



TOWN OF BUCHANAN, VIRGINIA
ZONING ORDINANCE
(Updated 12/28/2019)

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ARTICLE I. GENERAL PROVISIONS

Sec. 101. Title and Authority . This ordinance, to be cited as the Town of Buchanan Zoning Ordinance, together with the accompanying official Zoning Map on file in the offices of the Town Clerk, is hereby ordained, enacted and published by the Town Council of Buchanan, Virginia pursuant to Virginia Code § 15.2-2280 et seq., (1950), as amended.

Sec. 102. Purpose and Intent. This Zoning Ordinance, as adopted and amended, is for the general purpose of promoting the health, safety, and general welfare of the public, and to implement the Comprehensive Plan of the Town of Buchanan adopted pursuant to the provisions of Virginia Code § 15.2-2223, (1950), as amended. This Zoning Ordinance has been designed to give reasonable consideration to each of the following purposes, where applicable:

- A. To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;
- B. To reduce or prevent congestion in the public streets, while maintaining pedestrian access and safety;
- C. To facilitate the creation of a convenient, attractive, and harmonious community while preserving, protecting, and enhancing its small town character;
- D. To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, flood protection, schools, parks, playgrounds, forests, recreational facilities, airports, and other public requirements;
- E. To protect against destruction of or encroachment upon historic areas;
- F. To protect against overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light or air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;
- G. To encourage economic development that provides desirable employment and enlarges the tax base, while not detracting from the small town character; and
- H. To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- I. To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;



- J. To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; and
- K. To provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard.

Sec. 103. Territorial Application. This ordinance classifies and regulates the use of land, buildings, and structures within the limits of the Town of Buchanan, Virginia as hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience, and welfare of the inhabitants by dividing the Town into districts and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of land by buildings, the size of yards and open spaces, density of population, and location of buildings.

Sec. 104. Establishment of Districts. The incorporated areas of the Town of Buchanan are hereby divided into zoning districts, as named and described in this ordinance. The boundaries of said districts are hereby established as shown on the Official Zoning Map.

Sec. 105. Official Zoning Map. The incorporated areas of the Town of Buchanan are hereby divided into districts, as indicated on a map entitled “Zoning Map of Buchanan, Virginia” which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The Zoning Map shall be identified by the signature of the Town Council of Buchanan, signed by the Mayor and attested by its Clerk, together with the date of adoption of this ordinance. The Zoning Map shall be located in the office of the Clerk of the Town Council and shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Town.

Sec. 105-1. Amendment of Zoning Map. At such times as amendments are made to the Zoning Map by action of the Town Council such amendments shall be incorporated onto the Zoning Map at such time and in such manner as the Town Council may prescribe. Such changes shall be validated with reference to correct notation by the Town Clerk, who shall affix his signature thereto, thereby certifying that approved amendments to the Zoning Map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law at 12:01 a.m., on the day following its legal adoption, or on its effective date, if officially established as other than on the day following its legal adoption, whether or not it has been shown on said Zoning Map.

Sec. 105-2. Unauthorized Changes. No changes of any nature shall be made on the Zoning Map or any matter shown thereon except in conformity with the procedures and requirements of this ordinance. It shall be unlawful for any person to make unauthorized changes to the Zoning Map. Violations of this provision shall be punishable as provided in Article V.



Sec. 106. Interpretation of District Boundaries. In interpreting the Zoning Map, the following rules shall apply:

- A. Center Lines as Boundaries. Where district boundaries appear to follow mapped center lines of streets, alleys, easements, waterways and the like, they shall be construed as following such center lines as exist on the ground except where the variation of actual location would change the zoning status of a lot or parcel or portion thereof. In case of closure of a street or alley, or vacation of an easement, the boundary shall be construed as remaining at its location unless ownership of the closure or vacation area is divided other than at the center, in which case the boundary shall be construed as moving to correspond with ownership, but not beyond any previous right-of-way or easement line. In the case of movement of any waterway, the boundary shall be construed as remaining at its location.
- B. Property or Other Edge Lines as Boundaries. Where district boundaries appear to follow street, lot, property or other edge lines, they shall be construed as following such lines.
- C. Railroads as Boundaries. Where the boundary of a district line follows a railroad line such boundary shall be deemed to be located on the easement line to which it is closest, which completely includes or excludes the railroad easement unless otherwise designated.
- D. Boundaries Other Than as Above. District boundaries which appear parallel or perpendicular to, or as extensions or connecting, center lines, edge lines, or other features shown on the map shall be so construed and at such scaled distance therefrom as indicated on the Zoning Map.
- E. Boundaries Extending into Water. Where the full course of boundaries extending into bodies of water is not shown, such boundaries shall be construed as continuing in a straight line to intersect with other zoning boundaries or to jurisdictional limits if no such intersection with a zoning boundary occurs first.
- F. Dimensions. Where dimensions are not otherwise indicated on the Zoning Map, the scale of the map shall govern.
- G. Unclassified Areas. Where areas appear to be unclassified on the Zoning Map, and classification cannot be established by rules set forth herein, such areas shall be considered to be classified RL.
- H. Interpretation in Cases of Uncertainty. Where application of the rules set forth above fails to establish the location of boundaries with sufficient accuracy for the purposes of these regulations, the Planning Commission shall determine the location, provided that no



such interpretation shall be such as to divide a lot which was previously apparently undivided by the district boundary.

I. Boundary Changes with Changes in Jurisdictional Area.

1. *Additions to Jurisdictional Area.* Where territory is added to the jurisdictional area, it shall be considered to be classified as RL.
2. *Reduction in Jurisdictional Area.* Where territory is removed from the jurisdictional area, the adjusted jurisdictional boundary shall establish new zoning district boundaries which shall be coterminous therewith for each tract of land severed by or adjacent to the new jurisdictional boundaries.

Sec. 107. General Regulations. The regulations set forth by this ordinance shall apply uniformly within each district to each class or kind of structure or land, water, and uses, unless otherwise provided herein, and are the minimum requirements for achieving the purpose of this ordinance.

