

ARTICLE 1

LEGAL STATUS PROVISIONS

1.1 Preamble

This ordinance for the Town of Rural Retreat, Virginia, is designed to carefully balance the fundamental property rights and interests of the private citizens with the needs of the community as a whole as set forth in the Town of Rural Retreat Comprehensive Plan.

1.2 Title

This ordinance shall be known and cited as the Zoning Ordinance of Rural Retreat, Virginia. The map portion may be cited separately as the Zoning Map of Rural Retreat, Virginia.

1.3 Authority

This ordinance and map are adopted according the authority of Title 15.1, Chapter XI, Article 8, Section 15.1-486 through 15.1-498 et seq., of the Code of Virginia, 1950 (as amended).

As specified therein, the Town of Rural Retreat is authorized to provide for the establishment of districts within the corporate limits in which the Town may regulate, restrict, permit, prohibit and determine:

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

1.4 Jurisdiction

The provisions of this ordinance shall apply to all land within the corporate limits of the Town of Rural Retreat, Virginia.

1.5 Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare of the residents of Rural Retreat.

1.6 Relationship to Other Laws and Private Restrictions

1.6-1 Other Laws

Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.

1.6-2 Private Restrictions

This ordinance is not intended to override any easement, covenant, or any other private agreement provided that where the regulation of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

1.7 Provisions are Cumulative

The provisions of this ordinance are cumulative with additional limitations imposed by all other laws and ordinances, previously passed or which may be passed after the adoption of this ordinance, governing any subject matter appearing in this ordinance.

1.8 Separability

It is hereby declared to be the intention of the Town Council of the Town of Rural Retreat, Virginia, that the provisions of this ordinance are separable.

Thus, if any court of competent jurisdiction judge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment; or

If any court of competent jurisdiction judge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property building or structure not specifically included in said judgment.

1.9 Ordinance Provisions Do Not Constitute Permit

Nothing contained in this ordinance shall be deemed to be consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

1.10 Scope of Regulations

1.10-1 Use, Buildings, and Structures

Upon the effective date of this ordinance no use, building or other structure shall hereafter be erected or altered in such manner as to become non-conforming or more non-conforming as to:

- a) Exceed height or bulk;
- b) Accommodate or house a greater number of families;
- c) Occupy a greater percentage of lot area;
- d) Have a more narrow or smaller rear yards, front yards, side yards or other open space than specified in each district;
- e) Be used in any manner contrary to the provisions of this ordinance;
- f) Reduce the amount of required parking or other minimum standards set forth in this ordinance.

1.10-2 Yard or Lot

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

1.11 Vested Rights of Non-conforming Uses

Nothing in this ordinance shall be constructed to authorize the impairment of any vested right. All uses existing upon July 1, 1993 (effective date) which do not conform to the zoning prescribed for the district in which they are situated may be continued so long as the use continues and such use is not discontinued for more than one year in situations not involving a structure or two years where a non-conforming building is involved.

1.12 Construction of Language

In the construction of this ordinance, the rules contained in this section shall apply, except when the context clearly indicates otherwise:

- 1) The word “shall” is always mandatory and not discretionary; and the word “may” is permissive;
- 2) The word “lot” shall include the words “part” or “parcel” and the word “building” or “structure” includes all other structure or parts thereof;
- 3) The word “permitted” or words “permitted as of right” means permitted without meeting the requirements for a conditional use by special permit pursuant to Article V of this ordinance;
- 4) The particular shall control the general, words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary;
- 5) All public officials, bodies and agencies to which reference is made are those of the Town of Rural Retreat, Virginia;
- 6) In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table, the text shall control; and
- 7) Except where definitions are specifically included in various articles and sections, words in the text or tables of this ordinance shall be interpreted in accordance with the definitions in Article VII. Where words have not been defined, the standard dictionary definition shall prevail.

1.13 Procedure for Amendment

1.13-1 Council or Commission Action

The Town Council may from time to time, on its own motion, upon motion of the Planning Commission, or on petition as hereafter provided, after public hearings as required by law and after report by the Planning Commission, amend, supplement, change or repeal the district boundaries or regulations herein or subsequently established.

1.13-2 Owner Amendment

A petition to amend or change the Zoning Ordinance or district boundaries herein or subsequently established may be filed with the Zoning Administrator by the owner(s) or representative agent of the owner(s) of an area proposed to be rezoned. A fee as provided in Article 5 will be charged for the filing of such petition.

1.13-3 Hearing and Notice Required

A public hearing shall be held in connection with any proposal or petition to amend the district boundaries or any other part of this ordinance. Notice shall be given of the time and place of such hearing by publication once a week for two consecutive weeks in a newspaper having general circulation in the Town of Rural Retreat. The second publication of such notice shall be at least six days prior to the holding of such hearing.

1.13-4 Report of Planning Commission

No action shall be taken by the Town Council upon any motion or petition to amend this ordinance until such motion or petition has been referred to the Planning Commission for a report thereon and until such report has been received from the Planning Commission, unless a period of thirty days has elapsed after date of referral. If the Planning Commission does not transmit a report within this thirty days period it may be assumed that the Planning Commission has approved the motion or petition.

1.13-5 Amendment Limited to One Time within Six Months

When any petition for a proposed change in this ordinance has been denied by the Town Council, no subsequent petition for the same, or substantially the same change, in whole or in part, shall be filed with or accepted by the Zoning Administrator, or any proceeding therefore commenced or maintained, within six months next succeeding the date of the action of the Town Council denying of said proposed change.

1.14 Violation and Penalty

All departments, officials, and public employees of the Town of Rural Retreat which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall issue no such permit or licenses for uses, buildings, or purposes where same would be in conflict with the provision of this ordinance, shall be null and void. If a permit is issued in error and the person, firm or corporation using the permit is issued in error and the person, firm or corporation using the permit in good faith, acts in accordance with the permit, then the person, firm or corporation shall not be held in violation of the provisions of this ordinance. This use will become nonconforming, however;

Any person, firm, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than ten dollars nor more than two hundred dollars for each offense. Each day's continuance of such violations shall constitute a separate offense.

ARTICLE 2
ZONING DISTRICTS ESTABLISHED AND OFFICIAL ZONING MAP

2.1 Establishment of Districts

For the purpose of this ordinance, the incorporated areas of the Town of Rural Retreat, Virginia, are hereby divided into the following districts:

Agriculture/Conservation.....	A-C
Residential Low Density.....	R-1
Residential Medium Density.....	R-2
Commercial Neighborhood.....	C-N
Commercial General.....	C-G
Industrial.....	I
Flood Plain.....	F-P

2.2 Provisions of Official Zoning Map

The boundaries and locations of each of these districts are hereby established as shown on the map entitled “Official Zoning Map of the Town of Rural Retreat, Virginia.” The Zoning Map and all notation, amendments, and other information thereon are hereby made a part of this ordinance, the same as if such information set forth on the map were all fully described and set out herein.

2.3 Identification or Alteration of the Official Zoning Map

The Official Zoning Map shall be identified by the Town Seal and the signature of the Mayor under the following words: “This is to certify that this map is the Official Zoning Map of the Town of Rural Retreat,” together with the adoption date of this ordinance.

All changes made in district boundaries or other matters when on the official Zoning Map must be in accordance with the provisions of this ordinance and the Code of Virginia, 1950, as amended, and shall be entered on the official zoning map promptly after the amendment has been approved by the Town Council. No amendment to this ordinance which involves a change on the Official Zoning Map shall become effective until such change has been recorded on the map. A brief statement shall be included describing the nature of the change, date of adoption, and signed by the Mayor.

No changes of any kind shall be made on the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any

unauthorized change shall be considered a violation of this ordinance and punishable as a misdemeanor.

The Official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of areas within the corporate limits, regardless of other purported copies of the Official Zoning Map which may be in existence. An official copy shall also be kept in Council chambers.

2.4 Rules for Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of district as shown on the Official Zoning Map, the following rules shall apply:

- 1) Boundaries indicated as approximately following the center lines of railroads, streams, streets, roads, or alleys shall be interpreted as following such center lines;
- 2) Boundaries indicated as approximately following platted lot lines shall be interpreted as following such lot lines and the extension of lot lines in the event that the boundary extends across unplatted tracts;
- 3) Boundaries indicated as approximately following corporate limits shall be interpreted as following such corporate limits;
- 4) Boundaries indicated as approximately following the center lines of streams, river, lakes, or other bodies of water shall be interpreted as following such center lines, and in the event of a change in the course of a body of water, shall be interpreted as moving with the actual center line;
- 5) Boundaries indicated as parallel to or extensions of features indicated above shall be so interpreted. Distances not specifically incited on the Official Zoning Map shall be determined by the scale of the map;
- 6) Where natural or man-made features actually existing differ with those shown on the Official Zoning Map, the Planning Commission shall determine the district boundary; and
- 7) Where a district boundary line divides a lot which was a single ownership at the time of passage of this ordinance, the Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district lien into the remaining portion of the lot.

ARTICLE 3

DISTRICT REGULATIONS

3.1 Agriculture – Conservation A-C

This district is composed of agriculture or forest land plus low density residential areas where future development appears likely to occur primarily as rural or very low density. Some areas having moderate to steep slopes may be developed to moderate densities and intensity in accordance with the Comprehensive Plan after careful consideration of the development plans and construction design. Protection of nearby residential zoning takes priority over uses permitted in this district.

3.1-1 Uses Permitted

Uses permitted in the Agriculture-Conservation A-C District shall be established in compliance with the standards of this activity, Article 4 Supplementary Regulations and as specified in the Virginia State Code. Uses Permitted shall be one (1) or more of the following uses:

- a) Agriculture, general farming, horticulture, and forestry;
- b) Single – family and two family dwelling;
- c) Home occupation as defined;
- d) Hunting or fishing cabin, fishing docks;
- e) Church or Real estate advertising signs erected on the premises; or
- f) Accessory uses as defined.

3.1-2 Conditional Uses Permitted

Conditional uses in the Agriculture-Conservation A-C District shall be permitted following a public hearing and approval as set forth in Article 5. Conditional uses shall be one (1) or more of the following uses:

- a) Schools, parks, playgrounds, and golf courses;
- b) Tennis courts, swimming pools, lodges, private clubs not considered as an accessory use;
- c) Retirement or nursing homes.

3.1-3 Area of Lot

Area regulations for the Agriculture- Conservation (A-C) district for each permitted use shall be five (5) acres.

3.1-4 Setbacks for Structures and Livestock Feeding

The setback line for structures shall be thirty-five (35) feet from any street right-of-way which is fifty (50) feet or greater in width or sixty (60) feet or more from the center line of any street less than fifty (50) feet in width.

The setback line for livestock barns, sheds or feeding areas shall be two hundred (200) feet from the adjacent property line where the A-C district boundary is adjacent to a residential district boundary.

3.1-5 Lot Frontage

The minimum frontage for permitted or conditional uses shall be one hundred (100) feet measured at the “setback line.”

3.1-6 Yards

Yard requirements for each main structure for permitted use shall be as follows:

- a) Side yards shall be a minimum of ten (10) feet and the total width of the two required side yards shall be twenty-five (25) feet;
- b) The rear yard for each main structure shall be thirty-five (35) feet for both main and accessory structures.
- c) The side yard and rear yard for an accessory structure shall be ten (10) feet; and
- d) The minimum side yard for corner lots shall be thirty-five (35) feet for both main and accessory structures.

3.1-7 Maximum Height

The maximum height for any structure shall be forty-five (45) feet except a silo shall be excepted from this provision.

3.1-8 Lot Coverage

The maximum lot coverage shall be thirty (30) percent of the lot area.

3.2 Residential Low Density R-1

This district is composed of low density residential areas plus certain open areas where similar residential development appears likely to occur. The protection and stabilization of residential neighborhoods take priority over any other uses. Commercial activities are prohibited and conditional uses are limited.

3.2-1 Uses Permitted

Uses permitted in the Residential Low Density R-1 district shall be established in compliance with the standards of the activity, Article 4 Supplementary Regulations and as specified in the Virginia State Code. Uses permitted shall be one (1) or more of the following uses:

- a) Single-family dwellings;
- b) Two-family dwellings;
- c) Home occupation as defined;
- d) Accessory use as defined; or
- e) Church or real estate signs erected on the premises.

