) Small machinery sales and services (with services and repairs within structures).
- (22) Magazine and newsstands.
- (23) Museums and interpretive centers.
- (24) Office supply and equipment.
- (25) Off-street parking.
- (26) Plumbing and electrical supply (with storage within structures)
- (27) Professional and public offices.
- (28) Public utilities; including poles, underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve inhabitants of the town.
- (29) Radio or television broadcasting stations, studios or offices.
- (30) Recreation centers.
- (31) Restaurants (not including restaurants with drive-thru service).
- (32) Shoe repair shops.
- (33) Signs.
- (34) Variety stores.
- (35) Video stores.
- (36) Wearing apparel stores.
- (37) Xerographic reproduction and printing establishments.
- (38) The following new uses are permitted by special use permits only:

- (a) Single-unit and multiple-unit apartments on the upper floors and at the rear of a building used for commercial purposes in the Business C-1 District.

- (39) Existing Single-family dwellings used for residential purposes in the Business District may remain as proper permitted uses without a special use permit or variance.

**301.2 Setback regulations.**

- (a) Building setbacks shall align with the existing setback of adjacent buildings on either side. Where the setbacks of such buildings differ, the setback of either existing building or a point in between may be selected in the historic district provided it is consistent with maintaining the character of the historic streetscape as recommended and approved by the Town Council.

- (b) Building setbacks on streets shall be twenty feet from the street right-of-way.

**301.3 Frontage regulations.**

All lots shall have the minimum required frontage. No flaglots shall be permitted.

**301.4 Yard regulations.**

- (a) The minimum side yard shall be five feet.
- (b) Should a side or rear yard be adjacent to a residential district, the minimum side or rear yard shall be twenty feet.

**301.5 Height regulations.**

- (c) Buildings may be erected up to the average height of adjacent buildings on the block or a maximum of thirty-five feet in height from grade.
- (d) Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aeriels are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

**301.6 Coverage regulations.**

- (a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, twenty-five percent of the area of the lot.
- (b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving and other similar surfaces, may be up to, but not more than, sixty percent of the area of the lot.

**301.7 Requirements for permitted uses.**

- (a) Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show the operations and processes shall be submitted to the zoning administrator for study.
- (b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.
- (c) Landscaping shall be required within any yard area and in any area not covered by buildings or paving. The plans and execution must take into consideration traffic hazards. Landscaping shall be permitted up to a height of three feet and to within twenty feet from the corner of any intersecting streets.
- (d) Sufficient area shall be provided:
  - (1) To adequately screen permitted uses from adjacent business and residential districts; and
  - (2) For off-street parking of vehicles incidental to the establishment, its employees and clients.

**TRAVEL BUSINESS DISTRICT C-2**

**401.0 Statement of intent.**

Travel Business District C-2 is intended to encompass the traveler and automobile services area adjacent to Route 58.

**401.1 Use regulations.**

In Travel Business District C-2, structures to be erected or land to be used shall be used for uses such as the following:

- (1) Accessory storage buildings (there shall be no permanent open air storage/display outside of the principal structure unless the display is under the cover of a canopy).
- (2) Automobile service stations: All appliances for dispensing gasoline installed outside

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of enclosed buildings shall be located not less than twenty-five feet from the street line, and all such appliances shall be installed and maintained in such location as to prevent any part of vehicles being serviced from standing on the street, alley or sidewalk area.

- (3) Automobile and truck sales (with services and repairs under cover).
- (4) Retail and convenience stores.
- (5) Fast food restaurants.
- (6) Fences.
- (7) Hotels, motels.
- (8) Laundries, Laundromats and dry cleaners.
- (9) Machinery sales and services (with services and repairs under cover).
- (10) Magazine and newsstands.
- (11) Office buildings.
- (12) Off-street parking.
- (13) Professional and public offices
- (14) Public garages.
- (15) Public utilities; including poles underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve inhabitants of the town.
- (16) Radio or television broadcasting stations, studios or offices.
- (17) Recreation centers.
- (18) Restaurants.
- (19) Shoe repair shops.
- (20) Signs.
- (21) Theaters, assembly halls.
- (22) Variety stores.



(23) Video stores.

(24) Wearing apparel stores.

(25) The following uses are permitted by special use permits only:

(a) Shopping centers.

#### **401.2 Area regulations.**

None.

#### **401.3 Setback regulations.**

None, except that any residential use in this district shall be located twenty feet from any street or highway right-of-way; however, no residential use shall be required to set back more than the average of the two buildings on either side of such use.

#### **401.4 Frontage and yard regulations.**

No requirement, except that should a side or rear yard be adjacent to a residential district, the minimum side or rear yard shall be twenty feet.

#### **401.5 Height regulations.**

(a) Buildings may be erected up to thirty-five feet in height from grade.

(b) Cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

#### **401.6 Coverage regulations.**

Buildings or groups of buildings with their accessory structures may cover up to, but not more than, thirty-five percent of the area of the lot.

#### **401.7 Requirements for permitted uses.**

(a) Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show the operations and processes shall be submitted to the zoning administrator for study.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid

masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.

- (c) Landscaping shall be required within any yard area when adjacent to a residential district. The plans and execution must take into consideration traffic hazards. Landscaping shall be permitted up to a height of three feet within twenty feet from the corner of any intersecting streets.

**401.8 Architectural treatment.**

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public streets which border the property.

**HISTORIC BUSINESS DISTRICT C-3**

**501.0 Statement of intent.**

Historic Business District C-3 is intended to encompass the major retailing area and to provide for the orderly expansion of the business in the town in a manner consistent with the goal of promoting the appropriate reuse of existing historic buildings and reinforcing the historic character of the town. Historic Business District C-3 should provide a framework for a strong business community, in which each business can enhance other businesses and where amenities and services appropriate to the successful adaptive reuse of existing buildings can be provided.

**501.1** In Historic Business District C-3, structures to be erected or land to be used shall be used for uses that are appropriate to the existing historic structures and landscape such as the following:

- (1) All C-1 Business District uses.
- (2) Accessory residential apartments for business owners or managers of the business.
- (3) Home occupations.
- (4) Retail business or service establishments, except those located entirely within a building, such as: barber and beauty shops, clothing apparel and shoe stores, laundry services, hardware, furniture or appliance services, florists, drugstores, bakeries and confectionery shops.

- (5) Antique shops.
- (6) Apparel and shoe alteration and repair shops.
- (7) Art and photographic shops.
- (8) Auto and truck parts stores.
- (9) Business and professional offices.
- (10) Banks, financial institutions and real estate offices.
- (11) Food and convenience stores, without fuel sales.
- (12) Day care centers and nurseries.

## **INDUSTRIAL DISTRICT I-1**

### **601.0 Statement of intent.**

The primary purpose of this district is to permit certain industries, which do not in any way detract from residential desirability, to locate in areas adjacent to residential uses. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply.

**601.1** In Industrial District I-1, any structure to be erected or land to be used shall be for one (1) or more of the following uses:

- (a) Assembly of electrical appliances, electronic instruments and devices. Also the manufacture of small electronic components.
- (b) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire recapping, battery or automotive parts manufacture.
- (c) Blacksmith shop, welding or machine shop, excluding punch presses exceeding forty (40) ton rated capacity and drop hammers.
- (d) Boat building.

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- (e) Building material sales yards, plumbing supplies storage, lumber mills.
- (f) Cabinets, furniture, and upholstery shops.
- (g) Coal and wood yards, lumber yards.
- (h) Contractors' equipment storage yards or plants, or rental of equipment commonly used by contractors.
- (i) Junk storage under cover, with a Special Use Permit.
- (j) Laboratories-Pharmaceutical and/or medical.
- (k) Manufacture, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stones, shell straw, textiles, wood, yarn, and paint.
- (l) Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet water, toiletries, food products, and ice manufacture.
- (m) Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.
- (n) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- (o) Monumental stone works.
- (p) Veterinary or dog or cat hospital, kennels.
- (q) Wholesale businesses, storage warehouses.
- (r) Off-street parking as required by this ordinance.
- (s) Public utility generating, booster, or relay stations, transformer substations, transmission lines and towers, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewerage installations.

- (t) Signage as provided in this ordinance.
- (u) Activities or uses permitted in District C-2, where differences in the permitted activities or uses occur, the more restrictive shall apply.
- (v) Radio, telephone and television transmission or receiving station or tower; tower more than 100 feet in height to be granted by a Special Use Permit.

### **601.2 Requirements for Permitted Uses.**

Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for their recommendations. Modification of the plans may be required.

Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three (3) feet, and to within fifty (50) feet from the corner of any intersecting streets.

Sufficient area shall be provided (a) to adequately screen permitted uses from adjacent business and residential district and (b) for off-street parking of vehicles incidental to the industry, its employees, and clients.

The Administrator shall act on any application received within sixty (60) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

### **601.3 Area regulations.**

No area regulations shall apply to this district, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

### **601.4 Setback regulations.**

Buildings shall be located ten (10) feet or more from any street right-of-way which is (50) feet or greater in width or thirty-five (35) feet or more from the center line of any street right-of-way less than fifty (50) feet in width, except that signs advertising sale or rent of premises may be erected up to the property line. This shall be known as the “setback line.”

### **601.5 Frontage and Yard regulations.**

For permitted uses, the minimum side or rear yard immediately adjoining or adjacent to a

residential district shall be twenty-five (25) feet. This requirement shall not apply where residential districts are separated from commercial districts by a public street or right-of-way having a minimum width of thirty (30) feet.

**601.6 Height regulations.**

Buildings may be erected up to a height of thirty-five (35) feet. For buildings over thirty-five (35) feet in height, approval shall be obtained from the Administrator. Chimneys, flues, cooling towers, flag poles, radio or communication towers, or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four (4) feet above the limited height of the building on which the walls rest.

**601.7 Coverage regulations.**

Buildings or groups of buildings, with their accessory buildings may cover up to seventy percent (70%) of the area of the lot.

**PUBLIC LAND DISTRICT P-1**

**701.0 Purpose.**

Public Land District regulations govern the location, intensity, and method of development of most publicly owned or publicly maintained land within the Town of Coeburn. Public land uses have been grouped into one (1) zoning classification: P – Public Land District

**701.1 Description of district.**

The Public Land District is intended to provide for the zoning and common classification of most publicly owned land within the Town of Coeburn. Public land may be zoned within this district or may be allowed within other districts established in this Ordinance depending upon specified use regulations. No privately owned property or structures are allowed within the Public Land District.