- A. Use, Occupancy and Construction. Subject to the exception set forth in Article IV, Section 401 related to nonconformities, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be occupied, and no building or structure or part thereof shall be constructed except in conformity with all of the regulations herein specified for the district in which it is located. The owner, lessee, and occupant are all legally responsible for insuring compliance with the provisions of this ordinance and are all subject to the penalties prescribed.
- B. Height, Bulk, Density, Lot Coverage, Yards and Open Spaces. No building or other structure shall hereafter be erected or altered:
 1. To exceed the height or bulk requirements;
 2. To accommodate or house a greater number of families or to have greater floor area;
 3. To occupy a larger percentage of lot area;
 4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any manner contrary to the provisions of this ordinance.
- C. Required Yard, Open Space, Area, Parking or Loading Space for One Building, or Use, Not to be Used to Meet Requirements for Another Building or Use. No part of a yard, or other open space, area, or off-street parking or loading space required in connection with any building, or use for the purpose of complying with this ordinance, shall be included



as part of a yard, open space, area, or off-street parking or loading space similarly required for any other building, or use.

- D. Reduction of Lots or Areas Below Minimum Prohibited. No lot or area existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein except for the purpose of meeting or exceeding standards set forth herein. Lots or areas created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.
- E. Reduction of Yards Below Minimum. No yard existing at the time of passage of this ordinance shall be reduced in dimension below the minimum requirements set forth herein, unless such yard restrictions reduce the buildable area to unreasonable dimensions. In such cases, the Board of Zoning Appeals shall determine the minimum requirements consistent with provision of adequate light and air, prevention of loss of life, health, or property from fire or other dangers, and prevention of danger in travel. Yards created after the effective date of this ordinance shall meet the minimum requirements set forth herein.
- F. Reduction of Required Off-Street Parking or Loading Space. No existing off-street parking or loading space, and no off-street parking or loading space hereafter provided, which meets all or part of the requirements for off-street parking or loading space set forth in these regulations, shall be reduced or eliminated so that its reduction results in area not meeting requirements or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

Sec. 108. Definitions.

- A. General Usage. For the purposes of this ordinance, certain words and terms are herein defined as follows:
 - 1. Words used in the present tense include the future tense.
 - 2. Words in the singular number include the plural number and words in the plural number include the singular number unless the obvious construction or the wording indicates otherwise.
 - 3. The word “shall” is mandatory.
 - 4. Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
 - 5. The word “building” includes the word “structure.”



6. The word “lot” includes the words “plot” and “parcel.”
7. The word “used” shall be deemed also to include “erected”, “reconstructed”, “altered”, “placed”, or “moved.”
8. The terms “land use” and “use of land” shall be deemed also to include “building use” and “use of a building.”
9. The word “State” means the Commonwealth of Virginia.
10. The word “Town” means the Town of Buchanan, Commonwealth of Virginia, and the term “Town Boundary” means any exterior boundary of the Town.
11. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
12. The term “Code of Virginia” shall include “as amended.”

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

C. Definitions. For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words and terms not defined here or elsewhere in this ordinance shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

Accessory Building or Structure. A subordinate building or structure located on the same lot as the principal building, and the use of which is customarily associated with and incidental to the use of the principal building. An accessory building that is attached to and is an integrated part of a principal building (by location, materials and architectural design) shall be governed by the regulations for principal buildings in this ordinance.

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

Administrator, Zoning. The official(s) of the Town charged with the enforcement of the Zoning Ordinance. He may be any appointed or elected official who is by formal resolution designated



to the position by the governing body. He may serve with or without compensation as determined by the governing body and may be known as the Zoning Administrator.

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

Agricultural equipment sales and service. An establishment primarily engaged in providing equipment sales and service specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be sales of large agricultural equipment, servicing of agricultural equipment, independent equipment operators, servicing of residential lawn care equipment, and other related agricultural services.

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

Amend or Amendment. Any repeal, modification, or addition to a regulation; any change in the number, shape, boundary, or area of a district, or any repeal or abolition of any map, part thereof, or addition thereto.

Bed & Breakfast/Inn. A building where, for compensation and by pre-arrangement for a definite period, lodging and/or meals are provided for no more than (15) persons.

Boarding House. A building where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for not less than three (3) or more than (12) persons.

Brewpub. A restaurant/ brewery that sells the majority of its beer on site. The beer is brewed primarily for sale in the restaurant and bar. The beer is often dispensed directly from the brewery's storage tanks. Where allowed by law, brewpubs often sell beer "to go" and/or distribute to off-site accounts. Off-site sales is limited and not the primary use.

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

Building Coverage. The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.



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

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

Building Site. A single parcel of land occupied or intended to be occupied by a building or structure.

Building Site. A single parcel of land occupied or intended to be occupied by a building or structure.

Camp. A use that primarily provides recreational opportunities of an outdoor nature on a daily or overnight basis. Included in this use type would be scout camps, religious camps, children's camps, wilderness camps, and similar uses which are not otherwise specifically described in this ordinance. The camp may provide commercial benefit to the civic organization.

Campground. Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles and/or tents intending to be engaged in outdoor recreation activities. Campground does not mean mobile home park.

Campsite. A designated plot of ground within a campground intended or used for the exclusive occupancy by a tent, recreational vehicle, or a vacation cottage.

Car wash. Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

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

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

Commission. The Planning Commission of the Town of Buchanan, Virginia as established pursuant to Title 15.1, Chapter 11, Article 3 of the Code of Virginia, as amended.

Comprehensive Plan. A set of recordable materials and documents, in narrative, map, or other form, which includes any and all studies, findings, determines, policies, statements, and amendments thereto, which are identified as elements of the Comprehensive Plan of the Town of Buchanan and adopted as such by the Buchanan Town Council pursuant to the provisions of Title 15.1, Chapter 11, Article 4, Code of Virginia, 1950, as amended.

Council. The Town Council of Buchanan, Virginia; the governing body.