3.2-2 Conditional Uses Permitted

Conditional uses in the residential low density R-1 district shall be permitted following a public hearing and approval as set forth in Article 5 and 6. Conditional uses shall be one (1) or more of the following uses:

- a) Schools, parks, playgrounds;
- b) Churches;
- c) Tennis courts, swimming pools not considered as an accessory use; or
- d) Multiple family located on a through or collector street

3.2-3 Area of Lot

Area regulations for each use in the Residential Low Density R-1 district shall be as follows:

- a) Single-family dwelling – 15,000 square feet provided public water and sewer are available;
- b) Two family dwelling – 20,000 square feet provided public water and sewer are available;
- c) Multi-family dwelling – 30,000 square feet minimum lot size with one (1) unit permitted for each additional 5,000 square feet provided public water and sewer are available;
- d) Other permitted and conditional uses shall have area to meet setback and parking requirements; and
- e) In the absence of public sewer, the area for single-family and two-family dwelling shall be the minimum size as established by the county health sanitation.

3.2-4 Setback for Structures

The set back line for a structure shall be forty (40) feet from any street right-of-way which is fifty (50) feet or greater in width or fifty-five (55) feet from the centerline of any street less than fifty (50) feet in width.

3.2-5 Lot Frontage

The minimum frontage for permitted uses shall be one-hundred (100) feet measured at the setback line.

3.2-6 Yards

Yard requirements for each main structure for permitted uses shall be as follows:

- a) Side yard shall be a minimum of twelve (12) feet and the total of the two required side yards shall be twenty-four (24) feet:

- b) The rear yard for each main structure shall be forty (40) feet;
- c) The side yard and rear yard for an accessory structure shall be twelve (12) feet; and
- d) The minimum side yard for corner lots shall be forty (40) feet for both main and accessory structures from the nearest street right-of way.

3.2-7 Maximum Height

The maximum height for structures shall be thirty-five (35) feet.

3.2-8 Lot Coverage

The maximum lot overage shall be thirty-five (35) percent.

3.3 Residential Medium Density (R-2)

This district is composed of medium density residential areas plus certain open areas where similar development appears likely to occur. The district may be adjacent to commercial areas. The expansion of commercial development may take place on the periphery. A higher population density will be allowed along with additional conditional uses.

3.3-1 Uses Permitted

Uses permitted in the Residential Medium Density (R-2) shall be established in compliance with the standards of this Article, Article 4 Supplementary Regulations, and as specified in the Virginia State Code. Uses permitted shall be one (1) or more of the following uses:

- a) Single-family dwelling;
- b) Two-family dwellings;
- c) Home occupation;
- d) Accessory use;
- e) Rooming and boarding houses;
- f) Tourist homes;
- g) Church or real estate signs erected on site; or
- h) All uses permitted in R-1
- i) Replacement of existing single wide manufactured homes meeting conditions under Section 3.3-10

3.3-2 Conditional Uses Permitted

Conditional uses in the Residential Medium (R-2) shall be permitted following a public hearing and approval as set forth in Article 5 and 6. Conditional uses shall be one (1) or more of the following uses.

- a) Schools, parks, playgrounds;
- b) Churches;
- c) Tennis courts, swimming pools not considered an accessory use;
- d) Multi-family;
- e) Medical or dental offices; or
- f) Double wide manufactured home meeting conditions under Section 3.3-9

3.3-3 Area of Lots

Area regulations for each use in the Residential Medium Density District shall be as follows:

- a) Single-family dwelling – 10,000 square feet provided public water and sewer are available;
- b) Two-family dwelling – 15,000 square feet provided public water and sewer are available;
- c) Medical and dental offices – 20,000 square feet; or
- d) Other permitted and conditional uses shall have area to meet setback and parking requirements.

3.3-4 Setback for Structures

The setback line for a structure shall be forty (40) feet from any street right-of-way which is fifty (50) feet or greater in width or fifty-five (55) feet from the centerline of any street less than fifty (50) feet in width. However, the setback line for a structure to be built on a street with existing structures shall be the average of those structures on each side of the proposed structure.

3.3-5 Lot Frontage

- a) The minimum frontage for permitted uses shall be one hundred (100) feet measured at the “setback line.”
- b) The minimum frontage for conditional uses shall be one hundred (100) feet as measured at the setback line.

3.3-6 Yards

Yard requirements for each main structure for permitted uses shall be as follows:

- a) Side yard shall be a minimum of ten (10) feet;
- b) The rear yard for each main structure shall be twenty-five (25) feet;
- c) The side yard for an accessory structure shall be a minimum of ten (10) feet and the accessory structure may be located within ten (10) feet of the rear lot line; and
- d) The minimum side yard for corner lots shall be thirty (30) feet for both main and accessory structures from the nearest street right-of-way.

3.3-7 Maximum Height

The maximum height for structures shall be forty (40) feet.

3.3-8 Lot Coverage

The maximum lot coverage shall be forty-five (45) percent.

3.3-9 Conditions & Requirements – Double Wide Manufactured Homes

- a) Conditional use permit shall be required. Public notice shall include notification of all adjacent property owners, in addition to the requirements of Section 15.1-431 Code of Virginia, as amended.
- b) Unit must be a double wide manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development.
- c) Roof must be constructed of conventional type roofing for site built homes such as fiberglass shingles, asphalt shingles or wood shakes and have a minimum roof pitch of 2.5 inches in 12 inches.
- d) Manufactured homes shall have a minimum of 1,200 square feet floor space.
- e) Shall be mounted on a masonry foundation with axles and tow assembly removed.

- f) Manufactured homes shall have all under structure concealed by a continuous masonry skirting.
- g) Exterior siding shall be comparable to that of conventional type homes
- h) Manufactured homes must be FmHA approved and certified as such by manufacturer certification.

3.3-10 Conditions & Requirements for Replacement of Existing Single Wide Manufactured Homes

- a) Home must be owner occupied, for not less than one year prior to the application and for not less than one year following approval.
- b) Home must be located on property owned by occupant.
- c) Replacement home must be a newer year model, no less than five years old.
- d) Replacement home must meet all setback and yard requirements.
- e) Home shall have all under structure concealed by a continuous skirting.
- f) Applications for zoning permits under this article shall be approved by Town Council.

3.4 Commercial-Neighborhood-CN District

This district is composed of limited commercial businesses built either as a unit or individually to serve the needs of nearby residential neighborhoods. The business operation character is serviced by delivery of goods from medium size trucks and the nuisance factors will be primarily incidental light and noise generated by people and vehicles.

3.4-1 Uses Permitted

Uses permitted in the Commercial Neighborhood CN District shall be established in compliance with the standards of this Article, Article 4, Supplementary Regulations and as provided in the Virginia State Code. Uses permitted shall be one (1) or more of the following uses:

- a) Retail grocery with gas;
- b) Coin operated self-laundry;
- c) Beauty and barber shop;
- d) Drug store;
- e) Offices;
- f) Hardware, lawn and garden; or
- g) Branch banks
- h) Multi-family and single family

3.4-2 Conditional Uses Permitted

Conditional uses in the Commercial-Neighborhood (CN) District shall be permitted following a public hearing and approval as set forth in Article 5 and 6. Conditional uses shall be one (1) or more of the following uses:

- a) Restaurant or fast food; or
- b) Apartments on second floor above commercial

3.4-3 Area of Lots

Area regulations for each use in the Commercial-Neighborhood CN District shall be a minimum of 10,000 square feet for the first use and 5,000 square feet for each additional use.

3.4-4 Setback for Structures

The setback line for structures shall be twenty-five feet from any street right-of-way which is fifty (50) feet or greater in width or fifty (50) feet from the center line of any street whichever is greater.

3.4-5 Lot Frontage

The minimum frontage for permitted or conditional uses shall be one hundred (100) feet measured at the set back line. The lot frontage shall be increased by fifty (50) feet for each additional use.

3.4-6 Yards

Yard requirements for each main structure for permitted uses shall be as follows:

- a) A side or rear yard abutting a residential zone shall be fifteen (15) feet with a minimum of six (6) feet of landscaping shrubs, hedges, or trees or privacy fence.
- b) A side or rear yard abutting a commercial zoned lot may be built within five feet of the property lien provided, however, two adjoining commercial property owners may agree to zero lot line in compliance with state building and fire codes.

3.4-7 Maximum Height

The maximum height for structures shall be forty (40) feet.

3.4-8 Lot Coverage

The maximum lot coverage shall be fifty (50) percent.

3.5 Commercial- General C-G District

This district is designed to provide for a general range of retail, office and service businesses with business uses taking priority over any other type of use. The activities may generate relative large volumes of traffic and have frequent delivery of goods, services and increased traffic. The district boundaries may expand in conformance to Comprehensive Plan.

3.5-1 Uses Permitted

Uses permitted in the Commercial General (C-G) District shall be established in compliance with the standards of this Article, Article 4 Supplementary Regulations, and as provided in the Virginia State Code. Uses permitted shall be one (1) or more of the following uses:

- a) Auto sales and services;
- b) Bakeries;
- c) Churches;
- d) Drug store, medical clinic or supplies;
- e) Dry cleaners and laundries;
- f) Finance, banks and real estate;
- g) Furniture, home appliance sales and services;
- h) Funeral homes;
- i) Hotels, motels, inns;
- j) Hardware, plumbing, and lumber supply with covered storage
- k) Offices;
- l) Public or semi-public uses;
- m) Public utilities;
- n) Personal service business (Beauty, Barber, etc.);
- o) Retail grocery with gas;
- p) Retail stores;
- q) Self-service storage facilities;
- r) Theatres, lodges, assembly halls;
- s) Restaurants and fast food;
- t) Recreation; or
- u) Printing signs on premises

3.5-2 Conditional Uses Permitted

Conditional uses in the Commercial-General (C-G) District shall be permitted following a public hearing and approval as set forth in Article 5 and 6. Conditional Uses shall be one (1) or more of the following uses:

- a) Animal hospital or clinic;
- b) Automobile body shop and repair with inside vehicle storage;
- c) Machinery sales and service;
- d) Public amusement restaurant or entertainment involving serving of alcoholic beverages;
- e) Wholesale distribution;
- f) Light manufacturing; or
- g) Warehouse storage.

3.5-3 Area of Lots

Area regulations for each use in the Commercial-General (C-G) district shall not be required, however, an existing lot may not be divided or a building erected which would decrease the amount of parking required for uses or building established on the property.

3.5-4 Setback for Structures

The setback line for structure shall be ten (10) feet from any street right-of-way.

3.5-5 Lot Frontage

A minimum frontage shall not be required.

3.5-6 Yard

Yard requirements for each main structure for permitted uses shall be as follows:

- a) A side or rear yard shall not be required; and
- b) A side yard abutting a street right-of-way shall be landscaped.

3.5-7 Maximum Height

The maximum height for structures shall be forty-five (45) feet.

3.5-8 Lot Coverage

The maximum lot coverage shall be seventy (70) percent provided required off-street parking can be met on the owner's property.

3.5-9 Sidewalks Required

Sidewalks shall be required to be constructed to equal the existing width along a property frontage with no less than five (5) feet if non-existent.

3.6 Industrial (I) District

The primary purpose of this district is to provide and/or maintain areas where the principal use of land is for manufacturing and industrial operations. Such use may create nuisances, which are not properly associated nor compatible with residential and business districts.

3.6-1 Uses Permitted

Uses permitted in the Industrial (I) District shall be established in compliance with standards of this Article, Article 4 Supplementary Regulations, and as provided in the Virginia State Code. Uses permitted shall be one (1) or more of the following uses:

- a) Assembly of electrical appliance, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders;
- b) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing, or overhauling, welding or machine shop;
- c) Laboratories, pharmaceutical or medical;
- d) Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet soap, toiletries, food products, clothing, textiles;
- e) 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 semi-precious metals or stones, rubber, shell, straw, textiles, tobacco, wood, yard and paint;

- f) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas;
- g) Building material sales yards, plumbing supplies storage;
- h) Contractors equipment storage yards or plants, or rental of equipment commonly used by contractors;
- i) Cabinets, furniture and upholstery shops;
- j) Boat building;
- k) Monumental stone works;
- l) Veterinary or dog or cat hospital, kennels;
- m) Wholesale businesses, storage warehouses; or
- n) Truck terminals.

3.6-2 Area of Lots

Area regulations for each use in the Industrial District shall not be less than 10,000 square feet and the size shall be sufficient to handle off-street turning and unloading of trucks, parking as required and in compliance with sewer or setback requirements.