**701.2 Permitted uses.**

Permitted uses of land or buildings, as hereinafter enumerated, shall be permitted in the Public Land District only in accordance with conditions specified. Only those uses specifically listed hereunder shall be considered permitted uses, and no building or lot shall be devoted to any use other than a use permitted hereunder, with the exception of uses lawfully established prior to the effective date of this Ordinance.

1. PUBLIC EDUCATION AND UTILITY USES
  - a. Public Elementary Schools
  - b. Public Fire Stations
  - c. Public Garages or Parking lots

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- d. Public High Schools
  - e. Public Libraries
  - f. Public Museums
  - g. Public Office Buildings
  - h. Public Parks and Playgrounds
  - i. Public Police Stations
2. RECREATION AND SOCIAL FACILITIES
- a. Public Athletic Fields
  - b. Public Camps; day or youth
  - c. Public Auditoriums or Arenas
3. MISCELLANEOUS USES
- a. Publicly owned property and structures used for public purpose

# Town of Coeburn Non-Conforming Uses

## **ARTICLE IV: SECTION 13 NON-CONFORMING USES**

**13.1** If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for the purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

**13.2** If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

**13.3** If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance. Intent to resume active operations shall not affect the foregoing.

**13.4** Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance may be continued as herein provided.

**13.5** All dwellings and their accessory structures erected prior to the enactment of this ordinance shall be exempt as to area, setback, frontage and yard regulations if their present owners so desire.

### **Permits.**

**13.6** All nonconforming uses shall be issued a Zoning Permit and a Certificated of Occupancy within one hundred eighty (180) days after the adoption of this ordinance.

**13.7** The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, or such use of land established within thirty (30) days after the effective date of this ordinance.

### **Repairs and Maintenance.**



**13.8** On any building in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **Changes in District Boundaries.**

**13.9** 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.

#### **Expansion or Enlargement.**

**13.10** A nonconforming structure to be extended or enlarged shall conform with the provision of this ordinance.

**13.11** 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.

#### **Nonconforming Lots**

**13.12** Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used provided a showing of unnecessary and undue hardship would result if a variance is not granted from the Board of Zoning Appeals.

#### **Restoration or Replacement.**

**13.13** If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this ordinance.

**13.14** If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance.

**13.15** When a nonconforming structure devoted to a nonconforming activity is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than seventy-five percent (75%) of the cost of

reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.

**13.16** The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

**13.17** Nothing in this ordinance shall require any change in the plans or construction of any building or structure for which any required permit from appropriate local authority was granted, provided that such construction must commence within thirty (30) calendar days after the effective date of this ordinance and must be completed within a period of one (1) year after construction is initiated. Excavation or site preparation in contemplation of construction shall not satisfy the provisions of this section. Where the placement of a manufactured housing unit is involved, placement must occur as specified by permit within thirty (30) days of the effective date of this ordinance. Where the expansion of an existing manufactured housing or mobile home park is involved, or where a new manufactured housing or mobile home park is involved, at least three (3) such units must be placed as permitted within thirty (30) days of the effective date of this ordinance. Failure to comply with the provisions of this section within the periods specified shall void all permits which may have been issued hereto, and all uses or activities shall be governed by the provisions of this ordinance.

# Town of Coeburn Zoning Permits & Certificates of Occupancy

## **ARTICLE V: SECTION 14 ZONING PERMITS AND CERTIFICATES OF OCCUPANCY**

**14.1** Buildings or structures shall be started, reconstructed, enlarged, or altered only after a Zoning Permit has been obtained from the Administrator.

**14.2** The commission may request a review of the Zoning Permit approved by the Administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.

**14.3** Each application for a Zoning Permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the 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 Administrator. One (1) copy of the drawing shall be returned to the applicant with the permit. Scale drawings shall not be required if the exterior of all buildings remain unchanged.

**14.4** Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a Certificate of Occupancy has been issued by the Administrator. Such a permit shall state that the building or the proposed use, or the use of land, complies with the provisions of this ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A Certificate of Occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a Zoning Permit. The Certificate of Occupancy shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

**14.5** No public utility or other entity providing electricity, natural gas, water, sanitary sewage disposal or other similar services within the Town shall make such available prior to the issuance of a Zoning Permit. Such services shall not be made permanent unless pursuant to a Certificate of Occupancy.

**14.6** If in any district established under this ordinance, a use is not specifically permitted and

an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission which shall make its recommendations to the Town Council within sixty (60) days. If the recommendation of the Planning Commission is approved by the Town Council, the ordinance shall be amended to list the use as a permitted use in that district, henceforth. Both the Planning Commission and the Town Council shall hold a public hearing in connection with this after advertising according to Sec. 15.1-431 of the Code of Virginia.

### **Future Annexation.**

**14.7** Any area annexed by the Town of Coeburn, after the effective date of this ordinance, shall immediately upon the effective date of such annexation be automatically classified as an R-1 district until a zoning plan for said area has been adopted by the Town Council. The Planning Commission shall prepare and present a zoning plan of the annexed area within six (6) months to the Town Council.

### **Landscape Features.**

**14.8** On any corner lot in a residential district, there shall be no planting, structure, fence, retaining wall, shrubbery, or obstruction to vision more than three (3) feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting said street lines twenty-five (25) feet from their intersection. On any corner lot in a commercial or industrial district, no building or obstruction shall be permitted between a height of one (1) foot and a height of ten (10) feet higher than the curb level within the triangle formed by the street right-of-way line and a line connecting said street lines five (5) feet from their intersection.

Trees, shrubs, flowers, or plants shall not be permitted or maintained on any required front, side, or rear yard, if they interfere with the safe use of the public street or sidewalk. Said landscape features shall be permitted in any required front, side, or rear yard, provided they do not interfere with public safety and do not produce a hedge effect contrary to provisions of this ordinance.

**14.9** The setback and yard requirements of this ordinance shall not be deemed to prohibit any otherwise lawful fence or wall which is not more than four (4) feet high. However, a fence or wall along the rear lot line and along the side lot line to the rear of the required setback line may be erected to a height not exceeding eight (8) feet. This provision shall not be deemed to allow any wall or fence more than three (3) feet high as defined in this section. Also, this provision shall not be interpreted to prohibit any open mesh type fence enclosing any school or playground.

# Town of Coeburn Board of Zoning Appeals

## **ARTICLE VI: SECTION 15 BOARD OF ZONING APPEALS**

### **Membership and Organization.**

**15.1** Establishment of Board; membership. Pursuant to the provisions of section 15.2-2308 of the Code of Virginia, 1950, as amended, a Board of Zoning Appeals is hereby created which shall consist of five (5) members who shall be residents of the town and shall be appointed by the Circuit Court. One (1) of the members of the Board shall be appointed from among the members of the County Planning Commission. The terms of the members of the Board, reappointments, the filling of vacancies and procedures for the removal of members shall be as set forth in section 15.2-2309 of the Code of Virginia, 1950, as amended.

**15.2** Officers. The Board of Zoning Appeals shall elect from among its members a chairman, a vice chairman, who shall serve in the absence of the chairman, and a secretary, all of whom shall serve annual terms and may succeed themselves.

**15.3** Staff and Support Services. With the approval of the Town Council and within the limits of funds that may be appropriated for such purposes, the Board of Zoning Appeals may employ or contract for such clerical technical or legal services necessary for it to carry out its responsibility.

### **Procedures.**

**15.4** Adoption of Rules. The Board of Zoning Appeals shall adopt rules necessary for the conduct of its affairs in keeping with the applicable provisions of this article and the provisions of title 15.2 of the Code of Virginia, 1950, as amended. Copies of such rules shall be available to the public.

**15.5** Forms for Applications and Appeals. The Board of Zoning Appeals shall see that forms necessary for applications and appeals are available, which forms shall be provided to applicants by the Zoning Administrator.

**15.6** Meetings. The Board of Zoning Appeals shall, in accordance with its rules, schedule regular meetings which shall be open to the public. The Board may also hold such special meetings as it deems necessary in accordance with its rules.

**15.7** Public hearings. The Board shall make no decision on any application or appeal until it has conducted a public hearing after giving public notice as required by the provisions, of section 15.1-431 of the Code of Virginia, 1950, as amended, which provisions shall be incorporated within or attached to the rules of the board.

**15.8** Quorum. A quorum of not less than a majority of all members of the Board shall be required for the conduct of any hearing and the taking of any action.

**15.9** Records. The Board of Zoning Appeals shall keep minutes of its proceedings, including the vote of each member on each question, and shall keep records of its official actions. Minutes and records shall be filed in the office of the Board. The Board shall submit an annual report of its activities to the Town Council.

**15.10** Appeals. The Board of Zoning Appeals shall have the power to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator or any other Administrative Officer in the administration or enforcement of this Ordinance.

#### **15.11 Variance**

- (1) The Board of Zoning Appeals shall have the power to authorize upon application in specific cases, such variance as defined in Section 15.1-430 (p) of the Code of Virginia, 1950, as amended, 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 provisions of this Ordinance will result in unnecessary hardship, provided that the spirit of this Ordinance shall be observed and substantial justice shall be done.
- (2) No variance shall be authorized by the Board unless a property owner can show to the satisfaction of the Board that:
  - (a) The property was acquired in good faith;
  - (b) By reason of this exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of this Ordinance or subsequent amendment thereto, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece or property or of the condition, situation or development of property immediately adjacent thereto, strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the utilization of the property; or that the granting of the variance requested will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- (3) No variance shall be authorized by the Board unless it finds from the evidence presented that:

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- (a) Such variance will be in harmony with the intended spirit and purpose of this Ordinance;
  - (b) The strict application of this Ordinance would produce undue hardship, and that such hardship is not shared generally by other properties in the same zoning district will not vicinity as the subject property;
  - (c) 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;
  - (d) The condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Town Council as an amendment to this Ordinance;
  - (e) The variance will not include a departure from the use regulations set forth in this Ordinance.
- (4) In the authorization of a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.

**15.12 Interpretation of Official Zoning District Map.** The Board of Zoning Appeals shall have the power to hear and decide applications for interpretation of the official zoning district map where there is any uncertainty as to the location of a district boundary, and where the rules for the interpretation of district boundaries set forth in Article 2 in this Ordinance do not satisfactorily resolve such uncertainty. After notice to the owners of the property affected by any such question, and after public hearing with notice as required, the Board may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question. The Board shall not have the power to change substantially the locations of district boundaries established by this ordinance.

**15.13 Special Exceptions.** The Board of Zoning Appeals shall have the power to hear and decide applications for such special exceptions as may be authorized elsewhere in this Ordinance. In the granting of any such special exception, the Board may impose such conditions relating to the use provided for as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.