District, Zoning. Any section or sections of the Town of Buchanan for which regulations governing the use of building and premises or the height and area of building are uniform.

Dwelling, Accessory. A dwelling unit that is clearly subordinate to the principal dwelling and which conforms to all of the limits for accessory buildings and structures in a district. The intent is for cohesiveness of family or supplemental income for the owner and not to create two or more units that may be rented.

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

Fitness Center. An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas. Instruction programs, aerobic classes, and weight control programs may be offered. Generally a freestanding, large structure with required off-street parking.

Flood Plain. Continuous sections of land, adjacent to bodies of water, which are subject to periodic flooding and inundation.

Floor Area, Gross. The sum of the gross horizontal areas of all of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of walls separating two buildings, and including but not limited to, the following spaces:

- a. Basements
- b. Elevator shafts and stairwells at each floor
- c. Floor space for mechanical equipment with structural headroom of seven (7) feet
- d. Penthouses
- e. Attic space providing headroom of seven (7) feet or more
- f. Interior balconies, mezzanines and enclosed covered porches and enclosed steps
- g. Accessory uses in enclosed covered space, but not including space used for off-street parking

Floor Area, Net. The total floor area within a building devoted or intended to be devoted to a particular use, with structural headroom of seven (7) feet or more, whether above or below the finished lot grade, excluding (a) elevators, stairwells, hallways, walls and partitions, and (b) floor space permanently devoted to a parking space or parking spaces, mechanical equipment, closets,



washrooms, or other items permanently preventing the floor space from being occupied by persons while engaged in their use.

Floor Area Ratio. A mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located as

$$\text{Floor Area} \div \text{Lot area} = \text{Floor Area Ratio}$$

Front Lot Line. A line dividing a lot from any public and private streets, or easement of access, except a limited or controlled access highway to which the lot has no access.

Governing Body. The Town Council of Buchanan, Virginia.

Gross Floor Area. See “floor area, gross”

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.

Home Occupation. An activity customarily carried on by the occupants of a dwelling unit, inside the dwelling unit, requiring only hobby type equipment, and not involving:

- a. the sale of articles produced elsewhere than on the premises;
- b. the storage of materials or products outside of a principal building;
- c. the making of external structural alterations which are not customarily in residential buildings;
- d. the production of offensive noise, vibration, smoke, dust, or other particulate matter; heat; humidity; glare; odors, aromas, or scents; or other objectionable effects.

(Refer to Article III, Section 304, Home Occupations for home occupation list.)

Hospital. An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities, central service facilities and staff offices which are an integral part of the facilities.

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



Kennel, commercial: An establishment for keeping, training, breeding, handling, selling, treating or boarding dogs, cats, or other household pets as a business. More than four (4) dogs or four (4) cats of six (6) months or greater in age kept upon any lot or premises for a fee or compensation shall be considered a commercial kennel.

Kennel, private: Any building or land designed, arranged or used for the keeping, raising, showing, or training of more than (4) dogs or (4) cats over six (6) months or greater in age for personal use of the owner or occupant of the property.

Livestock. Domestic animals normally raised on a farm such as horses, cows, swine, goats sheep and poultry.

Lot. The contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley. The term “record lot” or “lot of record” means the land designated as a separate and distinct parcel of land on a legally recorded subdivision plat filed among the land records of Botetourt County, but does not include land identified on any such plot as an outlot.

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

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

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

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

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

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

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

Manufactured Home. A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days.



Manufactured Home Park. Lots and parcels of land designed for the temporary or permanent parking and occupancy of two (2) or more manufactured homes used for human habitation. The location and operation of these parks are governed by the health laws of Botetourt County, and the Uniform Statewide Building Code.

Microbrewery. A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on- or off-premises, with a capacity of not more than fifteen thousand (15,000) barrels per year. The development may include other uses such as a restaurant as otherwise permitted in the zoning district.

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

Nonconformance. A lawful condition of a structure or land which does not conform to the regulations of the district in which it is situated. This may include but is not limited to failure to conform to use, height, area, coverage or off-street parking requirements.

Nonconforming Use. A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Open-air Market. An outdoor market held on a regular basis, and at which groups of individual sellers offer goods, new or used, for sale to the public, and special outdoor events such as outdoor meetings, revivals, carnivals, picnics, and special outdoor entertainment which are not part of the property's normal use and which are not otherwise permitted on the site. Open-air market shall not include garage sales not held on a regular basis, outdoor display or sales associated with retail establishments that are principally located in indoor facilities, motor vehicle dealerships or agricultural tourism events on farms.

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

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

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



Pet Grooming. “A small-scale business where domestic pets are groomed on a recurring basis. Grooming includes bathing, trimming and other related, non-medical services. Some limited retail sales for animal-related items may be included. Excludes boarding. All activities shall be conducted in enclosed and air conditioned buildings.”

Pet, household: Small, domestic animals that are customarily kept in the house or residential yard for the company or enjoyment of the owner, such as but not limited to dogs, cats, rabbits, birds, rodents, fish and other such animals that pose no threat, harm or disturbance to neighboring residents or properties. By right a property can have up to 4 dogs and 4 cats, greater numbers are considered to be a kennel (see Kennel, private & Kennel, commercial).

Planning Commission. The Planning Commission of the Town of Buchanan, Virginia established pursuant to Title 15.1, Chapter 11, Article 3 of the Code of Virginia, as amended.

Public Facilities. Any public works generally supplied by a governmental organization. Such public works shall include, but not be limited to public roads, schools, water supply and sewer facilities, and police and fire protection facilities.

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

Recreational vehicle. A vehicle which is

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

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

Restaurant, Mobile: A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, serving, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts. For the purpose of establishing



the license fee, Mobile Restaurants shall be classified as itinerant merchants under Section 21-98 of the Town Code.

Retail Stores and Shops. Buildings or lands used for sale of merchandise at retail or for the rendering of personal services, but specifically excluding coal, wood and lumber yards.

Rooming House. A building where only lodging is provided for compensation to not less than three (3) nor more than twelve (12) persons.

Setback. The distance between the lot line and the building line.