3.6-3 Setback for Structures

The setback line for structures shall be thirty-five (35) feet from any street right-of-way and thirty-five (35) feet from any property line bordering a residential zone.

3.6-4 Lot Frontage

The minimum lot frontage shall be one hundred (100) feet.

3.6-5 Yards

Yard requirements for each main structure shall not be required; however, the form of evergreen trees shall be maintained on property lines joining any residential district boundary.

3.6-6 Maximum Height

The maximum height for structures shall be sixty (60) feet.

3.6-7 Lot Coverage

The maximum lot coverage shall be seventy (70) percent.

3.6-8 Noise

Any use which creates noise shall be conducted wholly within an enclosed building.

ARTICLE 4

SUPPLEMENTARY DISTRICT REGULATIONS AND GENERAL PROVISIONS

This article contains specific standards which apply to all users and districts within the jurisdiction. The standards set forth are the minimum allowed and from the date of this ordinance, no building, structure or use shall be permitted, altered or changed which would cause to exist conditions which would be less than the standards set forth in this article, Article III, or Article 1.1-1.

4.1 Zoning Affects Every Building and Use

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

4.2 Integrity of Required Open Space

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

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

4.2-1 Keeping of Animals Within Town Limits

Horses (mules, donkeys, etc.), cattle, poultry, bees, sheep and goats may be kept within the agricultural zone provided all other requirements are satisfied. Furthermore, there shall be a minimum open acreage of at least 5 acres and housing for said animals shall be located at least 200 feet from adjoining houses.

Dogs, cats and rabbits as domestic animals may be kept within any zone within the town.

Residents of areas that are not within the agricultural zone, who upon the effective date of this ordinance keep agricultural animals upon their property, such as horses (mules, donkeys, etc.), cattle, poultry, bees, sheep and goats, shall be required to obtain annually a conditional use permit from the town office. This permit shall list the type and number of animals kept upon the property.

Furthermore, housing for said animals shall be located at least 200 feet from adjoining houses.

4.3 Existing Lots of Insufficient Size

4.3-1 Lot of Record – Separate Ownership

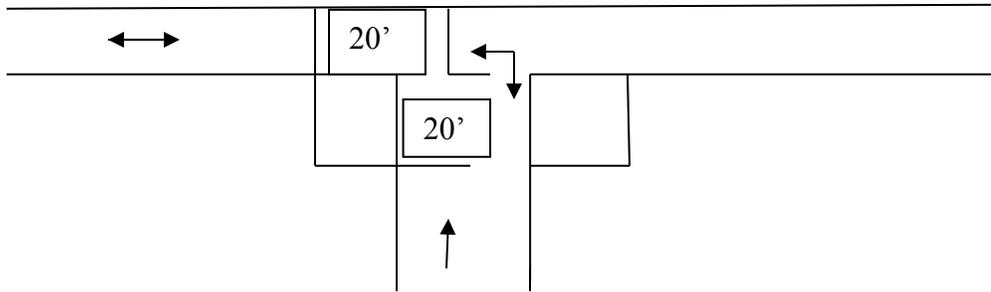
In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and/or width that are generally applicable in the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of Article VI of this ordinance.

4.3-2 Two or More Lots – Single Ownership

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which created a lot with width or area below the requirements state in this ordinance.

4.4 Visibility at Intersections

On a corner lot in any district, nothing shall be erected, placed, planted or allow existing trees to grow in such a manner to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the water line grades within twenty (20) feet of the intersecting streets.



4.5 Fences, Walls and Hedges

Fences, walls and hedges may be permitted in any required yard or along the edge of any yard except as prohibited in Article 4.4. The maximum height of a fence, wall or hedge shall be six (6) feet.

4.6 Use of Required Yard Area

Required yard areas may be occupied by driveways, loading, parking and sidewalks unless otherwise specified in this ordinance. All yards not occupied by such uses shall be devoted to maintain landscaping as defined in the definitions.

4.7 Accessory Buildings

An accessory building cannot be established unless a principal use exists on the property. No accessory building may be erected in any required yard, or within five (5) feet of any other building except as provided in the district regulations.

4.8 Structures to Have Access

Every structure shall be on a lot fronting a public street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.

4.9 Parking, Storage or Use of Major Recreational Equipment

No major recreational equipment shall be parked or stored in any front yard of any lot in a residential district more than 72 hours.

4.10 One Principal Building on Any Lot

Only one principal building and its accessory building shall be erected on any lot except where the lot frontage is in multiples of the amount required, then a second or more principal buildings may be constructed so long as each structure complies with the ordinance yard requirements.

4.11 Parking and Storage of Inoperable Vehicles

No automotive vehicle which does not display a current license plate may be parked on any public street for more than twenty-four hours. No more than one inoperable vehicle shall be stored on any open lot in any district except those vehicles being repaired in conjunction with an automobile service and repair business. This provision shall not apply to vehicles enclosed within a private garage.

4.12 Maintenance of Property

No property owner or tenant may cause to be kept on any lot, yard, structure, trash, junk weeds or litter of any kind. All persons or businesses, shall dispose of garbage in an approved container as required by the Virginia State Code.

4.13 Maintenance of Landscaping

Landscaping required by this code shall be maintained and any dead vegetation shall be replaced or removed.

4.14 Height Regulations Exceptions and Limitations

Church spires, belfries, monuments, water towers, chimneys, flues, flag poles, television antenna and radio aerials are exempt. An accessory structure height shall not exceed the principal structure height except for garages constructed subsequent to a residence.

4.15 Home Occupations

The following limitations shall apply to home occupations:

- 1) No person other than members of the family residing on the premises shall be engaged in such occupation;
- 2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- 3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building;
- 4) No home occupation shall be conducted in any accessory building;
- 5) There shall be no retail or wholesale sales occurring on the premises in connection with such home occupation; and
- 6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street or in a rear or side yard.

4.16 Non-conforming Uses, Lots, and Structures

4.16-1 Intent

Within the districts established by this ordinance or amendments that may later be adopted, there may exist structures and uses of land and buildings which would be prohibited, regulated or restricted under terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conforming uses and structures to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that these non-conforming structures and uses shall not be enlarged upon, expanded or extended.

4.16-2 Non-conforming Structures

Where a lawful structure exists upon the effective date of adoption of amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions to area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a) No such non-conforming structure may be enlarged or altered in which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
- b) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 50 percent of this replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance or by petition to the Planning Commission; and
- c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4.16-3 Non-conforming Uses of Land

Whereas at the time of passage of this ordinance of lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000 the use may be continued so long as it remains otherwise lawful, provided:

- a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
- c) If any such non-conforming use of land ceases for any reason for a period of more than one (1) year; any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located; and

- d) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

4.16-4 Non-conforming Uses of Structures or Of Structures and Premises in Combination

If lawful use involving individual structures with a replacement cost of \$1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy and land outside such building;
- c) Any structure, or structure and land in combination in or on which an non-conforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the conforming use may not thereafter be resumed;
- d) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of twelve (12) consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. Vacancy of the premises due to change in lease shall not constitute discontinued or abandonment so long as the owner is pursuing to advertise the property of release; and
- e) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is

defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction. A petition for rebuilding may be presented to the Planning Commission for consideration.

4.16-5 Repairs and Maintenance

Nothing in this ordinance shall prevent the making or ordinary repairs on a non-conforming structure or a structure containing a non-conforming use, provided that the structure is not enlarged in size.

4.16-6 Change of Non-Conforming Use in a Non-Conforming Structure

If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this ordinance (See Article VI);

4.17 Minimum Required Space for Off-Street Automobile Parking

Off-street parking shall be provided at the time of erection of any principal building or at the time any principal building is enlarged, with adequate provision for access from a public street, as follows:

USE OF BUILDING	MINIMUM NUMBER OF PARKING SPACES
Dwelling of all types (Except Elderly)	Two (2) spaces for each dwelling unit.
Elderly Housing	One (1) space for every three units.
Tourist Homes, motels, hotels, and rooming houses	One (1) space for each guest bedroom.
Churches, auditorium, theaters, stadiums and other places of assembly	One (1) space for every four seats.
Hospitals	One (1) space for each two beds.
Medical and Dental Clinics	Five (5) spaces for each doctor plus one (1) per employee.
Mortuaries or Funeral Homes	Thirty (30) spaces.
Retail stores selling directly to the public and personal service establishments	One (1) space for each 250 square feet of rental floor space.
Restaurants, cafes, and taverns	One (1) space for each four seats provided for customers.
Dance Halls	One (1) space for each 100 feet of floor space.
Bowling Alleys	Four (4) spaces for each alley.
Industrial and manufacturing establishments	One (1) space for each two employees computed on the basis of the greatest number of persons to be employed on any one shift.
Private Clubs and Lodges	Adequate space as determined by Planning Commission after submittal of site plan.
Professional Offices	One (1) space for each employee plus one (1) space for every 500 square feet of floor space.
Riding Stables	Ten (10) spaces.
Fire Stations	Ten (10) spaces.

(continued.....)

USE OF BUILDING	MINIMUM NUMBER OF PARKING SPACES
Boat Launching Ramp	Ten (10) spaces plus spaces for 10 boat trailers.
Schools (Elementary and Nursery)	Three (3) spaces for each classroom, plus one (1) space for each six seats in an auditorium or gymnasium and spaces for school buses.
Schools (High)	Ten (10) spaces for each classroom plus one (1) space for each five seats in an auditorium or gymnasium.
Sanitariums, nursing homes, and convalescent homes	One (1) space for each four patient bed.
Skating Rinks	One (1) space for each 200 feet of floor area.
Marinas and Boat Docks	One (1) space for each berth, with a minimum of 10 space.

4.17-1 General Requirements for Parking Lots

A parking space shall be a minimum of nine (9) feet wide by twenty (20) feet in length. Parking space shall be served by a driveway with a minimum width of twenty (20) feet and all spaces over four required shall be provided with turn-around or maneuvering which will not require backing into a public street or right-of-way. All commercial, industrial, or public use parking shall be provided with space of returning or maneuvering which will not require backing into public street or right-of-way.

The parking space required for any dwelling shall be located on the same lot as the principal building. For uses other than dwellings, spaces may be located within a distance of 200 feet of the lot on which the use or building is located.

4.17-2 Design Requirements

When lots with parking space for more than four cars are permitted or required in any district, the following conditions shall apply:

- a) The parking area and access thereto shall be surfaced with crushed rock, gravel, asphalt or concrete. It shall be drained in such a manner that the adjoining property does not receive storm water therefrom. Adequate space shall be provided for the maneuvering of vehicles. No driveway or curb cut shall exceed 25 feet in width;
- b) Virginia Department of Highways and Transportation design standards for access driveways shall apply;
- c) If the parking area adjoins premises used or zoned for residential purposes it shall be screened from such premises by a solid wall or fence, or a closely spaced evergreen trees or a shrub hedge, located on a strip of land not less than five (5) feet in width, guarded with wheel bumpers. Any light used to illuminate such parking area shall be so arranged as to reflect the light away from such adjoining premises; and
- d) Parking space provided for apartments, offices, or retail spaces shall include five (5) feet of landscaping to provide a buffer from the adjacent property and street right-of-way.

4.18 Off-Street Loading Space

In order to avoid undue interference with the public use of streets, there shall be provided adequate off-street loading space as follows:

- 1) At the time building plans for commercial or industrial uses are submitted, the Zoning Administrator shall require submission of specific information in writing as to the size of delivery vehicles and frequency of delivery;
- 2) Construction plans shall not be approved without a site plan drawn to scale which can show that off-street loading can be provided without backing, or maneuvering into a public street right-of-way;
- 3) An off-street loading space shall be a minimum of twenty (20) feet wide by sixty (60) feet long;

- 4) A minimum of one (1) space shall be required for all retail commercial uses; and
- 5) The required spaces for other public, commercial or industrial use shall be as follows:

USE	FLOOR AREA IN SQUARE FEET	REQUIRED SPACES
Public Assembly	N/A	One
Health Care	N/A	One
Community Education	N/A	One
Retail Sales	Less than 20,000	One
Retail Sales	20,000 and up	Two plus one for each 40,000 square feet over 80,000
Wholesale and Industrial		Two per 50,000 square feet

4.19 Solid Waste Disposal

Each owner of apartments, commercial, industrial, or public use shall provide and maintain solid waste disposal containers to meet the requirements of the occupants.