**15.14 Prohibition on Rezoning of Property.** No provision of this article shall be construed as granting the Board of Zoning Appeals the power to rezone property, which power shall be vested in the Town Council.

**15.15 Appeal Procedure.**



- (a) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, Board or Bureau of the county affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other Administrative Officer in the Administration or enforcement of this Ordinance.
- (b) An appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof. Copies of the notice of appeal shall also be submitted to any other individual, officer, department or agency involved in the appeal. The Zoning Administrator shall forthwith transmit to the Board all papers and other materials constituting the record upon which the action appealed from was taken.
- (c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would in his or 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 or by a court of record, on application and with notice to the Zoning Administrator, and for good cause shown.

**15.16 Applications for Variances and Interpretations of the Official Zoning District Map.**

- (a) Applications for variances and interpretation of the official zoning district map may be made by any property owner, tenant, government official, department board or bureau on forms provided for such purpose by the Board of Zoning Appeals.
- (b) Applications shall be submitted to the Zoning Administrator in accordance with rules adopted by the Board. The Zoning Administrator shall transmit all applications and accompanying maps and documents to the Secretary of the Board who shall place the matter on the docket of the Board. The Zoning Administrator shall also transmit copies of all applications to the Town Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- (c) Substantially the same application for a variance, special exception or interpretation of the official zoning district map which has been decided by the Board shall not be considered again by the Board within twelve (12) months of the date of its decision, except that the Board may, pursuant to its rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.



**15.17 Public Hearings and Decisions.**

- (a) The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within ninety (90) days of filing of the application of appeal. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from.
- (b) The concurring vote of not less than three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of an Administrative Officer, or to decide in favor of the applicant in any matter upon which it is required to pass under this Ordinance, or to effect any variance from the provisions of this Ordinance.
- (c) The Chairman of The Board or, in his or her absence, the acting Chairman may administer oaths and compel the attendance of witnesses.

**15.18 Expiration of Variance or Special Exception.**

A variance or special exception granted by the Board of Zoning Appeals shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the Board, no construction or change in use pursuant to such variance or special exception has taken place, provided that the Board may, for good cause shown, specify a longer period of time in conjunction with its action to grant variance or special exception.

**15.19 Amendment of Variance of Special Exception.**

The procedure for amendment of a variance or special exception granted by the Board of Zoning Appeals, including any changes in the conditions attached thereto, shall be the same as for a new application.

**15.20 Enforcement of Decisions.**

Decisions of the Board of Zoning Appeals shall be administered and enforced by the Zoning Administrator. Noncompliance with any action, taken by the Board, including conditions imposed by the Board, shall constitute a violation of the provisions of this Ordinance.

**15.21 Appeals from Decisions of the Board.**

Appeals from decisions of the Board of Zoning Appeals shall be presented to the Circuit Court of the County in accordance with the procedures set forth in section 15.1-497 of the Code of Virginia, 1950, as amended. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer of any officer, department, Board or Bureau of the County may present to the Circuit Court a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the Office of the Board.

**15.22 Fees.**

A filing fee in such amount as established by general rule by the Town Council shall be submitted with each appeal to the Board of Zoning Appeals and each application for a variance, special exception or interpretation of the official zoning district map.

**ARTICLE VII: SECTION 16  
CONDITIONAL ZONING**

**16.1 Purpose.** Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this section to provide a zoning method as authorized under Sec. 15.1-491, Code of Virginia 1950, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

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

1. the rezoning itself must give rise for the need for the conditions;
2. such conditions shall have a reasonable relation to the rezoning;
3. such conditions shall not include a cash contribution to the Town;
4. such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the subdivision ordinance;
5. such conditions shall not include payment for or construction of off-site improvements except those provided for in the subdivision ordinance;
6. no condition shall be proffered that is not related to the physical development or physical operation of the property; and
7. all such conditions shall be in conformity with the Comprehensive Plan.

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

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

**16.5 Review and revision of proffered conditions.** Additional conditions or modified conditions may be proffered by the applicant during or subsequent to the public hearing before the Town Council, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Town Council has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.

**16.6** After the Town Council public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the Town Council, then a second public hearing need be held only before the Town Council before the application and modified conditions can be approved.

**16.7** Should additional conditions be proffered by the applicant at the time of the public hearing before the Town Council, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Town Council, which hearing may be either separately or jointly held.

**16.8 Annotation of zoning district map.** The zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

**16.9 Enforcement of conditions.** The Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including: (a) the ordering in writing of the remedy of any noncompliance with such conditions; (b) the bringing of legal action to insure

compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town council, or agent thereof, upon submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

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

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

**16.12 Review of the Administrator's decision.** Any zoning applicant who is aggrieved by the decision of the Administrator pursuant to the provisions of the above section, may petition the Town Council for the review of the decision of the Administrator.

**16.13 Reconsideration, one year limitation.** Whenever a petition requesting an amendment, supplement, or change has been denied by the Town Council, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

## **ARTICLE IV: SECTION 17 AMENDMENTS**

### **17.1 Generally.**

Whenever public necessity, convenience, general welfare or good zoning practice require, and subject to the procedures and requirements set forth in section 15.2-2286 of the Code of Virginia,

1950, as amended, the regulations, restrictions and district boundaries established by this Ordinance may be amended, supplemented, changed or repealed by ordinance to amend the provisions of this Ordinance shall be enacted in the same manner as all other ordinances.

## **17.2 Initiation of Amendments.**

### **Amendments to this Ordinance may be initiated by any of the following methods:**

- (1) Resolution of the Town Council. The Town Council may, by its own resolution, initiate an ordinance to amend any of the provisions of this Ordinance, including the official zoning district map. Such resolution shall state the public purpose for the amendment.
- (2) Motion of the Planning Commission. The Planning Commission may, by adoption of a motion, initiate an amendment to any of the provisions of this Ordinance, including the official zoning district map. Such motion shall state the public purpose for the amendment. The motion shall cause an ordinance to be prepared for its consideration.
- (3) Petition of a property owner. A petition to change the zoning classification of property by amendment to the official zoning district map may be filed by the owner of such property or, with the written consent of the owner, the contract purchaser of the property or any agent owner, the contract purchaser of the property or any agent of the owner. Such petition may be addressed to the Town Council or to the Planning Commission and shall be filed with the Zoning Administrator for such forms provided by the Zoning Administrator for such purpose. The petition shall be accompanied by the required fee and a certified plat, legal description or such other documentation as prescribed by written policy established by the Town Council. The Zoning Administrator shall forward the petition to the Town Council, which shall cause an ordinance to be prepared for its consideration.

**17.3 Action by Planning Commission** Review and recommendation. No ordinance to amend the provisions of this Ordinance shall be acted upon by the Town Council unless the amendment has been referred to the Planning Commission for its review and recommendation. The Commission may recommend that the Town Council adopt or reject the proposed amendment. Failure of the Commission to consider the amendment and report to the Town Council within ninety (90) days after the first regular meeting of the Commission after the amendment was referred to it, shall be deemed to be a recommendation approval.

**17.4 Public notice and hearing**. Before taking action on any amendment referred to it by the Town Council, the Planning Commission shall give public notice as required by section 15.1-431 of the Code of Virginia, 1950, as amended, and shall hold a public hearing thereon. The Zoning Administrator shall submit a written report and recommendation regarding the amendment to the Planning Commission prior to its scheduled public hearing.

**17.5 Action by Town Council** Public notice and hearing. Before taking action on any ordinance to amend the provisions of this Ordinance, the Town Council shall give public notice as required by section 15.1-431 of the Code of Virginia, 1950, as amended, and shall hold a public hearing thereon.

**17.6 Final action.** After receiving a report from the Planning Commission and after giving public notice and holding a public hearing, the Town Council may adopt or reject the proposed amendment, or may make appropriate changes or corrections to the amendment, provided that no land may be zoned to a more intensive use classification nor shall a greater area of land be rezoned than was described in the public notice without referral to the Planning Commission and an additional public hearing after public notice as required by section 15.1-431 of the Code of Virginia, 1950, as amended.

**17.7 Continuance or withdrawal.** Final action on any proposed amendment may be continued by the Town Council for good cause, provided that all resolutions, motions or petitions for amendments to the provision of this Ordinance shall be acted upon a decision made by the Board within one (1) year of the date of such resolution, motion or petition. This provision shall not apply if the petitioner requests or consents in writing to action beyond such period or if the resolution, motion or petition initiating the amendment is withdrawn by providing written to the County Clerk. In the case of withdrawal, no further action on the amendment shall be necessary.

**17.8 Joint Public Hearing** The Town Council and the Planning Commission may hold a joint public hearing on any proposed amendment, subject to the public notice requirements of section 15.1-431 of the Code of Virginia, 1950, as amended.

**17.9 Filing of New Petition after Rejection** Upon rejection by the Town Council of any proposed amendment to the Official Zoning District map by petition of a property owner, contract purchaser or agent of a property owner, substantially the same petition shall not be considered again by the Board within one (1) year of the date of such rejection.

**17.10 Fees** A filing fee in such amount as established by general rule by the Town Council shall be submitted with each petition to change the Zoning Classification of Property.

# Town of Coeburn Subdivision Ordinance

## APPENDIX A SUBDIVISION ORDINANCE

### ARTICLE I: PURPOSE, TITLE AND ADOPTION

#### **1-1. Purpose.**

The purpose of this ordinance is to establish certain subdivision standards and procedures for the Town of Coeburn and such of its environs as come under the jurisdiction of the Town Council as provided by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purpose of these standards and procedures is to provide a development for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner. Subdivided land sooner or later becomes a public responsibility in that roads and streets must be maintained and numerous public services customary to urban areas must be provided. This ordinance assists the community in meeting these responsibilities.

#### **1-2. Title.**

This ordinance is known and may be cited as the "Subdivision Ordinance of the Town of Coeburn, Virginia."

#### **1-3. Adoption.**

The following regulations are hereby adopted for the subdivision of land within the



unincorporated territory of the County, other than incorporated towns, and from and after, the regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the court wherein deeds conveying such land are required by law to be recorded.

## **ARTICLE II. DEFINITIONS**

For the purpose of this ordinance, certain words and terms used therein shall be interpreted or defined as follows: words used in the present tense include the future; words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory and not directory; the word "approval" shall be considered to be followed by the words "or disapproved"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

**2-1. *Acreage, gross.*** Gross acreage means total tract acreage.

**2-2. *Acreage, net.*** Net acreage is the remaining acreage after subtracting from gross acreage all land not intended for use or sale as residential building lots. In computing net acreage, street right-of-way, restricted floodways, parks, school sites, other permanent open spaces and land intended or shown for public use shall be subtracted as well as land intended for other than residential use.