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

Street, Center Line. A line established as a center line of a street by any State, County, or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or, if there be no official center line of a street the center line shall be a line lying midway between the street or right-of-way lines thereof. Where street lines are indeterminate and a pavement or a travelled way exists, the center line shall be established by the Planning Commission, or in the absence of a determination by the Planning Commission, shall be assumed to be a line midway between the edges of such pavement or travelled way.

Structure. Any constructed, erected or placed material or combination of materials in or upon the ground, including, but not by way of limitation, buildings, manufactured homes, radio towers, sheds, signs, and storage bins, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

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

Tourist Court. An area containing one (1) or more structures designed or intended to be used as temporary sleeping facilities of one or more transient families and intended primarily for automobile transients.

Tourist Home. A building in which sleeping accommodations of not more than five (5) rooms are provided or offered for transient guests for compensation. (See also *Bed & Breakfast*).

Town. Town of Buchanan, Virginia.

Trailer, Hauling. A vehicle to be pulled behind and automobile or truck which is designed for hauling animals, produce, goods or commodities, including boats.



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

Yard. An open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except where otherwise specifically provided in this ordinance that an accessory building may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Yard, Front. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the main building or any projection thereof, other than steps.

Yard Rear. A yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side. A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projects other than steps.

Sec. 109. Severability. Should any article, section, subsection, paragraph, phrase, definition or other provision or part of this ordinance including the Zoning Map, be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part declared to be invalid or unconstitutional.

ARTICLE II. DISTRICT REGULATIONS

Sec. 201. F – Flood Hazard Overlay District.

Sec. 201-1. Purpose. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by;



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

Sec. 201-2. Applicability. These provisions shall apply to all lands within the jurisdiction of the Town of Buchanan and identified as being in the 100-year floodplain by the Federal Insurance Administration and by the most recent Federal Emergency Management Agency, Federal Insurance Administration Study.

Sec. 201-3. Compliance and Liability.

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of the ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural courses, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts or that land uses permitted within such districts will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of the Town of Buchanan or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- D. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator.

Sec. 201-4. Abrogation and Greater Restrictions. This ordinance supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.



Sec. 201-5. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Sec. 201-6. Penalties.

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

Sec. 201-7. Definitions.

Base Flood / One Hundred Year Flood. A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent change of occurring each year, although the flood may occur in any year).

Base flood elevation. The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement. Any area of the building having its floor sub-grade (below ground level) on all sides.

Board of Zoning Appeals (BZA). The Board appointed to review appeals made by individuals with regard to the decisions of the Zoning Administrator in the interpretation of this ordinance.

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



Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads in completed before the effective date of the floodplain management regulations.

Fill. The placing, storage or dumping of any material, such as (by way of illustration but not of limitation) earth, clay, sand, concrete, rubble or waste of any kind, upon the surface of the ground which results in increasing the natural found surface elevation.

Flood or flooding.

- a. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - i. the overflow of inland or tidal waters; or
 - ii. the unusual and rapid accumulation of runoff of surface waters from any source; or
 - iii. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a Digital Flood Insurance



Rate Map (DFIRM).

Flood Insurance Study (FIS). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source.

Flood proofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums will be significantly cheaper.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is

- a. listed individually or as a contributing structure in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either



- i. by an approved state program as determined by the Secretary of the Interior; or,
- ii. directly by the Secretary of the Interior in states without approved programs.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

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

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after December 17, 2010, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle. A vehicle which is

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

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.



Special flood hazard area. The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section G(2) of this ordinance.

Start of construction. For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure for insurance coverage purposes means a walled and roofed building, other than a gas or liquid storage tank that is principally above and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

- a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or



- b. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
- c. *Violation*. The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the permits, certifications, or other evidence of compliance required in Section M is presumed to be in violation until such time as that documentation is provided.
- d. *Watercourse* - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Sec. 201-8. Description of the Districts.

A. Basis of Districts.

1. The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Town of Buchanan prepared by the Federal Emergency Management Agency, Federal Insurance Administration.
2. Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this district are specifically shown on the Flood Boundary and Floodway Map and / or Flood Insurance Rate Map.
3. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.
4. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrological and Hydraulic



analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town of Buchanan.

5. The Shallow Flooding Area shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study. There are no such Areas within the Town of Buchanan based on the latest Flood Insurance Study with effective date of December 17, 2010, however.

B. Overlay Concept.

1. The Floodplain Districts described above all shall be overlays to the existing underlying districts shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. Any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain district shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 201-9. Official Zoning Map. The boundaries of the Floodplain District are established as shown on the Flood Boundary and Floodway and/or Flood Insurance Rate Maps which are declared to be a part of this ordinance and which shall be kept on file at the Town of Buchanan offices.

- A. District Boundary Changes. The delineation of any of the Floodplain Districts may be revised by the Town Council of the Town of Buchanan where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for the possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.
- B. Interpretation of District Boundaries. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.



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

Sec. 201-10. District Provisions.

A. Permit Requirements.

1. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Section and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Buchanan Subdivision Ordinance. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
2. Prior to any proposed alteration or relocation of any channels or of any water course, stream, etc., within this jurisdiction, a permit from the U.S. Corps of Engineers, the Virginia Marine Resources Commission, and certification from the Virginia Department of Environmental Quality is necessary (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all affected adjacent jurisdictions, the Virginia Department of Conservation and Recreation and the Federal Insurance Administration.
3. All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code and the requirements of Section N of this Ordinance.

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

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



3. For structures that have been flood proofed (nonresidential only), the elevations to which the structure has been flood proofed;
4. The elevation of the one hundred (100)-year flood;
5. Topographic information showing existing and proposed ground elevations;
6. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator.