4.20 Sign Regulations

4.20-1 Purpose

The purpose of this section is to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct health, safety, and morals; and to permit and regulate signs in such a way as to support and complement land use objective set forth in Article 1 of this ordinance.

4.20-2 Exclusion from Sign Regulations

The following shall not be subject to the provisions of this section:

- a) Signs provided or required by a duly constituted government body, including traffic or similar regulatory devices, legal notices or warning at railroad crossings;
- b) Flags or emblems of political, philanthropic, educational, or religious organizations;
- c) Temporary signs for a period not to exceed three (3) months announcing a campaign, drive or event listed in (b) above;
- d) Memorial plaques or tablets;
- e) Small signs, each not to exceed one (1) square foot of display surface area, displayed for the direction or of the public (including signs which identify rest rooms, freight entrances, or the like);
- f) Vehicular sign attached to/or lettered on a licensed motor vehicle;
- g) Name identification signs which are architecturally part of the building and are wall mounted which may identify a company, apartments, public or semi-public use through the use of integral letters, symbols, or logos;
- h) Real estate signs, not exceeded eight (8) square feet, mounted on the building or within a yard advertising a sale or lease of property; and
- i) Any sign which cannot be viewed from a public right-of-way or sidewalk.

4.20-3 Prohibition of Obstructive and Certain Signs

No sign may be arranged so that it interferes with traffic; through glare; through blocking of reasonable sight lines for streets, sidewalks, or driveways; through confusion with a traffic control device (by reason of its color, location, shape or other characteristics); or through any other means. Rotating beacons and flashing sidewalk signs are prohibited. No sign shall be allowed to protrude into the space above the right-of-way of a public street or utility easement for overhead electrical service.

4.20-4 Location of Signs

That portion of a sign, pole, or stand of such sign which is in contact with the ground shall be within the lot line of the property and shall not be within the right-of-way of any public street. All signs shall be located on premises of the business or product being advertised.

4.20-4A Directional Signs

Businesses, Civic Organization & Churches may apply for a permit to have a sign installed on Main Street that will assist the general public in locating business or organizations. Only name of the business, civic organizations or church will appear on the sign along with an arrow indicating the location. The cost of the sign shall be the responsibility of the applicant. An annual fee, as set by Council, shall be due and payable the first day of July.

4.20-5 Height of Signs

Signs shall not exceed the height of the structure housing the business advertised or 30 feet – whichever is greater.

4.20-6 Overhanging Signs

One existing overhanging sign is allowed to protrude over a sidewalk where building have been built on the front lot line provided that any such sign shall not be allowed to protrude more than five (5) feet from the building front and shall not exceed one (1) square foot for twenty (20) square feet of that business store front up to a maximum of ten (10) square feet. Where buildings are built on the front property line without any setback all new signs shall be flush mounted. Flush signs shall not protrude more than fifteen (15) inches. The minimum clearance over a private driveway shall be fifteen (15) feet as measured from the bottom of the grade of the driveway.

4.20-7 Under Canopy Signs

Under canopy signs are permitted provided they do not exceed 250 square inches and allow a clearance of eight (8) feet from sidewalk to bottom of sign.

4.20-8 Motion or Non-Stationary Signs

No sign or any portion thereof shall be permitted which moves or assumes any motion constituting a non-stationary or fixed condition except for the rotation of barber poles. Changing signs and multi-prism sign units are not permitted except time temperature signs are allowed. Signs which are not permanently attached to the ground or a building except as otherwise noted in this ordinance are prohibited.

4.20-9 Non-Conforming Signs and Closed Businesses

Any advertising structure or sign which was lawfully erected and maintained prior to the adoption of this ordinance shall be allowed to remain as a non-conforming sign. Any sign damaged the extent that it represents a public hazard as determined by the administrator shall be removed immediately. Signs advertising a business which changes ownership must be removed within ninety (90) days of the date of said change of ownership or business closure.

4.20-10 Sign Type Area and Number Signs

Each business in a commercial or industrial district is permitted to have one (1) identification sign and two product or trade signs, subject to the following provisions:

- a) The area of sign for identification shall be two (2) feet per front foot or a maximum of one hundred (100) square feet as measured by the smallest rectangle places over the sign;
- b) The area of product trade signs shall be thirty (30) square feet for a total of sixty (60) square feet; and
- c) Only one pole mounted sign shall be allowed for each business.

4.20-11 Sign Construction

All signs shall be constructed in conformance with state building and electrical codes.

4.20-12 Sign Permit Required

No person shall erect, construct, or maintain any sign upon any property without first submitting a drawing to the Zoning Administrator showing sign lettering dimensions, method of attachment, and the area in which the sign is to be located. Neon signs shall have no exposed electrodes. Upon receiving written approval and permit from the Administrator, the proposed sign may be constructed.

4.21 Uses Not Specified

Uses not specifically named but compatible with other permitted uses and the requirements of this ordinance may be permitted after review by the Zoning Administrator and approved by the Planning Commission. The recommendations of the Planning Commission shall not be made until a hearing, as required by the Code of Virginia 1950 as amended, has been held.

ARTICLE 5

ADMINISTRATION OF ZONING ORDINANCE

5.1 Creation and Authorization of the Office of Zoning Administrator

The Office of Zoning Administrator is hereby established to administer and enforce this ordinance. The Zoning Administrator shall be designated by the Rural Retreat Town Council and may be provided with the assistance of other persons at the direction of the Town Council.

5.2 Duties of Zoning Administrator on Issuance of Permits

The Zoning Administrator shall be responsible for the administration and enforcement of this ordinance and shall have all necessary authority on behalf of the Rural Retreat Town Council to carry out the following duties.

5.2-1 Issuance of Permits

The Zoning Administrator shall be responsible for the issuance of zoning and certificate of zoning compliance permits. The Zoning Administrator shall review each application for a zoning permit and may require any other information which he/she may deem necessary for the consideration of the application.

5.2-2 Zoning Permits Required

No building or other structure shall be erected, moved, added to or structurally altered or any land used, or occupied without a zoning permit issued by the Office of the Zoning Administrator.

5.2-3 Permits Not to be Issued

No zoning permit shall be issued for any land use, building, structure, or part thereof which is not in accordance with the provisions of this ordinance. Any permit issued in violation of this ordinance shall be void and of no effect.

5.2-4 Certificate of Zoning Compliance

A certificate of zoning shall be issued as follows:

a) New Construction

A certificate of Zoning Compliance shall be issued within five (5) working days after construction has been completed. The premises are to be inspected and certified by the Office of the Zoning Administrator to be in conformity with the plans and specifications upon which the zoning permit were based. A certificate of Zoning Compliance issued in violation of this ordinance shall be void and of no effect. No permit for excavation or construction shall be issued by the Zoning Administrator before he/she is satisfied that the plans, specifications, and intended use conform to the provisions of this ordinance;

b) Existing Conforming Uses or Buildings

Upon written request from the owner, the Zoning Administrator shall issue a certificate of zoning compliance for any building or premises existing at the time of the effective date of this ordinance certifying, after inspection, the extent and kind of use made of the building or premises (including the number of employees and whether such use conforms with the provisions of this ordinance); and

c) Existing Nonconforming Uses or Buildings

A certificate of zoning compliance for all nonconforming industrial and commercial uses shall be applied for the tenant, owner or agent of the property occupied by such nonconforming use within twelve months from the effective date of this ordinance. It shall be the duty of the Zoning Administrator to give public notice in a local newspaper to this effect four times within 60 days of the adoption of this ordinance. Upon expiration of the said twelve months, failure to produce a certificate of zoning compliance for any such nonconforming use shall give rise to the rebuttable presumption that such nonconforming use was not lawful on the effective date of this ordinance. From and after the effective date of this ordinance, the provisions of this section shall apply to any unlawful use thereafter made to be a nonconforming use by amendment of this ordinance, except that the only public notice required in connection therewith is that required by law prior to such amendment.

5.2-5 Plans Required for Zoning Permits Procedure for Approval or Disapproval

Each application for a zoning permit shall be accompanied by three (3) copies of a plan drawn to scale showing the shape and dimensions of the plot to build upon, the structures, accessory buildings or structures alterations or additions, existing and intended uses of the building or part of a building, and the number of families or housekeeping units (where applicable) the building is designed to accommodate. Any other information that the Administrator may deem necessary for consideration of the application may be required.

- a) If the proposed building or use is found to conform to the provisions of this ordinance, the Administrator shall issue a zoning permit to the applicant. One copy shall be forwarded or taken to the Building Inspector for his/her files. One copy shall be retained in the administrator's files.
- b) If the proposed building or use is not in compliance, the Administrator shall disapprove of the permit and advise in writing the applicant as to what measures could be taken to bring about compliance through a change in the plans. An applicant shall also have right of appeal as permitted.

5.2-6 Application Forms

The Zoning Administrator shall provide application forms and instructions for the applicant which clearly facilitates timely review of the application. No permit shall be issued without street address, route number, approximate location, tax parcel number, and legal description of the subject property.

- a) Information shall be submitted showing the following: boundary survey; existing topography with contours at five foot intervals; existing and proposed structures; significant natural features, including wooded area and large trees; existing and proposed roads, driveways, walkways and utilities; and landscaping proposed.
- b) The site plan shall be accompanied by plans and/or written description explaining methods proposed for water supply, sewage disposal, storm water drainage, and prevention of erosion.
- c) The administrator may accept owner prepared sketch for plans of single-family construction.

5.3 Duties of Administrator on Zone Amendments, Zone Changes, Conditional Uses, and Variances and Appeals

5.3-1 Applications and Fees

The Zoning Administrator shall be responsible for receiving each application for a zoning amendment, zone change to the zoning map, conditional use, variance, or appeal. The application shall not be processed until the required fee has been paid.

The fees for the above shall be based upon reasonable costs to pay for the expenses involved. The fees shall be as follows:

Zoning Amendment	\$50.00
Zone Change	\$50.00 plus \$2.00 for each certified letter to adjacent owners
Conditional	\$35.00 plus \$2.00 for each certified letter to adjacent owners
Variance	\$25.00 plus \$2.00 for each certified letter to adjacent owners
Appeal	\$15.00 to Council involving hearing

The fee may be waived by the Council for any government agency.

5.3-2 Procedure

The Zoning Administrator shall, after consultation with the Planning Commission Chairman or Mayor, advertise the application for hearings as required by the Code of Virginia 1950. The Zoning Administrator shall be responsible for mailing notice to affected property owners one week prior to the hearing. Addresses in the Commissioner of Revenue's Office shall constitute valid addresses. Requests for a zone change shall be reviewed in conformance with the Town of Rural Retreat's Comprehensive Plan.

5.4 Duties of Administrator Regarding Enforcement and Remedies

5.4-1 Complaints Regarding Violations

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. The complaints shall state fully the causes and basis of such complaint and shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record the complaint, immediately investigate, and take such action as provided for in this ordinance. The Town Attorney shall be immediately advised of all violations of this ordinance. The

Town Attorney shall report to the Council any violations not abated through orders issued by the Zoning Administrator.

5.4-2 Penalties for Violation

Violations of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) following official notification shall constitute a Class 1 misdemeanor and may be punished as provided by law. Each day such violation exists may be deemed a separate offense. The owner or tenant of any building, structure or premises and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may be punished as heretofore provided.

5.4-3 Remedies

Upon finding that any provision of this ordinance is being violated, the Zoning Administrator shall notify in writing by certified mail the person responsible for such violation and order the discontinuance of illegal buildings, structures, illegal additions, alterations or structural changes, and the discontinuance of any illegal work being done.

Should such notice fail to force compliance within thirty (30) days, the Zoning Administrator shall request that the Town Council authorize the Town Attorney bring legal action to insure compliance with the ordinance -- including injunction, abatement, or other appropriate action or proceeding.

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building, other structure or land is or is proposed to be used in violation of this ordinance, the Zoning Administrator or other appropriate authority of the Rural Retreat Town Council or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute an injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate such violation or to prevent the occupancy of such building or other structure or land.

5.4-4 Appeal

An appeal of the Zoning Administrator's decisions may be filed within fifteen (15) days by filing a letter with the Zoning Administrator. Appeals shall go to the Board of Zoning Appeals.

5.5 Conditional Use Provisions

Certain uses of land and buildings, designated in Article III District Regulations as conditional uses, may be permitted in one or more of the various districts only after individual consideration and approval by the Planning Commission.