**2-3. *Alley.*** A public or private right-of-way primarily designated to serve as a secondary access to the rear or side of those properties whose frontage is on some other street.

**2-4. *Approved authority.*** Those persons delegated the responsibility of approving any portion or part of the requirements of this article (ordinance).

**2-5. *Architect.*** A person licensed by the Commonwealth of Virginia to practice architecture.

**2-6. *Building.*** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind and which is permanently affixed to the ground.

**2-7. *Building setback line.*** A line within a lot or other parcel of land on a recorded plat, between which line and the adjacent boundary line, the erection of a building is prohibited.

**2-8. *Commission.*** The Planning Commission of the Town of Coeburn.

**2-9. *Administrator.*** An employee of the Town of Coeburn who is charged with the responsibility of the overseeing all projects and activities.

**2-10. *Cul-de-sac.*** A street with only one outlet and having a terminal for reversal of traffic.



**2-11. Developer.** Any person, group of persons, corporation, or other legal entity who, having an interest in land directly or indirectly sell, leases, or develops or offers to sell, lease or develop, or advertises for sale, lease or development any lot, tract, parcel, site, unit or interest for residential, commercial or industrial development.

**2-12. Dwelling.** Any building containing one (1) or more dwelling units but not including hotels, motels, boarding or lodging houses.

- A. **Dwelling, single-family:** A dwelling unit which is designed to be and is substantially separate from any other structures except accessory structures.
- B. **Dwelling, two family:** A dwelling containing two (2) dwelling units.
- C. **Dwelling, multi-family:** A dwelling or building containing three (3) or more dwelling units.
- D. **Dwelling, town house:** A single-family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

**2-13. Dwelling unit.** One (1) or more rooms which are arranged, designed, or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

**2-14. Easement.** An interest in land owned by another that entitles its holder to a specific limited use.

**2-15. Engineer.** A person licensed by the Commonwealth of Virginia as a professional engineer.

**2-16. Family.** One (1) or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit.

**2-17. Family Subdivision.** A subdivision in which one (1) division of the parent tract is made available to any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, aunt, uncle, niece, nephew, or parent of the owner.

**2-18. Flood.** An overflow of water onto land not normally covered by water that results in significant adverse effects of the vicinity.

**2-19. Flooding, land subject to.** For the purpose of this section, land subject to flood shall be defined as follows:

- A. All land lying below the 100-year flood level, identified as a Special Flood Hazard Area on the Federal Insurance Administration (FIA) Flood Hazard Boundary Map for the Town of Coeburn.

**2-20. Floodway.** The natural high water channel in the portion of the flood plain along the normal channel which must be retained for the passage of flood waters to prevent undue increase in flood heights upstream. For the purpose of this section the floodway shall be further

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defined as follows:

- A. Floodway districts as designated by Chapter 8 of the Wise County Code.
- B. Along streams for which the 100-year data is available, the floodway shall consist of the stream channel and that portion of the adjacent flood plain which would be required to safely pass the 100-year flood as determined by competent engineers acting on the behalf of the sub-divider, but in no case less than fifteen (15) horizontal feet measured from the top of the banks.
- C. Along streams and drainage channels, areas within fifteen (15) feet of the top of the banks.

**2-21. Frontage.** The length of the property line of any lot, lots or tract of land measured along a street on which the lot, lots, or tract of land abuts.

**2-22. Governing Body.** The Town Council of Coeburn, Virginia.

**2-23. Health Official.** The Health Director or County Sanitarian of Wise County.

**2-24. Highway Engineer.** The resident engineer or his duly appointed representative employed by the Virginia Department of Transportation.

**2-25. Lot.** A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development which is set off in metes and bounds, conforms to the zoning ordinance and has the minimum required frontage on a street as required by this section.

- A. **Lot, corner:** A lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot and the longest side fronting upon a street shall be considered the side of the lot.
- B. **Lot, depth of:** The mean horizontal distance between the front and rear lot lines.
- C. **Lot, double frontage:** An interior lot having frontage on two streets.
- D. **Lot, interior:** a lot other than a corner lot.
- E. **Lot, line:** The boundary line of the lot.
- F. **Lot, out:** A unit of land not suitable as a building site and substandard to the zoning ordinance.
- G. **Lot, through:** A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
- H. **Lot, width:** The horizontal distance between the side lines of a lot

measured along the set back lines.

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**2-26. Lot of record.** A lot which has been recorded in the office of the Clerk of the Circuit Court of Wise County.

**2-27. Monument.** A man-made object placed throughout a subdivision for the purpose of defining a land boundary either at a point of direction change or at any intermediate point along a line.

**2-28. Official.** The individual who has been appointed to serve as the agent of the governing body in approving subdivision plats.

**2-29. Off-street Parking.** Any space specifically allotted to the parking of motor vehicles, which space shall not be in a dedicated right-of-way.

**2-30. Owner.** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land.

**2-31. Plat.** Includes the terms: map, plan, plot, replat, replot; a schematic representation of a tract of land which is to be or has been subdivided in compliance with this section. Plats shall conform to the standards as contained in Section 42.1-82 of the Code of Virginia.

**2-32. Residential planned community.** Means a variety of residential and other land uses developed in an orderly relationship to one another so as to produce as nearly as possible a self sustaining community of land uses of a compatible nature.

**2-33. Street.** A public right-of-way which offers a primary means of vehicular access to properties or provides through traffic. A street shall be deemed the total length and width of the strip of land dedicated or designated for public travel, including such improvements as may be required.

- A. Street, arterial: A thoroughfare which carries the major portion of traffic entering.
- B. Street, collector: A street or system of streets that distributes traffic from the arterials through the areas to the ultimate destination, which may be a local or collector street. The collector street may also collect traffic from local streets in the neighborhood and channels such traffic into arterial systems.
- C. Street, local: A street of limited continuity used primarily for access to abutting properties and serving the local needs of a neighborhood.
- D. Street, service: A public street, generally paralleling and contiguous to arterial streets, primarily designed to promote safety by properly spacing points of access to such arterial streets.
- E. Street, stub: A street with one inlet and no outlet, commonly referred to as a dead end street.

**2-34. Street Private.** A travel way, road or thoroughfare which affords principal means of

access to abutting property encompassed by a right-of-way not dedicated to public use, maintained by a private corporation or adjacent landowners within the platted subdivision and subject to the complete restrictive control by said private corporation or adjacent landowners.

**2-35. *Subdivide.*** The division of a lot, tract or parcel of land into two or more parts any of which are used or to be used for building purposes or transfer of ownership. See definition of subdivision elsewhere in this section.

**2-36. *Subdivider.*** Any person, firm or corporation owning any tract, lot or parcel of land to be subdivided or a group of two or more persons acting in concert, or who has or have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision ordinance.

**2-37. *Subdivision.*** The division of lot, tract or parcel of land into two (2) or more lots or other subdivision of land, for the purpose, whether immediate or future, of transfer of ownership, or building development, including all changes in streets or lot lines, and including any parcel previously separated by the then owner of such tract for such purpose subsequent to the adoption of these regulations; provided, that the division of land in parcels of five (5) acres or more that does not involve any new public street or easement of access or road shall not be considered a subdivision when such division does not offer an opportunity to obstruct natural drainage or a planned major highway or to adversely affect any part of an adopted plan, or any way violate the intent of the zoning ordinance of the county; and provided further, that divisions of lands by court order or decree shall not be deemed a subdivision as otherwise herein defined.

The term "subdivision" shall not include a single division of land into parcels where such division is for the purpose of a sale or gift to a member of the immediate family of the property owner including a partition of property owned by immediate family members. Only one such division shall be allowed per family member and shall not be for the purpose of circumventing this section. For the purpose of this subsection, a member of the immediate family shall be as defined elsewhere in this ordinance. With respect to family subdivision all applicable requirements of the zoning ordinance shall be met and the proposed parcel shall conform to the design standards set forth in this ordinance.

The term "subdivision" shall not include subdividing to one's self in order to circumvent the process for financial gain.

**2-38. *Surveyor.*** A certified land surveyor authorized to do business in the Commonwealth of Virginia.

**2-39. *Water supply, individual well.*** A well supplying a source of water to one lot.

**2-40. *Water supply, public system.*** A water supply and distribution system owned and operated by a public corporation.

**2-41. *Zoning Ordinance.*** The zoning ordinance of the Town of Coeburn.

## **ARTICLE III. ADMINISTRATION IN GENERAL**

### **3-1. Administration.**

The Administrator is hereby appointed to administer this ordinance. In so doing, the Administrator shall be considered the agent of the governing body, and the approval or disapproval by the Administrator shall constitute approval or disapproval as though it were given by the governing body. The Administrator shall also consult with the Town Council and the Planning Commission regarding matters contained herein.

### **3-2. Duties.**

The Administrator shall perform his duties as regards subdivisions and subdividing in accordance with this ordinance and Section 15.1-465 et seq., of the Code of Virginia of 1950, as amended.

### **3-3. To consult.**

In the performance of his duties, the Administrator shall call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the Administrator shall have particular reference to the resident highway engineer, health officer, Town Council and Planning Commission.

### **3-4. Additional Authority.**

In addition to the regulations contained herein for the platting of subdivisions, the Administrator may, from time to time, establish reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance.

### **3-5. Exceptions.**

Where the sub-divider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the Administrator a departure may be made without destroying the intent of such provisions, the Administrator may authorize an exception. Any exception thus authorized is to be stated in writing with the reasoning, on which the departure was justified set forth. No such variance may be granted by this section which is opposed in writing by the highway engineer or health official.

### **3-6. Amendments.**

This ordinance may be amended in whole or in part by the town council; provided, that such an amendment shall either originate with or be submitted to the planning commission for recommendation; and further provided, that no such amendments shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the

hearing shall have been given at least once a week for two weeks, and the last notice at least five days prior to the hearing.

**3-7. Penalties.**

Any person violating the foregoing provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

**3-8. Severability.**

Should any article, section, subsection, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**3-9. Applicability to other developments.**

This ordinance shall apply, where applicable, to planned communities, condominiums, townhouses, and industrial parks.

**3-10. Advertising standards.**

A developer, when selling a subdivided tract of land, shall make the following information available in written form at the site of the sale on the day of the sale:

- A. Whether or not public water is available to all tracts or lots;
- B. Whether or not public sewer is available to all tracts or lots;
- C. Whether or not the streets will be maintained by the Virginia Department of Transportation;
- D. The zoning of the property and the permitted, accessory, and conditional uses allowed in the zone. Any printed or media advertisement of the sale shall include the zoning of the property.