C. General Standards. The following provisions shall apply to all permits:

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



compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
 11. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
 12. All new or replacement utilities and facilities shall be designed and constructed in conformance with the county’s regulations for subdivision, storm water management, erosion and sediment control and other such regulations.
 13. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Botetourt County Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage and facility plans shall be consistent with local and regional drainage plans and with all other applicable ordinances.
 14. All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the change of impairment during a flood occurrence.
 15. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.
 16. All new structures shall be constructed so that the lowest habitable elevation is at least one (1) foot above the base flood elevation.
- D. Specific Standards. In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Sections Q or R of this Ordinance, the following provisions shall apply:
1. *Residential Construction*. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
 2. *Non-Residential Construction*. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have



the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Buildings located in all A and AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood proofed, shall be maintained by the Zoning Administrator.

3. *Elevated Buildings.* Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - a. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
 - b. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 - c. include, in Zones A and AE measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both



directions.

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

E. Standards for Manufactured Homes and Recreational Vehicles.

1. All manufactured homes placed or substantially improved; on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood; within the floodplain district must meet all the requirements for new construction, including the elevation and anchoring requirements in Sections N (1) and N (2) and O and shall be placed on a permanent foundation supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and elevated and anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in conformance with the Virginia Uniform Statewide Building Code. All such manufactured homes must provide an elevation certificate that conclusively demonstrates that the dwelling or structure is at least one foot above the base flood elevation.
2. All recreational vehicles placed on sites must either:
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - c. meet all the requirements for manufactured homes in Sections N and O of this ordinance.

Sec. 201-11. Floodway District. The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.



Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

- B. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer/applicant first applies – with the Town’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
- C. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.
- D. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
- E. In the Floodway District, the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:
 - 1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - 2. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - 3. Accessory residential uses, such as yard areas, gardens, play areas and loading areas.
 - 4. Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, airport landing strips, etc.
 - 5. In the floodway district, no use, structure, fill deposit, obstruction or storage or materials or equipment will be permitted which, acting alone or in combination with existing or future uses, will result in affecting the capacity of the floodway or unduly increasing flood limits. Such limits will be those established by the Federal Insurance Administration.



Sec. 201-12. Standards for the Special Floodplain District. The following provisions shall apply within the Special Floodplain District:

- A. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town.
- B. Development activities in Zones A and AE, on the Town of Buchanan Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer/applicant first applies – with the Town of Buchanan’s endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

Sec. 201-13. Standards for Approximated Floodplain. The following provisions shall apply with the Approximate Floodplain District:

- A. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.
- B. The Zoning Administrator reserves the right to require hydrologic and hydraulic analyses for any development.
- C. When such base flood elevation data is utilized, the lowest floor shall be elevated to one (1) foot above the base flood elevation. During the permitting process, the Zoning Administrator shall obtain:
 - 1. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,



2. if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Sec. 201-14. Standards for the Shallow Flooding District. The following provisions shall apply within the Shallow Flooding District should such District be identified in future FIRM:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet (recommend \geq one foot freeboard above the flood depth level) above the highest adjacent grade. When a freeboard is included in the height of a structure, the flood insurance premiums will be significantly cheaper.
- B. All new construction and substantial improvements of non-residential structures shall:
 1. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet (recommend \geq one foot freeboard above the flood depth level) above the highest adjacent grade; or
 2. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 3. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

Sec. 201-15. Design Criteria for Utilities and Facilities.

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



- B. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- C. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Town Council of the Town of Buchanan may require a primarily underground system to accommodate larger, less frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff into adjacent properties.
- D. All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- E. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required sufficiently to discharge flood flows without unduly increasing flood heights.

Sec. 201-16. Information to be shown on plat of proposed subdivision. The owner or developer of any proposed subdivision, any part of which is located within a flood hazard district, shall include the following information on the subdivision plat:

- A. Name of engineer, surveyor or other qualified person responsible for providing information required in this section.
- B. The location of the proposed subdivision with respect to the Town's flood-prone areas, proposed lots and sites, fills, flood or erosion protection facilities and areas subject to special deed restrictions. In addition, it is required that all subdivision proposals greater than five (5) acres shall include base flood elevation data.
- C. Where the subdivision and other new development lies partially or completely in the flood-prone area, the plan map shall include detailed information giving the location and elevation of the proposed roads, public utilities and building sites. All such maps shall also show contours, at intervals of two (2) or five (5) feet, depending upon the slope of the land, and identify accurately the boundaries of the flood-prone areas.
- D. Location of water and sewer systems (including on-site systems).

Sec. 201-17. Notice to be given buyer prior to the sale of real estate subject to floodplain regulations.



- A. Any owner or partial owner of real estate or his agent, and any real estate broker or his agent, who sells or contracts to sell real estate subject to a floodplain regulation, without first notifying, in writing, the buyer or his agent that such real estate is subject to floodplain regulations, shall be subject to the penalties set forth in subsection (3) below.
- B. Floodplain regulations referred to in subsection (1) of this section include this chapter, subdivision regulations and building codes which impose restrictions specifically related to flooding on the whole or a portion of the land.
- C. The penalties for a violation or subsection (1) of this section may, at the discretion of the court, include:
 - 1. Rescission of the contract at the option of the buyer;
 - 2. Payment to the buyer of damages he may have suffered, whether the buyer rescinds the contract or not; or
 - 3. A fine of not more than one thousand dollars (\$1,000.00).

Sec. 201-18. Prohibited development, uses, etc., in floodway district - - Generally.

- A. No development which increases flood heights and produces hazardous velocities shall be permitted in the floodway district. The effect of such development on flood heights must be offset by accompanying improvements which have been approved by all appropriate state and local authorities.
- B. In the floodway district, no use, structure, fill, deposit, obstruction or storage or materials or equipment will be permitted which, acting alone or in combination with existing or future uses, will result in affecting the capacity of the floodway or unduly increasing flood limits. Such limits will be those established by the Federal Insurance Administration.

Sec. 201-19. Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and



- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 201-20. Variances.