Such conditional uses are deemed to be generally appropriate to the district or districts to which they are assigned under this ordinance and reasonably harmonious with the uses permitted in said districts as a matter of right, provided that the location and design of the site in each case is determined by the Planning Commission to be in accord with standards therein set forth. It is the intent of this section that the designation of certain uses as conditional for certain districts, and the procedures set forth for the review and approval or disapproval of such uses, be administered so as to further the purposes of this ordinance and facilitate the creation of a convenient, attractive and harmonious community.

5.5-1 Procedures for Review and Approval of Conditional Uses

Any person desiring to use any land or building in a manner classed by this ordinance as a conditional use for the district in which said land is located shall make application to the Zoning Administrator for a conditional use permit and shall submit supporting maps and other documents as required by Section 5.2-5 and 5.2-6.

5.5-2 Public Hearing and Report to Council

The Zoning Administrator shall forward the application to the Planning Commission, which shall hold a public hearing thereon in accordance with Section 15.1-431 of the Code of Virginia 1950. After receiving a report and recommendation from Zoning Administrator, the Planning Commission shall either approve or disapprove this application for a conditional use permit. The Planning Commission shall authorize the granting of the permit if the standards set forth in Section 5.5-3 and shall record its finding concerning such compliance. Upon approval by the Planning Commission, a report shall be made to the next Town Council meeting. The decision of the Commission shall be final unless the Town Council motions to amend or override the Commission decision.

The Commission or Town Council may impose such other conditions and restrictions as may be necessary to reduce or minimize the injurious effect of the conditional use and insure compatibility with surrounding property. The Commission or Town Council may establish expiration dates for the expiration of any conditional use permit as a condition of approval.

5.5-3 General Requirements

A conditional use permit may be granted provided the Planning Commission finds that the proposed conditional use:

- a) Is designed, located and operated so as the public health, safety, and welfare be protected;
- b) Will not adversely affect other property in the area in which it is located;
- c) Is within the provision of “Conditional Uses” as set forth in this ordinance;
- d) Conforms to all applicable provisions of this ordinance for the district in which it is to be located and is necessary for public convenience in that location;
- e) The proposed use must have direct access on a public road which can safely and adequately handle the automobile and truck traffic generated;
- f) Satisfactory storm drainage can be provided, and there must be adequate safeguards to prevent soil erosion on the site and erosion and sedimentation on neighboring downhill and downstream properties during and after development;
- g) There is a satisfactory plan and methods for sewage disposal. No effluent shall be discharged into any stream prior to having at least secondary treatment;
- h) There is suitable provision for the protection of privacy on adjoin property which is now in residential use or which may develop in residential use under the provisions of this ordinance. In this section protection of privacy shall mean effective screening against both visual intrusion and noise; and
- i) In the case of manufacturing, there shall not be discernible at any property line of the tract on which the use is located any dust, smoke, odor, noise, or glare that results from the operation of the manufacturing use.

5.5-4 Conditions

In authorizing a permit for any conditional use provided for in this ordinance by the Planning Commission, after report and recommendation by the Zoning Administrator, may impose specific conditions on the development and use of land as necessary to assure compliance with the standards set forth in Section 5.5-3. Such conditions may include, but are not limited to: dimensional requirements for front, side, and rear yards greater than those specified elsewhere in this ordinance; screening by planting or fences

or other devices, landscaping for appearance; dedication of land for street purposes; construction of turning lanes on public roads; prohibition and/or regulation of signs; requirement of additional parking spaces and limiting hours of operation.

5.6 Conditional Zoning

5.6-1 Purpose of Conditional Zoning

The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar specific circumstances indicate that the existing Zoning Ordinance district regulations are not adequate. In such instances, reasonable conditions voluntarily proffered by the owner of the subject property to which such conditions are applicable for the protection of the community (which conditions are not generally applicable to other land similarly zones) when considered with existing zoning ordinance regulations should cause the requested rezoning to be compatible with existing zoning and uses in the area.

5.6-2 Approval of Conditions as Part of a Rezoning Amendment to Zoning Map

The owner of the property which is the subject of a rezoning request shall, if he/she elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he/she deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall establish in its rules and regulations; but in any event before the Commission makes its recommendation to the Town Council.

In the event the additions thereto or modifications thereof are desired by the owner of the property which is the subject of the rezoning request, the same shall be made in writing not less than twenty-one days prior to the time at which the Commission makes recommendation to the Town Council unless the Commission:

- a) Specifically waives such time period; or
- b) Specifically established such greater or lesser time period as it deems reasonable.

The Town Council may consider additional proffers, deletions, and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to the public hearing at which the Town Council renders its decision thereon.

5.6-3 Permitted Conditions as Part of a Rezoning or Amendment to Rezoning Map

The Town Council may approve reasonable conditions to rezoning provided that the following criteria are met:

- a) The rezoning itself must give rise for the conditions
- b) Such conditions shall have a reasonable relation to the rezoning.
- c) Such conditions shall not include a cash contribution to the Town.
- d) Such condition shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments, or other public facilities except those otherwise authorized by law.
- e) Such condition shall not include payment for construction of offsite improvements except those sewerage or drainage facilities otherwise authorized by law.
- f) No condition shall be proffered that is not related to the physical development or physical operation of the property.
- g) Such conditions shall be in conformity with the Town's comprehensive plan.
- h) The provisions of this Ordinance shall not be used for the purpose of discrimination in housing.

5.6-4 Records of Conditional Zoning

- a) The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning of the map.
- b) The zoning administrator shall maintain a conditional zoning index which shall be available in the planning office for public inspection during regular office hours. The index shall provide ready access to the Ordinance creating such conditions in accordance with the article and shall clearly list all conditions applicable to each.

5.6-5 Enforcement and Guarantee

In order to insure the intent and purpose of conditional zoning approved in accordance with this article, the zoning administrator or his/her agents shall be vested with all necessary authority on behalf of the Town Council to administer

and enforce conditions attached to a rezoning or amendment or a zoning map including:

- a) Ordering, in writing, compliance with such conditions.
- b) Bringing of appropriate legal action or proceedings to insure compliance.
- c) Requiring a guarantee or contract or both for construction of physical improvements required by condition(s).
- d) Denial of zoning certification with regard to the issuance of any required use, occupancy or building permit.

5.6-6 Review of Zoning Administrators Decision

Any person who is aggrieved by the administrator's decision or actions under subsection 103-105 of this section regarding enforcement or guarantees may petition the Town Council for review of such decision(s). Such petition shall be filed with the administrator no less than thirty days prior to a regularly scheduled meeting of the Town Council designated for hearing of zoning matters. The administrator shall forward the petition and the justification for this decision(s) to the Town Council and to the aggrieved person no less than ten days prior to the next regularly scheduled meeting designated for hearing of zoning matters. Written notice of such meeting shall be given to all parties as requires by Section 15.1-431 of the Code of Virginia.

5.6-7 Amendments and Variations of Conditions

All amendments and/or variations of adopted conditions shall be made in accordance with provisions of the Town Zoning Ordinance and other applicable law.

5.6-8 Time Limit on Repeat Petitions

After the Town Council has taken official action either granting, denying or permitting withdrawal of a petition for any change in zoning or any change of zoning conditions, no other petitions for substantially the same change(s) shall again be considered in less than twelve months from the date of such official action.

5.6-9 Severability

Should any section, subsection or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole nor of any part thereof other than the part so decided to be unconstitutional or invalid.

5.6-10 Conflicting Regulations

The requirements in this Chapter should supersede any other parts thereof of the Zoning Ordinance that are in conflict with this Chapter.

ARTICLE 6
BOARD OF ZONING APPEALS AND ADMINISTRATION OF VARIANCES

6.1 Creation, Membership, and Appointment of the Board

The Board of Zoning Appeals is hereby established which may be referred to in this ordinance as the “Board” or “Board of Zoning Appeals.” The Board shall have jurisdiction within the corporate limits of the Town of Rural Retreat, and it shall consist of five (5) residents of the Town appointed by the Circuit Court of the County. Members may be reappointed to succeed themselves. Members of the Board shall hold no other public office in the Town of Rural Retreat except that one may be a member of the Planning Commission.

6.1-1 Terms of Office of Board Members, Vacancies, Removals

The members of the Board shall serve for a five year term, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. A member whose term expires shall continue to serve until his/her successor is appointed and qualifies. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him/her, after a hearing held after at least fifteen (15) days’ notice.

6.1-2 Staff of Board and Compensation of Board Members

Within the limits of funds appropriated by the Rural Retreat Town Council, the Board may employ or contact for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive such compensation as may be authorized by the Town Council.

6.1-3 Powers of the Board

The Board is hereby vested with powers to:

- a) Hear and decide appeals from any other, requirement, decision or determination made by an administrative officer in carrying out the administration or enforcement of the ordinance.

- b) Hear and act upon application for variances in accordance with this Article to alleviate hardships by virtue of the inability of the land owner to comply strictly with the provisions of this ordinance by reason of unique shape, topography, or physical features of the lot;
- c) Hear and decide appeals from the decision of the Zoning Administrator;
- d) Hear and decide applications for interpretation of the district map where there are any uncertainties as to the location of a district boundary;
- e) Hear and decide appeals from the decision of the Planning Commission or Town Council concerning conditional use permits and special exceptions;
- f) Hear and decide all other matters referred to it on which it is required to act under this ordinance; and
- g) Within its budget appropriation and other funds at its disposal enter into contracts for such services as it may require.

6.1-4 Election of Officers

The Board shall elect from its members its own chairman, vice-chairman and secretary who shall serve for one year and may upon election serve succeeding terms.

6.1-5 Stay of Proceedings

An appeal shall stay all proceedings related to the action appealed from, unless the Zoning Administrator certifies to the Board after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent threat to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application and on notice to the Zoning Administrator and for good cause shown.

6.1-6 Rules and Proceedings of the Board

The Board shall also adopt rules for the conduct of its meetings. Such rules shall, at the minimum, require that:

- a) The presence of a majority of all members of the Board shall constitute a quorum;
- b) No action shall be taken by the Board on any case until after a public hearing and notice thereof shall be published and mailed in accordance with the Code of Virginia, Section 15.1431 as amended.
- c) Appeals to the Board shall be taken within fifteen (15) days after the decision appealed from by filing with the Zoning Administration and with the Board, a notice of appeal specifying the grounds of the appeal. The Zoning Administrator shall then transmit to the Board all the papers constituting the record upon which the action was taken;
- d) The Board shall fix a reasonable time for hearing the application or appeal, give public notice thereof as well as notify interested parties and decide the same within sixty (60) days.
- e) The Board may reverse or affirm, wholly or partly, or may modify and order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance;
- f) The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Town Clerk, and shall be public records. The chairman of the Board, or in his/her absence, the vice-chairman, may administer oaths and compel the attendance of witnesses;
- g) The Board may call upon any other office or agency of the Town of Rural Retreat for information in the performance to its duties, and it shall be the duty of such agencies to render the information to the Board as may be reasonably required;

- h) Any office, agency or department of the Town of Rural Retreat or other aggrieved party may appeal any decision of the Board to the Circuit Court of Wythe County as provided for in Section 15.1-497 of the Code of Virginia, 1950 (as amended);
- i) In decisions or variance, the Board shall indicate the specific section of this ordinance under which the variance is being considered, and shall state its findings beyond such generalities as “in the interest of public health, safety and general welfare.” The Board shall state clearly the specific conditions imposed in granting the variance. For variance cases pertaining to hardship, the Board shall specifically identify the hardship warranting such action by the Board;
- j) At the public hearing of the case before the Board, the appellant shall appear in his/her own behalf or be represented by counsel or agent. The appellant’s side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other; and
- k) The Rural Retreat Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of the public hearing.

6.2 Variance

6.2-1 Application for Zoning Variance

The application for a zoning variance may be made by any property owner, agent, or legal counsel of the owner, government official, department, board or bureau. The application shall be made to the Zoning Administrator in accordance with rules adopted by the Board. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Board.

6.2-2 Notice to Affected Property Owners

Notice to affected property owners and public agencies including the Rural Retreat Planning Commission and Town Council shall be given in accordance with notice and hearing procedures of 15.1431 of Code of Virginia.