**3-11. Land excluded from requirements.**

This ordinance shall not include the following:

- A. A division of land ordered by a court of competent jurisdiction.
- B. A tract, parcel or lot of land divided into five (5) acre or more lots, provided however, that if new streets are required to serve the parcels, all requirements relating to streets in this ordinance shall be binding.

- C. A bona fide division of land to immediate family members as defined herein. The guidelines as established in this ordinance under Article IV, Family Subdivision, shall be adhered to.

## **ARTICLE IV. FAMILY SUBDIVISIONS**

### **4-1. Family subdivisions.**

A. Family subdivisions. A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to the express requirements contained in the Code of Virginia (1950), as amended, and the following provisions:

1. The grantee is an immediate family member of the owner or owner(s), who is an immediate family member as defined in this ordinance.
2. No previous transfer under this provision has been granted to the grantee in this town.
3. The lot will not be voluntarily transferred to a non-immediate family member for at least five (5) years except that a transfer of a shared interest may subsequently or simultaneously be made to the spouse of the grantee. This restriction shall be noted in the deed.
4. The grantee is at least eighteen (18) years of age and able to hold real estate under the laws of Virginia.
5. The purpose of the transfer is to provide for the housing needs of the grantee.
6. The transfer is not for the purpose of circumvention of the subdivision ordinance.
7. The grantor and grantee sign an affidavit duly acknowledged before some officer authorized to take acknowledgements and deeds that certifies compliance with subsections (2)(1) through (a)(6) above.
8. Lots of less than five (5) acres will be served by a right-of-way of not less than ten (10) feet in width providing ingress and egress to a road which is part of the Virginia Department of Transportation road system.
9. Each lot or property five (5) acres or greater in area shall front on a road which is a part of the Virginia Department of Transportation road system, or be served by a right-of-way of not less than forty (40) feet in width.
10. When the residue can no longer be divided under this provision or otherwise, a note to that effect shall be contained on the plat or in the deed.
11. If the proposed lot is served by a nonexclusive right-of-way, which is maintained by means of a recorded maintenance agreement, or a duly constituted homeowners' association, concurrence of the association or persons signatory to the maintenance agreement for the addition to the proposed lot is required.
12. In the event that the administrator determines a circumvention to have occurred, the family subdivision approval shall be considered void and the town may take



appropriate action to require compliance with all other applicable subdivision and zoning requirements or may initiate action to vacate said lot. No building permit shall be issued for such lot(s).

13. If the Planning Commission finds that an extraordinary hardship is being caused by the five-year restriction, it shall reduce the time period to alleviate the hardship. This hardship provision shall be noted on the plat or in the deed.
14. The comers of all lots created shall be marked with general property monuments.
15. A boundary survey of the lot shall be submitted to the administrator for approval and shall contain the following: Surveyor's certification; a statement certified by the surveyor that no buildings exist in any direction of the building restriction line along any new lot lines; location of any existing easements; location of the floodplain; total acreage; owner's consent; the county tax map identification number of the parcel from which the lot is to be divided; a point of reference to determine how the lot is being subdivided out of the total parcel; a line for approval by the administrator; and a statement that the land is hereby being subdivided is in accordance with the provisions of this section, Family Subdivision, of the subdivision ordinance of the Town of Coeburn, Virginia. The approved boundary survey shall be recorded as provided by the Code of Virginia.
16. Prior to the issuance of a building permit on a family subdivision lot not having frontage on a state road, the property owner shall sign and record in the land records an agreement, which shall be reflected in the chain of title for that lot, stating that the property owner understands that;
  - A. The easement of right-of-way serving the lot is private and the road or drive within it shall be maintained by the benefited property owner(s):
  - B. The road or drive is ineligible for admission into the state secondary road system for maintenance unless it is brought into conformance with the requirements of this subdivision ordinance at no cost to the town, county, or state;
  - C. Until the road is accepted into the secondary road system, state maintenance will not be provided, and mail service land school bus service may not be available to the property.

## **ARTICLE V. PROCEDURES FOR SUBMITTING, APPROVING AND RECORDING PLATS**

### **5-1. Outline of procedures.**

The procedure for review and approval of a proposed subdivision under the terms of this ordinance consists of three (3) separate steps:



*Town of Coeburn Zoning, Subdivision and Floodplain Ordinances*

- A. The initial step is the preparation and submission to the Administrator of a preliminary sketch showing information as required herein unless a waiver is obtained as hereinafter provided.
- B. The second step is the preparation and submission to the Administrator of a preliminary plat is as hereinafter provided.
- C. The third step is the submission to the Administrator of a final plat together with such additional materials as are required for final plats.

When approved, the final plat becomes the instrument to be recorded in the Clerk's Office of Wise County and must show written certification by the Administrator and Planning Commission of said approval.

The subdivider is encouraged to consult early and informally with the Official for advice and assistance in preparation for any of the steps required herein. The developer may also consult with the Planning Commission or its appointed committee in any of the three (3) steps above.

It is the intent of this ordinance to provide procedures for review and approval of proposed subdivisions in the most expeditious manner consistent with the legislative purposes of this ordinance. To this end the requirements for submission and approval of preliminary sketches, preliminary plats, and final plats shall be liberally construed to eliminate unnecessary time consuming or costly requirements not consistent with the general legislative intent of this ordinance.

**5-2. Preliminary sketch.**

**5-2-1 General information.** The subdivider shall submit to the Administrator five (5) copies of a preliminary sketch (which may be a simple line drawing on white paper) showing, but not limited to, the following information (information required by this section).

**5-2-2 Preliminary sketch requirements.** The preliminary sketch shall give the following information insofar as applicable.

- A. Name of subdivision, owner or subdivider, date and north point.
- B. Location of proposed subdivision by an inset map drawn approximately to scale showing adjoining roads, towns, subdivisions, and sufficient other landmarks to clearly identify the location of the proposed subdivision.
- C. The boundaries of the tract or part thereof to be subdivided drawn to scale with sufficient accuracy to give the Administrator fair approximation of the proposed subdivision. Boundaries of any future expansion of the subdivision shall be outlined.
- D. Sketches of all existing, platted and proposed streets and their widths; natural water courses and other major landmarks.
- E. Description of method and facilities for providing potable water and method and facilities for sewage disposal.

- F. Any property which may be within the special flood hazard area.
- G. Any land disturbing activity which comes under the Wise County Erosion and Sedimentation Ordinance for which an erosion and sedimentation control plan must be submitted for approval.
- H. Zoning and such other information as the Administrator may require.

**5-2-3 Waiver of preliminary sketch.** Refer to section 5-3-3.

**5-2-4 Copies of preliminary sketch to agencies.** The Administrator shall forward one copy of the preliminary sketch to the local Health Department and one copy to the Virginia Department of Transportation.

**5-2-5 Approval of preliminary sketch.** The Administrator shall approve the preliminary sketch after proper consultation with the local Health Department, Virginia Department of Transportation and others, as needed. Within thirty (30) days the Administrator shall by a formal letter notify the subdivider to submit a preliminary plat, and include any data and the character and extent of public improvements that may be required.

**5-2-6 Copies filed.** One copy of the preliminary sketch will be retained by the Administrator, one copy will be retained for the Planning Commission's files, and one copy shall be returned to the subdivider.

### **5-3. Preliminary plat.**

**5-3-1 General information.** The subdivider shall submit to the Administrator five (5) copies of a preliminary plat of the proposed subdivision. See section 5-4-12 for plat standards. A preliminary plat shall not be acceptable for submission unless it meets all the required standards of design and unless it contains all the required information or a written request for a variance from each specific deviation from the requirements with reasons therefore.

**5-3-2 Preliminary plat requirements.** The subdivider shall present the required plats showing the following:

- A. Name of subdivision, owner, subdivider, surveyor, or engineer, date of drawing, number of streets, north point and scale. If true north is used, method of determination must be shown.
- B. Location of proposed subdivision by an inset map at a scale of not less than one-half inch equal to one mile showing adjoining roads, their names and numbers, subdivisions, and other landmarks.
- C. The boundary survey of existing surveyor record; total acreage, acreage of subdivided area; number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners, and their property lines within the boundaries of the tract; and ownership of adjoining unsubdivided property; future expansion area, if any.

- D. When the subdivision consists of land acquired from more than one source of title the outlines of the various tracts shall be indicated by dash-lines, and identification of the respective tracts shall be placed on the plat.
- E. All existing, platted and proposed streets, their names, house numbers, and street widths; existing, platted and future utility or other easements, public areas and parking spaces; culverts drains and water courses their names and other pertinent data.
- F. The proposed method of water supply, drainage provisions, sanitary sewer layout or other accepted sanitary plan.
- G. A cross section showing the proposed street construction, in accordance with the requirements of the Virginia Department of Transportation and the conditions of such dedication.
- H. Utility companies and franchised cable television operators shall execute quit claims to any easement within, over or under street rights-of way.
- I. If any portion of the land being subdivided is subject to flood, as defined in this ordinance, the area subject to flood shall be shown.
- J. Any land disturbing activity which comes under the Wise County Erosion and Sedimentation Ordinance for which an erosion and sedimentation control plan is required, must be submitted for approval.
- K. Zoning and such other information as the Administrator may require.

**5-3-3 Waiver of preliminary sketch.** In order to facilitate expeditious review and approval of proposed subdivisions, the Administrator is empowered to grant a waiver of the requirements for the preliminary sketch requiring the submission of preliminary plat initially if the subdivider has consulted with the Administrator and receives written consent by the Administrator certifying that a preliminary plat only is required.

**5-3-4 Copies of preliminary plat to agencies.** The Administrator shall forward one copy of the preliminary plat to the local Health Department and one copy to the Virginia Department of Highways and Transportation.

**5-3-5 Approval of preliminary plat.**

- A. The Administrator shall meet with and submit all preliminary plats to the Town Council for its approval.
- B. The Administrator shall approve the preliminary plat after proper consultation with the local Health Department, Virginia Department of Transportation, Town Council, and others as needed. Within sixty (60) days the Administrator shall by a formal letter notify the subdivider to submit a final plat, and include any additional data and the character and extent of public improvements that may be required.

**5-3-6 Copies filed.** One copy of the preliminary plat will be retained by the Administrator, one copy will be retained for the Town Council's files, and one copy shall be retained to the subdivider.