- A. Variances shall be issued only upon: (1) a showing of good and sufficient cause; (2) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant; and (3) after the Board of Zoning Appeals has determined that the granting of such variance will not result in: (a) unacceptable or prohibited increases in flood heights; (b) additional threats to public safety; (c) extraordinary public expense; and will not (d) create nuisances; (e) cause fraud or victimization of the public; or (f) conflict with local laws or ordinances.
- B. While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.
- C. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- D. Any agent, commission or board of the Town, in taking action on special exceptions, rezoning, conditional/special uses, variances and amendments to this chapter, shall consider, in addition to all pertinent provisions of other sections of this chapter, the following:
1. The danger of life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the Floodway District that will cause any increase in flood levels during the one hundred (100)-year flood.
 2. The danger that materials may be swept on to other lands or downstream to the injury of others.
 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.



4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage and the effect of such damage on the individual owners.
 5. The importance of the services provided by the proposed facility to the community.
 6. The requirements of the facility for a waterfront location.
 7. The availability of alternative locations not subject to flooding for the proposed use.
 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 10. The safety of access of ordinary and emergency vehicles to the property in time of flood.
 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 12. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- E. Such other factors which are relevant to the purposes of the ordinance.
1. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluation the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
 - a. Variances shall be issued only upon a showing of good and sufficient cause after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.
 - b. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred



(100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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

Sec. 201-21. Existing Structures in floodplain district. A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of more than fifty (50) percent of its market value, shall be elevated and/or flood proofed in full compliance with this ordinance and the Virginia Uniform Statewide Building Code.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- D. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

Sec. 202. A – Agricultural District

- A. Intent. The agricultural district is established to allow land to be used for agricultural purposes and the necessary accessory uses for packing, treating or storing the produce raised thereon. Other more intensive or urban uses (industrial, commercial and residential) shall be regulated and examined on an individual basis in respect to their physical, social and environmental effects on agricultural areas.
- B. Uses Permitted.
 - 1. Detached one-family dwelling including Class A Manufactured Homes, provided that the Manufactured Home rests on a permanent foundation.



2. Public and semi-public uses, such as schools, churches and church cemeteries.
3. Community operated playgrounds, parks and similar recreational facilities.
4. Home occupations conducted by the occupant.
5. Forestry uses and operations, including necessary buildings and uses incidental thereto.
6. Agriculture, including accessory buildings and uses incidental thereto. Such uses are defined as the production and sale of plant or animal products useful to man or devoted to another qualifying use, including but not limited to:
 - a. Forage crops
 - b. Commercial sod
 - c. Grain and feed crops
 - d. Tobacco, cotton and peanuts
 - e. Dairy animals and dairy products
 - f. Poultry and poultry products
 - g. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals
 - h. Bees and apiary products
 - i. Commercial game animals or bird
 - j. Fruits and nuts
 - k. Vegetables
 - l. Nursery products and floral products
7. Individual manufactured homes
8. Family day care homes and child care center
9. Commercial stables



10. Campground, Standards:

- a. The minimum area for a campground shall be five (5) contiguous acres.
- b. Each campsite and structure shall be set back a minimum distance of fifty (50) feet from the perimeter property line of the campground. The minimum distance of any campsite or structure from a public street shall be 75 feet.
- c. The maximum density shall be fourteen (14) sites per gross acre. Each campsite designed for recreational vehicles shall have a minimum space of two thousand (2,000) square feet with a minimum width of thirty (30) feet. Areas devoted solely for tent camping shall provide at least four hundred (400) square feet per campsite.
- d. The primary access shall be from a publicly owned and maintained street. The primary access, interior roads and access to individual sites shall consist at a minimum of an allweather gravel surface. All interior roads shall be eighteen (18) feet minimum width for two-way travel or ten (10) feet minimum width for one-way travel. No campsite shall have direct access to a public street.
- e. The following uses and activities shall be prohibited at a campground: i. The sale, storage, use or occupancy of any manufactured home. ii. The sale of recreational vehicles and the storage of unoccupied units.
- f. Indoor and outdoor recreational facilities are permitted for the exclusive use of campground tenants. Unless the campground is adjacent to the James River or has public adjacent access to the James River, at least fifteen (15) percent of the campground area shall be developed and improved for recreational uses. In calculating the required area, common walkways and related landscaping may be included provided that such space is at least twenty (20) feet in width. At least one-half (1/2) of the required recreation area shall be for active recreation, such as swimming pools, ball fields and play lots for small children. No developed recreational areas shall be located within the required yard setbacks for the district.
- g. No outdoor activity area may be located within 200 feet of any adjoining residential use type. Any outdoor activity area, swimming pool, or ball field or court which adjoins a residential use type shall be landscaped in accordance with Section 301.B.5. along the property line adjoining the residential use type. Where nighttime lighting of such areas is proposed, large evergreen trees shall be required in a location appropriate to screen adjoining residences.
- h. Retail sales for the convenience of campground tenants are permitted. Items are limited to food, concessions, recreational supplies, personal care items, and other items clearly supportive of campground tenants' needs.
- i. Guests may stay no more than sixty (60) nights in any one (1) calendar year and no more than 14 consecutive nights. The operator of a campground shall maintain a log of all guests, including their name, address, and length of stay, and shall make the log available to Town staff upon request.

11. Microbrewery.



12. Dwelling, Accessory. “Dwelling, Accessory” may also be a Permitted Use in the former Botetourt County AR zoning district from the 1990 Boundary Adjustment area agreement noted as AR on the official Buchanan zoning map.

Standards;

- a. Minimum lot size required shall be one (1) acre of land
- b. Accessory dwelling shall be in an accessory structure, such as a garage
- c. The dwelling shall be limited to 1,000 square feet in area
- d. The minimum area of the accessory dwelling shall be 300 square feet
- e. The owner of the property shall occupy either the principal or accessory dwelling.

13. Pet Grooming

14. Restaurants, mobile

C. Conditional/Special Uses.

The following uses may be allowed in the agricultural district after meeting conditions specified by the Town Council.

1. Manufactured home parks
2. Sawmills
3. Hospitals, sanitariums and sanatoriums
4. Nursing homes
5. Bed and Breakfast/Inns
6. Commercial recreation areas and golf courses
7. Airports
8. Boarding kennels
9. Antique shops
10. Public utility generating, booster or relay stations, transformers, substations, transmission lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewerage installations.