6.2-3 Standards for Variance

The Board shall not grant a variance unless it finds:

- a) That the property owner acquired the property in good faith, and that by reason of exceptional narrowness, shallowness, size or shape, or exceptional topographic conditions of the property, or of the use or development of property immediately adjacent to it, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property;
- b) That the strict application of the ordinance would produce undue hardship;
- c) That the hardship is not generally shared by other properties in the same zoning district and the same vicinity;
- d) That the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant;
- e) That the authorization of such variance will not be substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
- f) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- g) That the variance shall be in harmony with the intended spirit and purpose of this ordinance;
- h) That financial concerns shall not be the sole consideration as a basis for granting a variance; and
- i) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

6.2-4 Nonconforming Does Not Constitute Grounds for Granting a Variance

No permitted or nonconforming use of neighboring lands, structures, or buildings in the same district, or in other districts shall be considered grounds for the issuance of a variance.

6.2-5 Prohibition of Use Variances

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permitted under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

6.2-6 Conditions and Restrictions by the Board

The Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out in Section 6.2-3 to reduce or minimize the injurious effect of such variance upon surrounding property and to better carry out the general intent of this ordinance. The Board may establish expiration dates as a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

6.3 Variance Appeals

Any person, including any agency of the local government, aggrieved by a decision of the Board on a variance may appeal any decision of the Board to the Circuit Court of the County as provided for in Section 15.1-497 of the Code of Virginia, 1950 (as amended.)

ARTICLE 7 DEFINITIONS

7.1 General Provisions

The following definitions shall apply for the interpretation of this ordinance. The dictionary definition will apply to all words not defined in this article.

7.2 Accessory

An activity or structure that is customarily associated with and is appropriately incidental and subordinate to an existing established principal activity and/or structure and located on the same lot, except as provided for under the provisions of accessory off-street parking.

7.3 Alley

A public way intended to provide only secondary vehicular access to abutting properties.

7.4 Agricultural Uses

Any activity or structure that is customarily associated with and is appropriately incidental and subordinate to the cultivation, breeding or maintenance of hay, grasses, and other feed products; forest products; horses, cattle, sheep, goats, and poultry; and greenhouses.

7.4-1 Agricultural Animal Guidelines

Equine (Horses) – In a stable of confinement situation, horses need around 144 square feet of space, which would mean a stall size of 12’x12’ for mature horse. Exercise area means an area large enough for a horse to be able to run or trot. For pasture, it depends on the quality of the pasture, but on average quality pasture one acre is usually recommended.

Bovine (Cattle) – For a 1,000 lb. animal, minimum requirements are 25 to 40 square feet in a pen or barn situation; 150 to 250 square feet in a yard or feedlot area and for pasture, one acre for a mature cow. (Again pasture requirements fluctuate on quality of stand.)

Ovine (Sheep and Goats) – For confinement space requirements, allow eight square feet for each lamb; 14 square feet for a small ewe; and 20 square feet for a large ewe. For pasture requirements three mature sheep equals one mature cow.

Swine (Hogs) – In confinements allow approximately 10 square feet per hog.

Poultry (Chickens) – For confinement rearing, allow: from day-old to four weeks age, one linear inch of feeder space per chick. After four weeks of age, provide from two to three linear inches per chick. For layers, provide at least two square feet per bird for light breeds such as leghorns and three square feet per bird for the heavier breeds.

Roost poles should be placed 14 to 15 inches apart and should provide eight inches of linear space per bird. Roosts should be 16-24 inches above the floor with 1" x 2" welded wire below the roost to keep hens out of the droppings.

In general, chicks less than six weeks old need ½ square foot per bird; chicks from six to ten weeks need one square foot per bird; growing pullets from 10 to 20 weeks need 1 ½ to 2 square foot per bird. Layers need two to three more square feet per bird.

7.5 Automobile Graveyard

Any lot or place which is exposed to the weather upon which more than five unlicensed motor vehicles of any kind, incapable of being operated are placed.

7.6 Automotive Service

Establishments with the primary purpose of cleaning or repairing motor vehicles.

7.7 Basement or Cellar

The bottom floor of a building which is more than twelve (12) inches, but not more than one-half (1/2) of its height below average level of the adjoining ground (as distinguished from a "cellar" which is more than one-half (1/2) below such level).

7.8 Boarding House

A house where lodging is provided for compensation on either a weekly or monthly basis which may or may not include sleeping rooms, meals, and bath facilities.

7.9 Building

A structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

7.10 Building Height

The vertical distance from the highest point on a structure, excepting any chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

7.11 Bulk

Describes the size of buildings or other structures, and their relationship to each other, to open areas and to lot lines, therefore including:

- 1) The size (including height and floor area) of buildings or other structures, and which may be expressed as percent of lot coverage;
- 2) The area of the lot upon which a residential building is located and the number of dwelling units within each building in relation to the area of the lot;
- 3) The location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, or to other structures; and
- 4) All open areas relating to buildings or other structures and their relationship thereto.

7.12 Clinic

An establishment where persons are given medical, dental, or surgical treatment by one but not more than four physicians or dentists with no patients lodged overnight.

7.13 Community Education

Structure or location where knowledge is taught.

7.14 Conditional Use or Special Permit

A conditional use is a use that would not be appropriate generally or without restriction throughout the district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

7.15 Construction Sales and Service

Any establishment involved in the sale of materials for the erection of structures.

7.16 Convenience Sales and Services

Any neighborhood retail establishment which caters to the everyday needs of the adjoining residential areas such as small “country” stores offering a variety of goods or services not to exceed 2,500 square feet in floor area.

7.17 Development

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

7.18 Dwelling, Mobile Home (Single and Double Wide)

A detached, single-family dwelling or commercial unit with a permanent steel chassis possessing all of the following characteristics:

- 1) Designed for long-term occupancy and containing a flush toilet with plumbing and electrical connections provided for attachment to outside systems.
- 2) Designed to be transported after fabrication on its own wheels.
- 3) Having a U.S. Department of Housing Inspection Seal or Code.
- 4) Arriving at the site where it is to be occupied as a complete unit ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connections to utilities, and the like.

7.19 Dwelling, Modular Home

A single family dwelling unit that is constructed basically as a conventionally built wood frame house except it is built at a factory and is transported to the site on which it will be permanently located. The modular home may not have a permanent steel chassis and may have either a HUD or Basic Building Code Seal.

7.20 Dwelling, Multi-Family

A building containing three or more dwelling units. The term includes cooperative apartments, condominiums, and the like.

7.21 Dwelling, Other

A dwelling unit located within a structure in which the principal activity is a commercial, professional, or general personal service activity.

7.22 Dwelling, Single-Family Detached

A single-family dwelling entirely separated from structures on adjacent lots.

7.23 Dwelling, Two-Family or Duplex

A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

7.24 Dwelling Unit

A room or rooms connected together, constituting a separate independent housekeeping establishment for one-family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking, sleeping, and bathing facilities.

7.25 Family

An individual or a group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

7.26 Flood

A general and temporary inundation of normally dry land areas. A con-hundred year flood is a flood that, on the average, is likely to occur once every one-hundred (100) years (i.e. that has one (1) percent chance of occurring each year, although the flood may occur in any year.)

7.27 Floodway

The area within a floodplain which is necessary for the passage of flood waters in which no structure may be built.

7.28 Flood Plain

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

7.29 Floor Area

The total of the gross areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, but excluding the following:

- 1) Areas used for off-street parking spaces or loading berths, driveways and maneuvering aisles relating thereto required in this Ordinance.
- 2) In the case of non-residential facilities: arcades, porticoes, and similar open areas which are located at or near street level, which area accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

7.30 General Personal Service

Any establishment not involved in the transaction of goods which caters to the needs of individuals (not including massage parlors.)

7.31 Home Occupation

An occupation conducted in a dwelling unit, provided that only members of the family residing on the premises shall be engaged in such occupation. Occupations may be office used by medical, dental, legal, engineering, architectural, or similar office where clients do not normally visit the home.

7.32 Hospital

An institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged, and sanatoriums.

7.33 Incidental Alterations

- 1) Changes or replacements in the nonstructural parts of a/or other structure without limitations to the following examples:
 - a) Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;
 - b) A minor addition to the exterior of a residential building, such as an open porch;
 - c) Alterations of interior non-load-bearing partitions in all other types of buildings or other structures;
 - d) Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits; or
- 2) Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
 - a) Making windows or doors in exterior walls; and
 - b) Replacement of building facades having non-load-bearing capacity, in not more than ten (10) percent of the total floor area to permit the accommodation of specialized machinery or equipment.

7.34 Junk Yard

The use of any area of land for the location for the storage keeping or of junk including scrap metals or other scrap materials. This term includes the term “automobile graveyard.”

7.35 Kennel

A place prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats, or other small animals for sale or in return for compensation.

7.36 Landscaping

The planting and maintenance of trees, shrubs, lawns and other ground cover of materials provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects and similar accessory features may be included as landscaping if integrally designed.

7.37 Library

A building primarily used to store, and allow access to books, films, maps and other educational material.

7.38 Lot

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other spaces as required by this ordinance. A lot shall have frontage on an approved public street and shall either be shown on a plat of record or be considered as a unit of property described by metes and bounds.

7.39 Lot Area

The entire area of a lot.

7.40 Lot Coverage

That portion of a lot which when viewed directly from above would be covered by a building or any part of a building.

7.41 Lot Frontage

The front of a lot shall be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated in this ordinance.

7.42 Lot Line

A line marking the boundary of a lot.

7.43 Lot Measures

- 1) Lot Depth shall be the average horizontal distance between the front and rear lot lines.
- 2) Lot Width shall be the average horizontal distance between the side lot lines.

7.44 Lot of Record

A lot which is part of a subdivision recorded in the clerk's office of the Circuit Court, or a lot whose existence, location and dimensions have been legally recorded or registered in a deed prior to the enactment of this ordinance.

7.45 Manufacturing

The following list is a general list and is not meant to be all inclusive. Other activities may be classified as manufacturing upon approval of the Planning Commission.

Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders.

Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing, or overhauling.

Blacksmith shop, welding or machine shop, excluding punch presses exceeding forty ton rated capacity and drop hammers.

Laboratories, pharmaceutical, or medical.

Manufacture, compounding, processing, packaging or treatment of such products such as bakery goods, candy cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

Manufacture, compounding, assembling, or treatment of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, metal, paper, plastic, precious or semiprecious metals or stones, rubber, shell, straw, textiles, wood, yard and paint.

Manufacture of cabinets, furniture, and upholstery shops.

Boat building.

Monumental stone works.

Truck terminals.

Public utility generating, booster or relay stations, transformer substations, transmission lines and towers, and other facilities for the provisions, and maintenance of public utilities, including railroads and facilities, and water and sewerage installations.

7.46 Mobile Home Park (see Dwellings, Mobile Home)

7.47 Mobile Home Park

An area where ten (10 or more mobile homes or trailers can be and are intended to be parked, designed, or intended to be used as temporary or permanent living facilities for two or more families).

7.48 Mobile Home Space

A plot of ground within a mobile home park, designed to accommodate one (1) mobile home and which has water, sewer, and electricity available at the space.

7.49 Mobile Home Stand

That part of an individual mobile home space which has been reserved for the placement of the mobile home.

7.50 Motel, Motor Hotel, Motor Lodge

Shall mean the same as “Transient Lodging.”

7.51 Nonconforming

- 1) Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations; or
- 2) Any lawful use which does not comply with any part or any one (1) or more of the applicable regulations pertaining to: 1) principal permitted, conditional or accessory uses permitted in the district in which use is located; 2) Signs, regulations, or 3) Accessory off-street parking and loading requirements; either on the effective date of this ordinance or as a result of any subsequent amendment.

7.52 Place of Worship

Structure or location where services or rites are held showing reverence for a deity.

7.53 Principal Activity

An activity which fulfills a primary function of an establishment, institution, household, or other entity.

7.54 Principal Building

A building which contains the principal activity or use.

7.55 Private Recreation Facility

Swimming pools, tennis courts, and other outdoor recreation facilities for use primarily by the lot owner.

7.56 Profession (Professional Office)

The term profession is limited to physicians and surgeons, lawyers, members of the clergy, architects, engineers, or other persons holding advanced degrees.

The term is not intended to include insurance agents, insurance adjusters, realtors, photo studios, beauty parlors, barber shops, dance schools, business schools or any persons engaged in sales or trade.

7.57 Recreation Equipment, Major

Major recreational equipment includes boats and boat trailers, travel trailers, tent trailers, pick up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, and the like.