**5-4 Final Plat.**

***5-4-1 General information.***

- A. The approval of the preliminary sketch and/or the preliminary plat by the Administrator shall in no way constitute acceptance of the final plat. Approval of the final plat shall be so stamped and certified on the final plat itself.
- B. A final plat may be filed for all or any part of the territory shown on the approved preliminary plat or preliminary sketch. The subdivision of land shown on the final plat must conform substantially to the layout shown on the approved preliminary plat.
- C. No deviation from the preliminary plat will be accepted which substantially alters the subdivision layout shown thereon or which does not conform to all the requirements of the standards of this ordinance. No final plat will be accepted for submission which does not contain all the required information for final plats or a written request for a variance from the requirements for final plats with reasons therefore. No final plat where a variance from the requirements has been requested will be approved unless and until the Administrator and Town Council have consented in writing to the variance.
- D. The plat shall be drawn to the standards as contained in Section 5-4.12. When more than one sheet is required, an index sheet of the same size shall be filed showing the entire subdivision with the streets shown and identified as a key. The original sheet(s) shall be on mylar or a similar drafting medium.
- E. The subdivider shall not have more than six (6) months after receiving official notification of the finding of the Administrator and Town Council to submit a final plat to the Administrator in accordance with this ordinance. Failure to do so shall make preliminary plat approval null and void. The Administrator on written request by the subdivider may, for good cause shown, grant extension of this time limit not to exceed (90) days. The Administrator shall notify the Town Council in writing of any extensions.
- F. At least ten (10) days prior to consideration by the Administrator and Town Council, the subdivider shall submit the original of the final plat and four (4) copies to the Administrator.

***5-4-2 Requirements for final plats.*** The final plat shall show and include the following:

- A. All information requested in the preliminary plat requirements in Section 5-3-2 above.
- B. Sufficient survey data to determine and reproduce on the ground the location and end points of every street line, lot line, boundary line, block

line, curve or angle point. Each line shall contain a bearing and length. Data for curves shall include the radius, central angle, and tangent distance unless said curves are on streets where the above data may be given for the street center line. All distances shall be given to the nearest one-hundredth of a foot and all bearing angles to the nearest one minute of angle. Required building setback lines or other space restricted from building shall be shown as dashed lines. The area of lots shall be shown to the nearest one-hundredth of a square foot or to the nearest one-thousandth of an acre.

- C. Lots shall be numbered in numerical order, and blocks shall be numbered in numerical or alphabetical order. Any easements, rights-of-way, or other land shown for public ownership or shown to be retained for public ownership or for public improvements shall be clearly indicated.
- D. The location and description of permanent monuments and other required survey markers shall be indicated clearly on the plat.
- E. The final plat shall be identified as a final plat and have its own proper date printed thereon.
- F. There shall be placed on the final plat or on the cover sheet, if more than one sheet constitutes the final plat, a blank outlined space three (3) inches by five (5) inches suitable for indicating final approval data by the Administrator. In addition to this blank, sufficient space shall be provided for the certification statement contained in Section 5-4-3 subparagraph A, of this ordinance and said statement shall be shown on the final plat.

**5-4-3 Certification.** The following certificates shall be presented with the final plat.

- A. A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustee, if any, which shall be signed by the owners, proprietors, and trustee(s), if any, and shall be duly acknowledged before some officer authorized to take acknowledgement of deeds.
- B. Certification showing that applicant is the landowner and dedicates streets, rights-of-way, and any sites for public use.
- C. Certification by registered surveyor or engineer to accuracy of survey and plat, placement of monuments, and the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title. The engineer will also certify the plans for drainage systems, sidewalks and certify the handling of subsurface drainage.
- D. Certification of approval by the County Health Officer and the Highway Engineer.
- E. Certification by the Administrator that the subdivider has complied with one of the following alternatives:

*Town of Coeburn Zoning, Subdivision and Floodplain Ordinances*

- (1) Prior installation of all improvements in accordance with the requirements of the standards, or
- (2) Posting of a bond in sufficient amount to assure the completion of all required improvements as required by Section 6 of this ordinance.

**5-4-4 Approval of final plat.** The Administrator and Town Council shall approve or disapprove the final plat within sixty (60) days after its submission. If the plat is disapproved, the grounds for disapproval shall be stated in writing and given to the subdivider. The Administrator shall notify the subdivider within ten (10) days after the official review of the decision.

**5-4-5 Appeals.** If the councilor administrator disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be practical, provided that his appeal is filed with the circuit court within sixty (60) days of the written disapproval by such councilor administrator.

**5-4-6 Recording of plat.** The subdivider shall record the plat within six (6) months of final approval. Extension may be granted by the Administrator upon due cause shown for not more than an additional sixty (60) days. Notice of any extensions shall be given to the Town Council.

**5-4-7** If a subdivider records a final plat which may be section of a subdivision as shown on a preliminary plat and has furnished to the town a certified check, cash, escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintain by the town, county, the Commonwealth, or other public agency, the subdivider shall have the right to record the remaining sections shown on the preliminary plat for a period of five (5) years from the recordation date of the first section, subject to the terms and conditions of this ordinance and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

**5-4-8 Copies filed.** When the final plat has been approved by the Administrator and Town Council, one copy shall be returned to the subdivider with the approval of the Administrator and Town Council certified thereon. Copies of all required certificates shall also be returned to the subdivider. One copy shall be properly filed for recordation with the Circuit Court Clerk by the subdivider as the official plat of record. One copy shall be filed with the Town Council together with the originals of all required certificates.

**5-4-9 Necessary changes.** No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the Administrator and Town Council has been endorsed in writing on the plat, unless authorization for such changes has been granted in writing by the Administrator. The Administrator will submit a detailed report in writing of any such changes approved to the Town Council.

**5-4-10 Fees.**

- A. There shall be a charge for the examination and approval or disapproval of every plat reviewed by the Administrator. At the time of filing a preliminary plat, the subdivider shall remit to the Administrator the amount of \_\_\_\_\_ per plat and for each residential lot. The payment shall be cash or an instrument payable to the Town of Coeburn.
- B. For commercial, industrial and institutional properties, the subdivider shall remit per plat and \_\_\_\_\_ for each acre and part of an acre.

**5-4-11 Vacation of final plat.** The subdivider shall notify the Administrator of his intention to vacate the final plat, and shall adhere to the procedures of the Code of Virginia, Section 15.1-481.

**5-4-12 Standards for plats.**

- A. Statement of applicability.

These standards shall apply to all plats and maps submitted for recordation in the circuit courts of the Commonwealth.

- B. Statutory Authority.

42.1-8 and 42.1-82 of the Code of Virginia.

- C. Recording medium.

Documents size shall be between 8 1/2 x 11 and 18 x 24 inches, and the scale shall be appropriate to the size of the paper. Original plats shall be inscribed on either translucent or opaque paper, polyester or linen. The background quality for opaque paper shall be uniformly white, smooth in finish, unglazed, and free of visible watermarks or background logos. Only the original or a first generation unreduced black or blue line copy of the original plat drawing, which meets the quality inscription standards noted below and has the stamp and original signature of the preparer, shall be submitted for recordation.

A plat prepared prior to 1986, which is being entered as reference, can be recorded if the current landowner's notarized signature appears on the plat. Changes or alterations made to any original plat must be accompanied by the stamp and signature of the preparer who did the changes/alterations. Any plats exempted from this chapter under the Code of Virginia can be recorded with the notarized signature of the original preparer.

- D. Quality inscription standards.

Color of original inscription shall be black or blue and be solid, uniform, dense, sharp, and unglazed. Signatures shall be in dark blue or black ink. Lettering shall be no less than 1/10 inch or 2.54 mm in height. Lettering and line weight shall be no less than 0.13 inches or .3302 mm. Lettering and line spacing for control pencil drawings shall be no less than .050

inches and for ink drawings no less than .040 inches. The drawing substance must be either wet ink or control pencil but not a combination thereof. Good drafting practices shall be followed when eliminating ghost lines and when doing erasures, and all shading and screening shall be eliminated over written data. Inscriptions shall meet standards established herein and Engineering Drawing and Related Documentation Practices-Line Conventions and Lettering (ANSI Y 14.2M -1987), Technical Drawing -Lettering -Part I: Currently Used Characters (ISO 3098/1-1974) Technical Drawings -Sizes and Layout of Drawing Sheets ISO 5457-1980 shall be consulted as guidelines.

E. Format for copies.

Margins shall be at least 1/4 inch on all sides, and inscriptions are to be made on only one side of the paper. All drawings shall have centering marks on each side, adjacent and outside the margins.

F. Recording standards.

Recordation inscriptions shall be by clerk's printed certificate, stamping, typing, or handwriting shall conform to the quality inscription standards noted above.

G. Exclusion.

A first generation copy of an original plat drawing dated prior to July 1, 1986, shall be admitted to record subject to the requirements of 17VAC15-60-20.

H. Note.

Where a plat is submitted as part of an instrument, these plat standards shall apply to such plat.

## **ARTICLE VI. REQUIRED IMPROVEMENTS AND MINIMUM STANDARDS OF DESIGN**

### **6.1 Standards generally.**

A. A request for subdivision shall not be approved if after adequate investigation conducted by all public agencies concerned it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

B. Geometric design standards, base and pavement design, bridge design, means of access, street grades, horizontal curves, vertical curves, intersections, tangents, storm drainage, sidewalks, and street lights and other highway improvements shall be in accordance with the Virginia Department of Transportation Subdivision Street Requirements and Pavement Design Guides.



- C. This ordinance provides that only one dwelling unit shall be placed on a lot regardless of the lot size.
- D. Surety for subdivision improvements shall be in a form as stated elsewhere in this ordinance. Maintenance fees as required by the Virginia Department of Transportation shall be as outlined in their Subdivision Street Requirements Manual.
- E. All required improvements shall be installed by the subdivider at the subdivider's cost.

## **6-2. Streets.**

**6-2-1 Alignment and layout.** The arrangements of new streets in subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangements must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide convenient access to it. Where, in the opinion of the Administrator, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles unless in hillside areas. Streets running with contours shall be required to intersect at angles of not less than 80 degrees, unless approved by the Highway Engineer. Intersection offsets and jogs shall be avoided.

**6-2-2 Service drives.** Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, or a state primary highway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for and appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts of fills required for any future separation of grades.

**6-2-3 Approach angle.** Major streets shall approach major or minor streets at an angle of not less than 80 degrees, unless the official, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

**6-2-4 Minimum widths.** The minimum width of proposed streets, measured from lot line to lot line, shall be as specified by the Virginia Department of Transportation for acceptance into the state secondary road system or as permitted in subsection 6-2-9.