11. Open-air markets, which shall be subject to conditions approved by Town Council at the time of use permit approval including but not limited to conditions governing customer and vendor parking, landscaping, maintenance, restrooms facilities, impact on neighboring residential areas, management of trash at all times, management of noise, times and days of the week of operation, including the number of vendors that would be permitted under the use permit. In addition, any open-air market shall meet the following requirements:

- a. No structures or activities associated with an open-air market shall be located within 200 feet of the boundary of a residential district or residence. However, the Town Council may modify this requirement as part of the use permit review process if it finds that the location of the open-air market in proximity to a residential district will not have a substantial adverse effect on surrounding neighborhoods; and
- b. An application for a use permit for an open-air market shall include a parking plan that is drawn to scale, showing the number and location of customer and vendor parking spaces. Customer and vendor parking identified as available for market use shall be sufficient to not have a substantial adverse effect on the surrounding neighborhoods.
- c. The site shall be landscaped in accordance with Section 301.B.5. along property lines adjoining any use type and adjoining any road. The intent is to provide a visual buffer to minimize views into the site.
- d. Special outdoor events shall not last for more than two (2) days in succession. However, and event can last up to but not more than five (5) days in succession as long as it does not exceed eight (8) hour daily limits.
- e. Special outdoor events shall not be held more than twelve (12) times per calendar year on a particular property.
- f. Reasonable efforts shall be made to not schedule special outdoor events on dates which conflict with regular scheduled town sponsored events.
- g. Special outdoor events with amplified music shall only be held on Friday and Saturday and shall comply with the town's noise ordinance
- h. When the total number of people reasonably expected to attend such a special outdoor event exceeds 1,000 persons, the property owner or the owner's designee shall provide written notice to the Town Manager at least thirty (30) days prior to the event.

12. "Camp" standards as follows:

- a. The minimum area for a camp shall be five (5) contiguous acres.
- b. Each campsite and structure shall be set back a minimum distance of fifty (50) feet from the perimeter property line of the campground. The minimum distance of any campsite or structure from a public street shall be 75 feet.
- c. Multiple structures may be constructed on the property, such as cabins, lodges, and other facilities typical of a camp provided that all structures



comply with the setback requirements for a principal structure from adjoining property lines.

- d. Each building intended to accommodate members shall be accessible via an all-weather gravel road suitable in width and material to accommodate emergency vehicles serving the property.
- e. One (1) year-round residence may be constructed as a caretaker's home, in addition to other facilities on the property.

13. Kennel, private & Kennel, commercial

D. Lot Area. The minimum lot area shall be one (1) acre; however for uses utilizing and individual sewage disposal system, the required area for any such use shall be approved by the health official. The health official and the Zoning Administrator may require greater area, if considered necessary for soil and site conditions.

E. Frontage and Setback.

1. The minimum frontage shall be one hundred (100) feet.
2. Buildings shall be located no less than thirty-five (35) feet from any street right-of-way which is fifty (50) feet or greater in width, or no less than sixty (60) feet from the center line of any street right-of-way of less than fifty (50) feet in width. This shall be known as the setback line.

F. Yards. The following yard requirements shall apply:

1. The minimum side yard shall be ten (10) feet and the total width of the two (2) side yards shall be twenty-five (25) feet or more.
2. Each main building shall have a minimum rear yard of twenty-five (25) feet or more.

Sec. 203. RL – Low Density Residential District

A. Intent. To establish and preserve quiet one-family dwelling neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district. To achieve a density of less than three (3) dwelling units per gross acre.

B. Uses Permitted.

1. Detached one-family dwelling, including Class A manufactured homes on permanent foundation.



2. Attached, or free standing garage for personal use as storage for vehicle. Must meet minimum setback for dwelling and be located to the side or rear of dwelling. In the historic district, garages may follow the historic building patterns of neighboring properties.
3. Home occupations.
4. Bed & Breakfast
5. The keeping of up to six (6) female chickens (hens) shall be permitted in the Low-Density Residential (RL) and Medium- Density Residential (RM) zoned areas of the Town subject to the following standards:
 - a) The principal use of the property is a single-family dwelling.
 - b) The owner of the chickens must reside on the property on which the chickens are kept.
 - c) Chickens shall be kept within a predator-resistant coop or chicken enclosure at all times and shall not be permitted to run at large.
 - d) Coops and chicken enclosures shall be contained in the rear yard.
 - e) Coops and chicken enclosures shall be set back at least ten (10) feet from side and rear property lines and at least thirty-five (35) feet from any residential dwelling on adjacent lot.
 - f) Coops shall provide at least two (2) square feet of interior space per chicken and chicken enclosures shall provide at least ten (10) square feet of exterior space per chicken with a maximum total area of one hundred fifty (150) feet for both the coop and chicken enclosure. Neither the coop nor chicken enclosure shall exceed then (10) feet in height.
 - g) Coops and chicken enclosures shall be well-ventilated and kept in a clean, dry and sanitary condition at all times. Provision shall be made for the storage and removal of chicken waste (manure).
 - h) Such waste shall not create a nuisance or health hazard to adjoining property owners.
 - i) All chicken feed or other material intended for consumption by chickens shall be kept in containers impenetrable by rodents, insects or predators.
 - j) The keeping of roosters, capons, and crowing hens is prohibited.
 - k) The outdoor slaughtering of chickens is prohibited.

A zoning permit is required but there is no fee.

6. Dwelling, Accessory Standards;

- a) Minimum lot size required shall be one (1) acre of land
- b) Accessory dwelling shall be in an accessory structure, such as a garage
- c) The dwelling shall be limited to 1,000 square feet in area
- d) The minimum area of the accessory dwelling shall be 300 square feet



- e) The owner of the property shall occupy either the principal or accessory dwelling.