7.58 Retail Stores and Shops

Buildings for display and retail sale of merchandise or for rendering of personal services (but specifically exclusive of coat, wood, and lumber yards), such as the following examples: drug stores, newsstands, food stores, candy shops, dry goods and notion stores, antique stores and gift shops, hardware stores, household appliance stores, furniture stores, optician, music or radio stores, tailor shops, bakery shops and beauty shops.

7.59 Required Yard

That portion of a lot that is required by the specific district regulation to be open from the ground to the sky and may contain only explicitly listed obstructions.

7.60 Residence

A building or part of a building containing one (1) or more dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartment hotels. However residences do not include:

- 1) Such transient accommodations as hotels, motels, tourist homes, or similar establishments.
- 2) Dormitories, fraternity or sorority houses, monasteries, convents, or similar establishments containing group living or sleeping accommodations.
- 3) Nurses, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facilities, or
- 4) That part of a mixed building used for any non-residential purposes, except where such are uses accessory to residential uses.

7.61 Restaurant

An establishment where food is ordered, prepared and served for pay.

7.62 Setback Line

A line running parallel to the street which establishes the minimum distance the principal building must be setback from the street line.

7.63 Sign

Any writing (including letter, word, or numeral); pictorial presentation (including illustration, or decoration); emblem (including device, symbol, or trademark); flag (including banner or pennant); or any other figure of similar character, which:

- 1) Is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure, and
- 2) Is used to announce, direct attention, or advertise, and
- 3) Is visible from outside a building.

A sign shall include writing, representation, or other figure of similar character within a building only when illuminated and located within a window.

7.64 Sign, Civic

A sign identifying the nature of activity and other pertinent information for any community facility activity.

7.65 Sign, Realty

A sign indicating pertinent information regarding property for sale, lease, or rent.

7.66 Sign, Residential

An accessory sign which indicates the name and/or address of the occupant of a permitted home occupation.

7.67 Story

A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is not floor above it, the space between such floor and ceiling next above it, provided that the following shall not be deemed a story:

- 1) A basement or cellar if the finished floor level directly above it is not more than six (6) feet above the average adjoining elevation of finished grade.

7.68 Street

A publicly maintained right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the edge of the sidewalk farthest from the traveled street shall be considered as the street line.

7.69 Street Line

The property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the edge of the sidewalk farthest from the traveled street shall be considered as the street line.

7.70 Structure

Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground. This includes but is not limited to buildings, towers, smokestacks, television satellites, and overhead transmission lines.

7.71 Transient Lodgings

A building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge.

7.72 Travel Trailer

A travel trailer, pick-up camper, converted bus, tent-trailer, tent or similar device used for temporary portable housing or a unit which:

- 1) Can operate independent of connections to external sewer, water, and electrical systems;
- 2) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or
- 3) Is identified by the manufacturer as a travel trailer and/or is designed as a travel trailer.

7.73 Use

The purpose for which land or water or a structure thereon is designed, arranged, and intended to be occupied or utilized or for which it is occupied or maintained.

7.74 Use and Occupancy Permit

A written permit issued by the Zoning Administrator required before occupying or commencing to use any building or other structure or any lot.

7.75 Use, Public

Any use that is under control of a unit of general purpose government or governmental agency.

7.76 Use, Recreation

Any use of land or water and facilities provide for the enjoyment of the general public.

7.77 Utility Facilities

Any structure involved in the transport of electricity, water, sewage or broadcasting.

7.78 Variance

A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties and provided such variance is not contrary to the intended spirit and purpose of this ordinance, and would result in substantial justice being done.

7.79 Wholesale Sales

Any establishment involved with the sale of merchandise to retail establishments.

7.80 Yard

An open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance.

7.80-1 Yard Locations of Accessory Uses

An accessory use may be located in a side or rear yard if setback standards are met. A swimming pool located at below grade level may extend to the zero or side yard line.

7.81 Yard, Front

A yard extending along the full length of a rear lot line.

7.82 Yard, Rear

A yard extending for the full length of a rear lot line.

7.83 Yard, Side

A yard extending along a side lot line from the required front yard to the required rear yard. In the case of a corner lot, any yard which abuts a street line and which is not designated a front yard shall be considered a side yard. In the case of a through lot, side yards shall extend between the required front yards.

7.84 Zoning Permit

A written permit issued by the Zoning Administrator which is required before commencing any construction, reconstruction, alteration of any building or other structure or before establishing, extending or changing any activity or use on any lot.

ARTICLE 8 ADULT USES

8.1 Intent

Within the Town of Rural Retreat, it is acknowledged that there are some uses that are deemed as having very serious objectionable characteristics because of their very nature, that become more objectionable when located next to residential neighborhoods, boarding houses, bed and breakfast, motels and or hotels, and therefore require special regulations to ensure that said areas do not become blighted or downgraded because of the location of said businesses. The purpose of preventing the concentration or location of said uses is to ensure that such adverse effects are avoided. Uses subject to such controls are listed as follows:

- (1) Adult bookstore or adult video store.
- (2) Adult drive-in theatre.
- (3) Adult entertainment establishment.
- (4) Adult mini-motion picture theatre.
- (5) Adult model studio.
- (6) Adult motion picture arcade.
- (7) Adult motion picture theatre.
- (8) Adult use.
- (9) Massage parlor.

8.2 Requirements

Each of the above stated uses shall require a conditional use permit. These uses may only be considered in a Commercial General zoning district.

8.3 Requirements and Standards

- (a) No adult use may be established within 500 feet of any other such adult use in any zoning district.
- (b) No adult use may be established within 400 feet of a residentially zoned district (R-1, R-2), nor within 400 feet of any property occupied

- (c) by a church or other place of worship, public library, public or private
- (d) school, educational institution, public park, playground, playfield, lodging house, bed and breakfast home, child day care center, hotel or motel.
- (e) The establishment of an adult use as referred to herein shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion, in whole or in part, of an existing business to any adult use.
- (f) In addition to the requirements set forth in this section, all adult uses shall be required to comply with any other ordinances applicable to the same.

8.4 Measurement of Distance

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

8.5 Exemptions

The following are not considered “adult uses”.

- 1) A legitimate theatrical performance where nudity or semi-nudity is only incidental to the primary purpose of the performance.
- 2) A school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia (1950) as amended, for the issuance or conferring of, and is in fact authorized there under to issue and confer, a diploma.
- 3) A licensed physical therapy establishment.
- 4) Massage therapy where each therapist holds a current certification for a massage therapist from the Virginia Department of Health Board of Nursing.

8.6 Definitions

Adult bookstore or adult video store means an establishment which has as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, videos or similar printed materials and which, with respect to the entire premises or a portion of a section of the premises, limits its customers to persons over 18 years of age, or as one of its principal business purposes offers for sale, rental or viewing for any form of consideration any one or more of the following:

- 1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tape records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
- 2) Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

Adult drive-in theater means an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatricals productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult entertainment establishment means a restaurant, nightclub, private club or similar establishment, which features, on a regular basis, live performances involving persons who are nude or seminude. For the purposes of this provision, “seminude” shall mean:

- 1) Less than completely and opaquely covered pubic region, buttocks, or female breasts below a point immediately above the top of the areola, excepting any portion of the cleavage of the female breast exhibited by a dress, shirt, leotard, bathing suit or other wearing apparel, provided the areola are not exposed, but under no circumstances less than completely covered genitals, anus, or areola of the female breast;
- 2) Male genitals in a state of arousal even if completely and opaquely covered. Any establishment that features such performances more than one day in a 30-day period shall be deemed an adult entertainment establishment. The above restrictions shall not apply to a legitimate theatrical performance where nudity or semi nudity is only incidental to the primary purpose of the performance.

Adult mini-motion picture theater means an establishment, with a capacity of more than five, but less than 50 persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult model studio means any establishment open to the public where, for any form of consideration of gratuity, figure models who display “specified anatomical areas” are provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. The provision shall not apply to any school of art, which is operated by an individual, firm, association, partnership, corporation, or institution, which meets the requirements, established in the Code of Virginia (1950), as amended, for the issuance or conferring of, and is in fact authorized there under to issue and confer, a diploma.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin –or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any other time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

Adult motion picture theatre means an establishment, with a capacity of 50 or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons. A finding by the Zoning Administrator that sexually oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

Adult use means any adult bookstore, adult video store, adult entertainment establishment, adult motion picture theatre, adult mini-motion picture theater, adult motion picture arcade, adult model studio, or adult drive-in theater, as defined herein. Also included are establishments that sell instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

Massage parlor means any establishment, whether private or public, operated as a massage salon, bath parlor or similar type of business where any physical or mechanical contact is made to the recipient’s body by another person or mechanical device for the purpose of massaging or stimulating the recipient’s body.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic regions;
 - b. Buttocks; and
 - c. Female breasts below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely covered and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

ARTICLE 9 PLANNED UNIT DEVELOPMENT

9.1 Purpose

9.1 General

This section establishes standards and criteria for planned unit developments (PUD's), which allow for flexibility in project design and match the unique features of a project and a site to established sets of review criteria.

9.1-2 Primary

The primary purpose of a PUD is to enhance the design of a unit development by allowing for flexibility and variation from the established site requirements. PUD's are a mechanism by which the Town of Rural Retreat may allow for variation in the design and arrangement of structures as well as provide for the coordination of project characteristics with features of a particular site in a manner that is consistent with the public health, safety and welfare of the community. A PUD allows for innovations and special features in site development, including the location and type of structures, the conservation of natural features, and allowances for housing serving a range of incomes, the conservation of energy and the efficient use of open spaces.

9.2 Applicability

9.2-1 Permitted Areas

PUDs are allowed only in residential R-1 and R-2 zones of the Town of Rural Retreat. The primary use of a PUD shall be residential. Uses that are accessory to the primary PUD use are also allowed, as are open space and recreation uses as permitted by the zone. The PUD process may not be applied to single-family lots that are incapable further subdivision, and may not serve as a means of avoiding procedures more appropriately reviewed under the provisions of Town of Rural Retreat Code governing variances.

9.2-2 Area- Requirements

PUDs must be a minimum of two acres in R-1 and one acre in R-2 and must be owned by the same person or entity at the time of application.

9.3 Scope of the Approval

9.3-1 General

The PUD approval shall be superimposed on the underlying zoning district. The PUD shall constitute a limitation on the use and design of the site.

9.3-2 Application Process

- a) An applicant may elect to undergo a one step or a two-step approval process for a PUD. The specific development regulations which may be modified based on the PUD approval and all special requirements applied to the property within the PUD shall be specified in the approval and shown or listed on any approved PUD plan, subdivision, or binding site plan which is approved by the Town of Rural Retreat and recorded in Wythe County's real property records. Where a one-step PUD process is used, the approved PUD plan shall be filed in Wythe County's real property records. Where a two-step process is used, either the second detailed PUD plan, subdivision, or binding site plan shall be filed in Wythe County's real property records.
- b) A one-step approval process would include the Town of Rural Retreat's review and consideration of not only the general project concept, including its intensity and overall design, but also of all specific site and development requirements associated with the proposed development.
- c) In a two-step approval process, an applicant would first seek approval of an overall project design and concept before extending significant time and resources in developing the specific site and development features of the proposal. The second approval associated with the PUD would then relate to specific site and development requirements as defined by the first approval. An applicant may also elect to obtain approval of an overall project design and then proceed with either a subdivision or a binding site plan application based on the initial PUD approval.

9.4 Decision Criteria

9.4-1 Design

The Town may approve, or approve with modifications, a PUD if the proposal meets the requirements of this chapter and the design of the proposed development achieves two or more of the following results:

- a) High-quality architectural design, placement, relationship or orientation of structures;

- b) Achieving allowable densities for the subject property;
- c) Providing housing types that effectively serve the affordable housing needs of the community;
- d) Improving circulation patterns or the screening of parking facilities;
- e) Minimizing the use of imperious surfacing materials;
- f) Increasing open space of recreational facilities on-site;
- g) Landscaping, buffering, or screening in or around the proposed PUD;
- h) Providing public facilities;
- i) Preserving, enhancing or rehabilitating natural features of the subject property such as significant woodlands, wildlife habitats or streams;
- j) Preserving, enhancing or rehabilitating natural features of the subject property such as significant woodlands, wildlife habitats or streams;
- k) Providing for an efficient use of infrastructure;
- l) Incorporating a historic structure(s) or a historic landmark in such a manner as preserves its historic integrity and encourages adaptive reuse.