**6-2-5** When lots in a subdivision abut on one side of any street which has been included in the state secondary road system, the subdivider shall be required to dedicate enough land so that one-half the width of such street, as measured from the centerline to the subdivision property line, shall be 25 feet or one-half the standard width of such highway, whichever is greater, but he shall not be responsible for grading or surfacing said existing street or highway.

**6-2-6** Streets shall be constructed in compliance with the requirements of the Virginia Department of Transportation or as permitted in subsection 6-2-9.

When required by a certificate engineer, a drainage system shall be provided for by means of culverts, ditches, catch basins and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties.

The grade of streets submitted on subdivision plats shall be approved by the Administrator upon recommendation of the highway engineer prior to the final action by the Administrator. Wherever feasible, street grades shall not exceed ten percent.

**6-2-7 *Cul-de-sac.*** Generally, minor terminal streets (cul-de-sac), designed to have one end permanently closed, shall be no longer than 400 feet to the beginning of the turn-around. Each cul-de-sac must be terminated by a turn-around of not less than 30 feet radius for streets serving 25 or less dwelling units and 45 foot radius for streets serving over 25 dwelling units.

**6-2-8 *Alleys.*** Dead-end alleys, if unavoidable, shall be provided with adequate turn-around facilities as determined by the Administrator. There shall be no reserve strips controlling access to alleys.

**6-2-9 *Private streets and reserve strips.*** Every subdivision property shall be served from a publicly dedicated street or a private street. There shall be no reserve strip controlling access to streets.

Private streets will be permitted contingent on the following statement being included on all plats, deeds and covenants: "The grantors hereby give notice as required by the Subdivision Ordinance of the Town of Coeburn, Virginia, that they do not intend to construct, repair or maintain the streets according to the standard of specifications of the Virginia Department of Transportation and that agency will not be responsible for the development, construction, repair or maintenance of said streets. The parties of this deed will hold all local and state agencies harmless from any liability or expense concerning road standards and maintenance within the above subdivision and this is a covenant which runs with the land." When a subdivision has private streets, the developer shall make provisions for the formation of a homeowner's association, which will be responsible for maintaining the streets, including the formulation of by-laws and electing officers. Until a homeowner's association is formed, the developer shall be responsible for the streets. Documentation for the organization of a homeowners' association must be submitted when the final plat is presented for approval.

- (a) Each street shall have a minimum width right-of-way of 40 feet.
- (b) Each street shall have proper drainage.
- (c) Each street shall have a minimum of four inches of compacted base no larger than railroad ballast rock, covered by two inches of compacted crusher-run, 18 feet wide with 24 inch shoulders on each side.
- (d) Each street and drainage ditch shall comply with the Wise County and

Sediment Control Ordinance.

- (e) Each street shall be inspected by the county subdivision official or accept reports of inspection by approved agencies or individuals.
- (f) Geometric curves for road alignment shall meet Virginia Department of Transportation Standards.

**6-2-10 Names.** Proposed streets which are obviously in alignment with already existing and named streets shall bear the names of existing streets. In no other case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Administrator and Town Council. Names of existing streets shall not be changed except by approval of the governing body.

**6-2-11 Identification signs.** Street identification signs of a design approved by the Administrator shall be installed at all intersections readable from either side.

**6-2-12 Monuments.** As required by this ordinance, all monuments must be installed by the subdivider and shall meet the minimum specifications. Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by the Administrator and Town Council are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Administrator before any improvements are accepted by the governing body.

**6-2-12-1 Location; concrete.** Concrete monuments four inches in diameter or square, three feet long, with a flat top, shall be set at all street comers, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monument shall have an appropriate mark to identify properly the location and shall be set six inches above finished grade.

**6-2-12-2 Location; iron pipe.** All other lot comers shall be marked with iron pipe not less than three-fourths inch in diameter and 24 inches long; and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod one-half inch in diameter, the top of which shall be flush with the finished grade line.

### **6-3. Block lengths and widths.**

**6-3-1** Blocks shall not be greater than twelve hundred (1,200) feet nor less than five hundred (500) feet in length, provided, however, the Administrator may waive this provision when extreme topographic conditions would cause undue hardship if the subdivider complied with this provision.

**6-3-2** Blocks shall be wide enough to provide two (2) tiers of lots of minimum depth, except where abutting upon major streets, limited access highways, or railroads or topographical or other situations make this requirement impracticable in which case the Administrator may approve a single tier of lots of minimum depth.

**6-3-3** Where a subdivision adjoins an arterial highway, the Administrator may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress and egress.

**6-3-4** Fire protection. The installation of adequate fire hydrants in a block at locations approved by the Administrator may be required, provided: necessary public water is available. The Administrator shall consult with the proper authorities before approving such locations.

#### **6-4. Lots.**

**6-4-1 Zoning requirement.** The minimum area and development regulations for each individual lot shall be in conformance with the requirements of the zoning district in which the lot is located as set forth in the Town of Coeburn Zoning Ordinance.

**6-4-2 Shape.** The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to the requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square-footage of area which would be unusable for normal purposes.

**6-4-3 Location.** Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street or on a street which has become public by right of use. If the existing streets are not 40 feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of 40 feet. The above applies to streets with projected traffic volume of 250 average daily traffic flows. Streets with projected volumes above this level will require a 50 foot right-of-way.

**6-4-4 Corner lots.** Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the Administrator. No obstruction above three (3) feet or less than twelve (12) feet shall be permitted within the corner sight triangle. Such restriction shall not apply to fire hydrants, utility poles, street markers, government signs and traffic control devices.

**6-4-5 Side lines.** Side lines of lots shall be approximately at right angles, or radial to the street line.

**6-4-6 Remnants.** All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

**6-4-7 Pipe stems.** Pipe stem lots shall not be allowed.

**6-4-8 Separate ownership.** Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Said deed is to be deposited with the clerk of the court and held with the final plat until the subdivider is ready to record the same, and they both shall be on the record together.

## **6-5. Driveways.**

**6-5-1 Clear sight triangle.** The driveway of any lot and the street line, measured in each direction along the driveway edge and street line for fifteen (15) feet from the intersection of the triangle and on the third side by the diagonal line connecting the ends of the fifteen-foot sides shall be clear of any structure, fence, plant, sign or other object of any kind that could obstruct cross-visibility. Provided however, that the restriction in this subsection shall not apply to trees having trunks (but not branches of foliage) which are less than six (6) inches diameter at breast height or fire hydrants, street markers, governmental signs and traffic control devices.

**6-5-2 Construction.** Driveways shall be constructed in accordance with the Virginia Department of Transportation standards. At a minimum, driveways shall be smoothly graded, adequately drained and constructed with suitable sub-grade, base and surfacing to be durable under the use and maintenance contemplated.

**6-5-3 Location.** Driveways shall not intersect a street corner radius, nor encroach into any required clear sight triangle.

## **6-6. Sidewalks and Lighting.**

**6-6-1 Sidewalk standards.** Sidewalks shall be constructed of cement concrete and shall be four feet wide and four inches deep.

**6-6-2 Sidewalk maintenance.** Any sidewalk constructed meeting the acceptance criteria of the Virginia Department of Transportation shall be maintained by that agency. Any sidewalk constructed not meeting that criteria shall be maintained by a home owners association or such other non-profit organization. The Administrator shall provide an annual assessment amount to the association/organization for the generation of repair and replacement costs under normal conditions.

**6-6-3 Street light standards.** Roadway lighting shall be provided as per the Virginia Department of Transportation standards.

**6-6-4 Street light application.** The subdivider shall make application to the Virginia Department of Transportation on form CE-7 prior to the submission of the final plat to the Administrator.

**6-6-5 Waiver.** The Town Council may waive the requirement for street lights and sidewalk if it is determined that the removal of these items will not be detrimental to the development or to the town.

## **6-7. Water Service.**

**6-7-1 Water available.** Where public water is reasonably available, the service shall be extended to all lots within the subdivision by the subdivider.

**6-7-2 Water not available.** Where public water is not reasonably available, the subdivider will be encouraged to provide a central water supply system.

**6-7-3 Wells.** If neither public nor central water systems are proposed, the subdivider may provide individual wells, providing the planned location of such wells meets the requirements of the state health code and other regulations.

**6-7-4 Fire hydrants.** In all subdivisions serviced by either a public or central water supply system, an acceptable system of fire hydrants shall be installed by the subdivider.

## **6-8. Sewer Service.**

**6-8-1 Sewer available.** Where public sewer service is reasonably available, the service shall be extended to all lots within the subdivision by the subdivider, and septic tanks will not be permitted.

**6-8-2 No sewer available.** Where public sewer service is not reasonably available, the developer shall be encouraged to install a central sewage treatment facility, serving all lots in the subdivision.

**6-8-3 Individual service.** Where neither public nor central sewage treatment is proposed, individual sewage disposal systems may be installed for each lot, provided that the total sewage disposal plan is in conformance with the state health code and other regulations.

**6-8-4 Exceptions.** Greater lot areas may be required where individual sewage disposal systems or individual wells are used if the health official determines that there are factors of drainage, soil condition or other conditions to cause health problems. The Administrator shall require that data from soil studies be submitted as a basis for passing upon subdivisions dependent upon sewage disposal systems as a means of sewage disposal.

## **6-9. Storm Drainage.**

**6-9-1 Requirement.** The subdivider shall provide all necessary information needed to determine what improvements are necessary to develop properly the subject property, including contour levels, drainage plans and flood control devices.

**6-9-2 Certification.** The subdivider shall provide a certification statement from a properly qualified engineer or surveyor that such improvements, when properly installed, will be adequate for proper development.

**6-9-3 Resident Highway Engineer.** All such storm drainage plans shall be approved by the Resident Highway Engineer.

#### **6-10. Easements.**

**6-10-1 Requirement.** Easements often (10) feet in width, or greater, shall be provided for water, sewer, power and telephone lines and other utilities in the subdivision.

**6-10-2 Continuity and Location.** Easements shall be laid out so as to insure continuity of utilities from lot to lot, block to block and to adjacent property. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way.

**6-10-3 Drainage Easements.** The Administrator may require that easements for storm drainage through adjoining property be provided by the subdivider.

#### **6-11. Reservation of land for public purposes.**

**6-11-1 Requirement.** The Town Council may require subdivider to set aside land for parks, playgrounds, schools, libraries, and similar public uses, subject to the following regulations.

**6-11-2 Dedication for Parks and Playgrounds.** Subdividers shall not be required to dedicate land for parks or playgrounds exceeding ten (10) percent of the area of the subdivision, exclusive of street and drainage reservations, without reimbursement by the town. Where land is required in excess of this amount, the reimbursement by the town shall be based on an amount as agreed between the town and the subdivider.

**6-11-3 Dedication for Public Purposes.** Subdividers shall not be required to reserve land for public purposes other than streets, drainage, parks, playgrounds, and water and sewer systems, except on a reimbursement basis. They shall be reimbursed by the town or agency requiring the land only if agreed to by such town or agency. The Town shall be required to obtain an option upon the property involved for a period of eighteen (18) months following the recording of the plat for such purchase. If the land is not purchased within the said eighteen (18) months it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filling an amended plat.

**6-11-4 Divisibility.** The Administrator shall make certain that lands so reserved are divisible



in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of the subdivision.

## **ARTICLE VIII PERFORMANCE BONDS**

### **8-1 Performance Bonds, Generally**

**8-1-1 Town obligations.** Nothing herein shall be construed as creating an obligation upon the town to pay for grading or paving, for sidewalks, sewers, curb and gutter improvements or construction, or for any other costs in connection therewith.

**8-1-2 Bonding procedures.** Dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewer system, water line or part of a public system, or other improvements or phase thereof as approved on the final plat by the Town Council, financed or to be financed in whole or in part by private funds, shall be accepted only if the owner or the subdivider: (1) certifies to the Administrator that the construction costs have been paid to the person constructing such facilities; or (2) furnishes to the town a certified check in the amount of the estimated costs of construction or a bond, cash escrow, or other financial arrangement satisfactory to the Administrator, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned. The bond, in an amount calculated by the Town, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to insure the required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the Town. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the Administrator.

**8-1-3 Maintenance of bonding.** In the event any subdivision street cannot be accepted into the state highway system, after approval by the Town, due to factors other than its quality of construction, the subdivider shall be required to furnish a maintenance and indemnifying bond, with surety satisfactory to the Administrator, in an amount sufficient for and conditioned upon the maintenance of such street until such time as it is accepted into the state highway system, or in lieu of such bond, a bank or savings and loan association's letter of credit on certain designated funds acceptable to the Administrator. "Maintenance of such street/road" shall be defined by reference to the last sentence of Section 15.1-466(f) of the Code of Virginia of 1950, as amended. If said maintenance and indemnifying bond is required, then the aforesaid performance bond as described in section 8-1-2 shall not be released until said maintenance and indemnifying bond is furnished.

**8-1-4 Approval of constructed facilities.** Within thirty (30) days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to



be constructed hereunder, the Administrator shall inspect the construction site and notify the subdivider or developer in writing that (a) the construction is acceptable and approved, or (b) there are specified defects or deficiencies in construction and suggested corrective measures are presented, or (c) the Town has not received approval by applicable local or state agency. If no such action is taken by the Administrator within the time specified above, the request shall be deemed approved and a partial release of fifty (50) percent of any bond, escrow, letter of credit, or other performance guarantee required hereunder shall be granted the subdivider or developer. No final release shall be granted until after expiration of such thirty-day period and there is additional request in writing sent by certified mail return receipt to the Administrator of the Town. The Administrator shall act within ten (10) working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider or developer.

**8-1-5 Partial and final release of bond.** Upon written request by the subdivider or developer, the Town shall make periodic performance guarantee) in a cumulative amount equal to no less than eighty (80) percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was en, based upon the percentage of facilities completed and approved by the Administrator. Periodic partial releases may not occur before the completion of at least thirty (30) percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, or after completion of more than eighty (80) percent of said facilities. The Town shall not execute more than three (3) periodic partial releases in any twelve-month period. Upon final completion and acceptance of said facilities, the Town shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer.

**8-1-6 Guarantee and warranties.** The developer and the development principals thereof shall provide the Town with a guarantee or warranty against defects in water and sewage facilities for a period of one year following acceptance by the Town of the subdivision public improvements under Town authority, unless said improvements were installed by the Town.

**8-1-7 Waiver.** Nothing in this section prevents the Town Council from granting a waiver of bonding requirements as they apply to Town requirements. Said bonds may be reduced and or eliminated if the Council feels such action will riot be detrimental to the development and completion of such development.

# Town of Coeburn Flood Plain Ordinance

## **ORDINANCE #10-005**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF COEBURN, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE TOWN OF COEBURN, Virginia, as follows:

## **ARTICLE I: GENERAL PROVISIONS**

### **Section 1.1 – Statutory Authorization and Purpose**

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280. 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:

- A. 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;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. 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,
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

### **Section 1.1.2 Applicability**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Coeburn, Virginia and identified as being flood prone.

### **Section 1.1.3 Compliance and Liability**

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this 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, but does not imply total flood protection. 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 land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Town of Coeburn Floodplain Administrator.
- D. This ordinance shall not create liability on the part of Town of Coeburn or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Section 1.1.4 Abrogation and Greater Restrictions**

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

### **Section 1.1.5 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.

### **Section 1.1.6 Penalty for Violations**

Any person who fails to comply with any of the requirements or provisions of this Section may be subject to penalties for violation of this ordinance, as amended.

In addition to the above referenced penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared

by the Town of Coeburn to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this section.

## **ARTICLE II: DEFINITIONS**

- A. Base Flood** – The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base Flood Elevation** – The Federal Emergency Management Agency designated one hundred (100) year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community’s Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance of flood.
- C. Basement** – Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals** – The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this Ordinance.
- E. 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.
- F. Elevated Building** – A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- G. Encroachment** – The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- H. Flood or Flooding** –
  - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
    - a. the overflow of inland or tidal waters; or,
    - b. the unusual and rapid accumulation or runoff of surface waters from any source.
    - c. mudflows which are proximately caused by flooding as defined in paragraph (1) (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
  - 2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by

some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

- I. Flood Insurance Rate Map (FIRM)** – An official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that is made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- J. Flood Insurance Study (FIS)** – An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- K. Floodplain or Flood-prone Area** – Any land area susceptible to being inundated by water from any source.
- L. Flood Proofing** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- M. Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- N. Freeboard** – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums will be significantly cheaper.
- O. Highest Adjacent Grade** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- P. Historic structure** – Any structure that is
  - 1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - 2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either

- a. by an approved state program as determined by the Secretary of the Interior; or,
  - b. directly by the Secretary of the Interior in states without approved programs.
- Q. Lowest Floor** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- R. Manufactured Home** – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- S. Manufactured Home Park or Subdivision** – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- T. New Construction** – For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after August 17, 1981, 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.
- U. Recreational Vehicle** - A vehicle which is
- 1. built on a single chassis;
  - 2. 400 square feet or less when measured at the largest horizontal projection;
  - 3. designed to be self-propelled or permanently towable by a light duty truck; and,
  - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- V. Shallow Flooding Area** – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- W. Special Flood Hazard Area** – The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section.3.2 of Article 3.
- X. Start of Construction** – For other than new construction and substantial improvement, under the Coastal Barriers Resource Act means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation 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 the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- Y. Structure** – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- Z. Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- AA. Substantial improvement** – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:
  - 1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - 2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- BB. Violation** – the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required is presumed to be in violation until such time as that documentation is provided.
- CC. Watercourse** – A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

## **ARTICLE III: ESTABLISHMENT OF FLOODPLAIN DISTRICTS**

### **Section .3.1 Description of Districts**

#### **A. Basis of Districts**

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the Town of Coeburn prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 18, 2011, and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Town of Coeburn offices.

1. 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 (100) 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 the Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
2. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.
3. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100) year floodplain boundary has been approximated.
4. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

#### **B. Overlay Concept**

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. If there is 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.
3. 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.



### **Section 3.2 District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the Town of Coeburn 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.

### **Section 3.3 Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

### **Section 3.4 Submitting Technical Data**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

## **ARTICLE IV: DISTRICT PROVISIONS**

### **Section 4.1 Permit and Application Requirements**

#### **A. Permit Requirement**

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Coeburn Subdivision Regulations. Prior to the issuance of any such permit, the Town of Coeburn Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

#### **B. Site Plans and Permit Applications**

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

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement).

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

#### **Section 4.2 General Standards**

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

**In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:**

- I. 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 Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

### **Section 4.3 Specific Standards**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Article IV Section 4.6, the following provisions shall apply:

**A. Residential Construction**

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to one foot above the base flood elevation.

**B. Non-Residential Construction**

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

**C. Elevated Buildings**

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

- d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

**D. Standards for Manufactured Homes and Recreational Vehicles**

- 1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in this section.
- 2. All recreational vehicles placed on sites must either
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
  - c. meet all the requirements for manufactured homes in Article 4, sections 4.2 and 4.3.

**Section 4.4 Standards for the Floodway District**

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the WISE COUNTY ZONING ADMINISTRATOR.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer and/or applicant first applies – with the Town of Coeburn’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

- B. If Article 4, Section 4.6 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

#### **Section 4.5 Standards for the Special Floodplain District**

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Coeburn.

Development activities in Zones A1-30, AE, and AH, on the Town of Coeburn's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer and/or applicant first applies – with the Town of Coeburn's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

#### **Section 4.6 Standards for Approximated Floodplain**

The following provisions shall apply with the Approximate Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. It is recommended that the applicant refer to FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas, A Guide for Obtaining and Developing Base (100-Year) Flood Elevations."

Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., an applicant for a proposed use, development and/or activity greater than 50 lots or 5 acres, whichever is lesser, shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town of Coeburn's Floodplain Administrator.

The Town of Coeburn's Floodplain Administrator reserves the right to require hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood elevation (recommended equal to or greater than one foot freeboard). During the permitting process, the Town of Coeburn's Floodplain Administrator shall obtain:

- 1) the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

#### **Section 4.7 Standards for the Shallow Flooding District**

The following provisions shall apply within the Shallow Flooding District:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade. When a freeboard is included in the height of a structure, the flood insurance premiums will be significantly cheaper.
- B. All new construction and substantial improvements of non-residential structures shall
  1. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,
  2. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- C. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

#### **Section 4.8 Standards for Subdivision Proposals**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.



## **ARTICLE V: VARIANCES: FACTORS TO BE CONSIDERED**

Variations shall be issued only upon a showing of good and sufficient cause; after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant and after the Board of Zoning Appeals has determined that the granting of such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

While the granting of variations generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variations may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variations, 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 (100)-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 use 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 historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

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.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing and signed by the Zoning Administrator, that the issuance of a variance to construct a structure below the one hundred (100) year flood elevation increases the risks to life and property and 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 that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

## **ARTICLE VI: EXISTING STRUCTURES IN FLOODPLAIN AREAS**

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 Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.



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- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location 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 this ordinance and shall require the entire structure to conform to the VA USBC.

**ARTICLE VII - ENACTMENT**

ENACTED AND ORDAINED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.  
This ordinance shall become effective upon passage.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attested