9.4-2 Public Facilities

The PUD shall be served by adequate public facilities including streets, bicycle and pedestrian facilities, fire protection, water, storm water control, sanitary sewer, and parks and recreation facilities. As built, plans and specifications shall be provided for all public facilities.

9.4-3 Perimeter Design

The perimeter of the PUD shall be appropriate in design; character and appearance with the existing or intended character of development adjacent to the subject property and with the physical characteristics of the subject property.

9.4-4 Open Space and Recreation

Open space and recreation facilities shall be provided and effectively integrated into the overall development of a PUD and surrounding uses.

9.4-5 Streets and Sidewalks

Existing and proposed streets and sidewalks within a PUD shall be suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the subject property. All proposed streets and sidewalks will be designed and constructed to Virginia Department of Transportation (VDOT) standards.

9.5 Modification of Development Regulations

9.5-1 Density Bonus

Within the standards established by this section, dwelling units may be shifted to suitable locations on residential PUD. For larger projects (more than 20 units), the maximum residential density that the Town may approve in a PUD is 110 percent of that permitted in the zone in which the project is located. For smaller projects of three to 10 units and two bonus units shall be permitted for a project of 11 to 20 units. No bonus units are available for projects of less than three units. Utilizing this bonus will not affect the ability of a project to use other bonuses allowed by the Community Development Guide. However, the calculation of the PUD shall be based solely on the underlying zoning and shall not incorporate any other bonuses in its calculation.

9.5-2 Authorization of Housing Types

- a) A PUD may authorize a variety of housing types including, but not limited to, detached single-family homes with a variety of lot configurations; common wall dwellings; townhouses (including those on individual lots to be sold in fee and those sharing common lots); zero lot line homes; and zero lot open space.
- b) The authorization shall specify the number of various types of dwellings authorized and the number of dwellings that may be allowed in any one building or particular buildings.
- c) Since PUDs do not authorize the division of land, housing types that require the division of land require short subdivision, long subdivision, or binding sit plan approval.

9.5-3 Average Lot Size

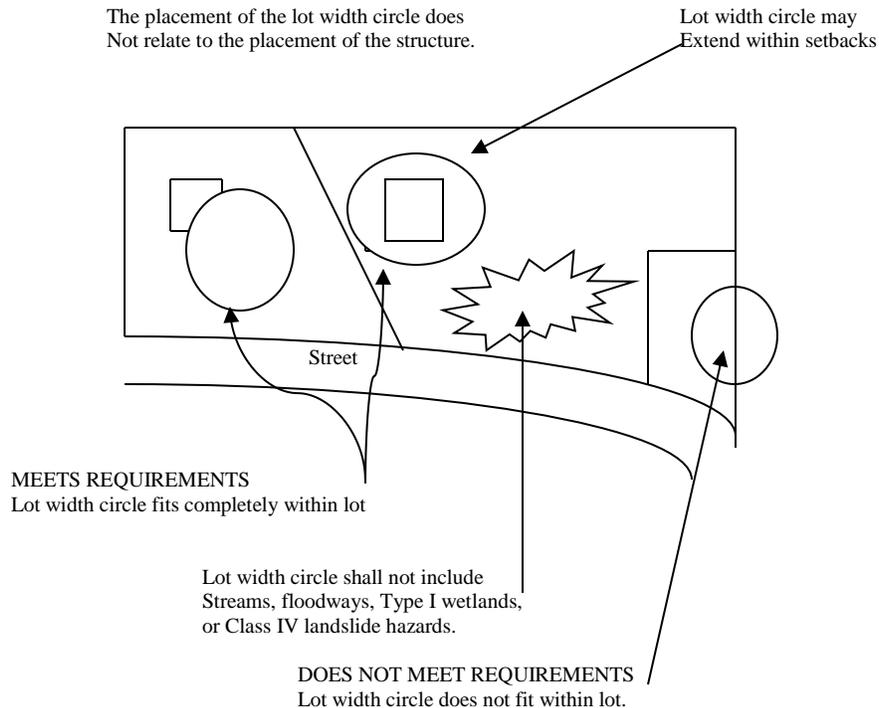
In order to increase project design flexibility and as long as the overall density requirements of the PUD are met, no average lot size or minimum lot size per dwelling unit is established, but may be required as a condition of approval.

9.5-4 Minimum Lot Width Circle

In order to increase project design flexibility for PUD applications involving a subdivision, a minimum lot width circle of 30 feet is established. The conditions of approval may establish specific minimum lot width requirements for individual PUD applications, so long as they are not less than 30 feet.

- a) The minimum lot width circle ensures that each lot is wide enough to maintain a consistent and compatible land use pattern in residential neighborhoods. Although not intended to define the final buildable area where a residential structure must be sited, the minimum lot width circle is intended to ensure that a minimum buildable area is included in each lot created. This requirement also provides for the adequate separation of residences, thereby helping to reduce the threat of public nuisances that may result when a lot is too narrow.
- b) The Site Requirements Chart identifies the minimum lot width circle diameter that must fit within each newly created lot for each residential zone. This circle establishes that at least some portion of a lot must be at least as wide as the minimum lot width. The lot width circle shall not include streams, floodways, Type I wetlands, or Class IV landslide hazards.

MINIMUM LOT WIDTH CIRCLE



9.5-5 Building Setbacks

PUDs are subject to minimum rear and side street setbacks of 20 feet and front setbacks shall meet minimum required for zoning district. No minimum interior setback is established, but may be required as a condition of approval.

9.5-6 Minimum Building Separation

No minimum building separation requirement is established so long as all building and fire regulations are met. A minimum building separation may be established as a condition of approval for individual PUD applications.

9.5-7 Maximum Lot Coverage and Impervious Surface Area

For PUD's, requirements governing maximum lot coverage and structures and maximum impervious surface may be exceeded in the R-1 zone by as much as 10 percent and in the R-2 zone as much as 15 percent so long as in no case does a proposed maximum lot coverage exceed 60 percent and a proposed maximum impervious surface area exceed 80 percent unless a higher percentage is established by the underlying zone in which case they shall not exceed that stands by more than five percent. Specific lot coverage and impervious surface area requirements may be established for individual PUD applications as a condition of approval.

9.5-8 Maximum Height of Structures

Requirements for building height may be modified as described below with a PUD when it assists in maintaining open space and natural resources. For sites in R-1 the maximum height allowed in a PUD is 35 feet, for sites in R-2 the maximum height allowed in a PUD is 40 feet. Belfries, cupolas, chimneys, flues, and flagpoles are exempt.

9.5-9 Street and Utility Standards

Street and utility standards in PUD's may be modified by the Planning Commission. Standards for water and sewer facilities are governed by the Director of Public Works. All utilities must be underground, including but not limited to electrical, gas, cable, telephone, water & sewer.

9.5-10 Structure Requirements

PUD's must be substantially site manufactured and constructed to existing building and fire codes. Roof trusses, wall panel systems and floor truss systems will be considered as components and are therefore suitable for site manufacturing designation. Any housing units predominantly manufactured off

site may be allowed in PUD's. Including manufactured buildings and modular buildings with less than five (5) large modular units.

9.5-11 Contractor Requirements

Each individual structure in the PUD must have one general contractor responsible for all work, including subcontracted services, performed on said structure.

9.6 **Other Modifications and Limitations on Modifications to Development Regulations**

If necessary to achieve the purposes of this division, an applicant may request additional modifications from the requirements of Site Requirements for Residential Zones, except as provided in this section. Approval for modifications other than those specifically described shall be approved by the Town Council.

9.7 **Open Space and Recreation**

9.7-1 Open Space

- a) Requirement. PUD's must achieve the minimum open space requirements. Open space created as a result of a PUD approval must be dedicated or otherwise held in common. A performance bond may be required until such time that all common areas included in the approved plan are fully developed.
- b) Design. Open space created as part of a PUD shall, to the greatest extent possible, be located and configured to protect sensitive areas, provide for recreational opportunities and create urban separators, open space corridors, green belts and connections between existing or planned parks, trails or open space. Open space created under this section may also include above ground surface water management facilities and non-commercial structure such as community meeting rooms, swimming pools and other recreational facilities that serve the residents of the PUD.

9.7-2 Recreation

Recreation space may be included in the open space required by this section. For PUD's with site areas under 25 acres, there is no specific requirement to provide recreation space; however, to the extent feasible, a PUD application should include provisions for recreation space. PUD's that are 25 acres in size or larger shall include recreation space as a part of the proposed development. To the

extent that adequate public recreation space as a part of the proposed development. To the extent that adequate public recreation spaces are already available in proximity to the site, the need for on-site recreation space will be diminished. Recreation space may be active or passive recreation areas designed and set aside exclusively for individual or group activity, amusement or entertainment. Recreation space may include, but shall not be limited to swimming pools, community rooms, tennis courts, rest areas, or picnicking areas.

9.7-3 Maintenance

Permanent provisions for the maintenance of open space, private trails, private parks and recreation areas, and other common areas shall also be provided. These provisions shall run with the land and be recorded.

9.8 Design Guidelines and Review

9.8-1 All submitted plans shall be subject to review and compliance to the guidelines of development as administered by, but not limited to:

- a) The Town Manager or his designee who shall advise the Planning Commission whether the association or nonprofit corporation documents are in harmony with the relevant sections of the state and town codes.
- b) Action by the Planning Commission. No such PUD shall be approved by the Town Council until it has been submitted to the Planning Commission for review and recommendation. The Planning Commission shall review the total plan of development and zoning application if any, at a public hearing advertised in accordance with Code of Virginia, §15.2-2204, as amended. The Council may hold a joint public hearing with the Planning Commission. After approval of the PUD, no building or structure shall be erected or building permit issued nor any lots sold from any plat nor any final plan recorded except in conformity with the approved PUD. The area of a PUD shall be noted on the zoning map until such time as the approval may be revoked.

9.9 Minimum Conditions of Approval

9.9-1 In approving a PUD application, conditions of approval shall at a minimum establish:

- a) A master site plan for the entire PUD showing the location of sensitive areas and buffers, open spaces, as well as the locations and ranges of densities for development. The plan shall include an architectural rendering of the proposed final PUD.
- b) The period of time for which the PUD approval is valid.
- c) Project phasing and other project specific conditions necessary to mitigate impacts on the environment, public facilities and services including transportation, utilities, drainage, police and fire protection, schools; and parks;
- d) Road design standards that shall apply to the various phases of the project;
- e) The range of residential units and types of residential structures for the PUD;
- f) Whether future PUD's are planned for specific areas of a PUD application.

9.9-2 A PUD shall be valid for at least two years and shall be renewable at least once for two more years. The Town may modify the approval or conditions of approval as a condition of any renewal. The approval conditions may provide for longer periods of validity. If no time period is specified, the PUD shall be valid for two years and the Town may grant one renewal, if requested by the applicant before the approval expires, for not more than two years.

9.10 Definitions

9.10-1 *Attached single-family homes*- Attached single-family homes lives and looks like a semi-custom single-family home in an attached configuration, allowing buyers to forego maintenance and yard work.

9.10-2 *Binding site plan approval* – Upon the approval and recording of a Binding Site plan the applicant may develop the subject property in conformance with the Binding Site plan and without regard to lot line internal to the subject property.

The applicant may sell or lease parcels subject to the Binding Site Plan.

- 9.10-3 *Common wall dwellings* – Duplex dwelling, including individual ownership of each unit through the establishment of a property line through the common wall between the two individual units of a duplex.
- 9.10-4 *Detached single-family homes* – Single-family, stand-alone structures on individual building lots.
- 9.10-5 *Long subdivision* – If you are proposing to create any new public rights-of-way and/or your proposed Plan of Subdivision does not comply with the existing zoning classification.
- 9.10-6 *Open space* – Any part of the property not improved with a vertical structure. This can include driveways, sidewalks, grass areas, plantings/landscaping, etc.
- 9.10-7 *Short subdivision* – If you are not proposing to create any new public rights-of-way and your proposed Plan of Subdivision complies with the existing zoning classification.
- 9.10-8 *Townhouses* – A home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own.
- 9.10-9 *Zero-lot line homes* – Zero-lot line homes are built on or toward the edge of a lot's outer boundary (hence the “zero-lot” moniker), have either small front yards or small back yards (big enough for gardening), and just a thin strip of turf for side yards, thus minimizing maintenance. Also known as a patio home, garden home or narrow-lot home.