C. Conditional/Special Uses.

1. The following uses are permitted in this district only on lots fronting on and with principal driveway access to a street with paving at least thirty (30) feet in width, and so located, site-planned and designed as to avoid undue noise and other nuisances and dangers: churches, unlighted golf courses, private parks, swimming pools and similar facilities.
2. Public utility generating, booster or relay stations, transformers, substations, transmission lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewerage installations.
3. Pet Grooming

D. Prohibited Uses.

1. Livestock or shelters therefor. Chickens may be permitted in accordance with Section 3-3, Confinement of poultry and rabbits of Article II "Keeping Cattle, Horses, Poultry, Rabbits, etc." of Chapter 3 "Animals and Fowl".
2. Auto repair shops.
3. Small engine repair shops including, but not limited to, lawn mower repair.
4. Bicycle repair.

E. Lot Requirements.

1. Required Off Street Parking
 - a. Two (2) parking spaces per dwelling unit.
 - b. Driveways are to be limited in width to no greater than the width of two cars.
 - c. Driveways are to be located to preserve the required front yard with preference to the side or rear of dwelling.
2. Set Backs for Dwelling.



- a. Front Set Back – 30 feet.
 - b. Side Set Back – 15 feet.
 - c. Rear Set Back – 35 feet.
 - d. Height Limit – 40 feet.
 - e. Minimum Lot Area – 13,000 square feet (43,560 sq. ft. per acre/13,000 = 3.31).
 - f. Minimum Lot Width – 100 feet.
 - g. Maximum Ground Coverage Ratio (%) – 25 %. This includes building footprint, decks, accessory buildings, driveways, and parking lots.
 - h. Maximum Floor Area Ratio (%) – 40%.
3. Set Backs for accessories and utilities such as gas tanks, condensers, furnaces, etc., shall be the same as the Set Backs for dwellings.
 4. Accessory buildings or structures shall be limited as follows:
 - a. Limited to two structures.
 - b. Constructed of materials in keeping with the dwelling.
 - c. Maximum floor area of 300 square feet.
 - d. Side Set Back 15 feet.
 - e. Rear Set Back 15 feet.
 - f. Front Set Back – no closer than the midpoint of the side of the dwelling.
 5. Storage of materials. Firewood, construction materials, etc., must be stored in buildings or screened. Materials not stored in buildings must be placed to meet the setback requirements of accessory buildings. Screening material shall consist of suitable fencing in character with the main house or an evergreen barrier. All materials must be secured in a safe manner so as not to endanger persons or property.

Sec. 204. RM – Medium Density Residential District



- A. Intent. To establish and preserve quiet neighborhoods of single family homes, free from other uses except those which are compatible with and convenient to the residents of such a district. To achieve a use density ranging from three (3) to seven (7) dwelling units per gross acre.
- B. Uses Permitted. The following uses are permitted but in no case shall more than seven (7) dwelling units per gross acre be permitted;
1. One-family dwelling, including Class A, manufactured home on a permanent foundation.
 2. Attached or free standing garage for personal use as storage for vehicle. Must meet minimum Set Back for dwelling and be located to the side or rear of dwelling.
 3. Home occupations
 4. Bed and Breakfast
 5. The keeping of up to six (6) female chickens (hens) shall be permitted in the Low-Density Residential (RL) and Medium-Density Residential (RM) zoned areas of the Town subject to the following standards:
 1. The principal use of the property is a single-family dwelling.
 2. The owner of the chickens must reside on the property on which the chickens are kept.
 3. Chickens shall be kept within a predator-resistant coop or chicken enclosure at all times and shall not be permitted to run at large.
 4. Coops and chicken enclosures shall be contained in the rear yard.
 5. Coops and chicken enclosures shall be set back at least ten (10) feet from side and rear property lines and at least thirty-five (35) feet from any residential dwelling on adjacent lot.
 6. Coops shall provide at least two (2) square feet of interior space per chicken and chicken enclosures shall provide at least ten (10) square feet of exterior space per chicken with a maximum total area of one hundred fifty (150) feet for both the coop and chicken enclosure. Neither the coop nor chicken enclosure shall exceed ten (10) feet in height.
 7. Coops and chicken enclosures shall be well-ventilated and kept in a clean, dry and sanitary condition at all times. Provision shall be made for the storage and removal of chicken waste (manure).
 8. Such waste shall not create a nuisance or health hazard to adjoining property owners.
 9. All chicken feed or other material intended for consumption by chickens shall be kept in containers impenetrable by rodents, insects or predators.
 10. The keeping of roosters, capons, and crowing hens is prohibited.



11. The outdoor slaughtering of chickens is prohibited.
A zoning permit is required but there is no fee.

C. Conditional/Special Uses.

1. Two family homes
2. The following uses are permitted in this district only on lots fronting on and with principal driveway access to a street with paving at least thirty (30) feet in width, and so located, site-planned and designed as to avoid undue noise and other nuisances and dangers: churches, unlighted golf courses, private parks, swimming pools and similar facilities.

D. Prohibited Uses.

3. Livestock or shelters therefor.
4. Auto repair shops
5. Small engine repair shops

E. Lot Requirements.

5. Required Off Street Parking.
 - a. Two (2) parking spaces per dwelling unit.
 - b. Driveways are to be limited in width to no greater than the width of two cars.
 - c. Driveways are to be located to preserve the required front yard with preference to the side or rear of dwelling and meet landscape and parking ordinance requirements.
6. Set Backs for Dwelling.
 - a. Front Set Back – 30 feet.
 - b. Side Set Back – 15 feet.
 - c. Rear Set Back – 30 feet.
 - d. Height Limit – 40 feet.



- e. Minimum Lot Area – 8,500 square feet per dwelling unit.
 - f. Minimum Lot Width – 85 feet.
 - g. Maximum Ground Coverage Ratio (%) – 25 %. This includes building footprint, decks, accessory buildings, driveways, and parking lots.
 - h. Maximum Floor Area Ratio (%) – 40%.
7. Set Backs for accessories and utilities such as gas tanks, condensers, furnaces, etc., shall be the same as the Set Backs for dwellings.
8. Accessory buildings or structures shall be limited as follows:
- a. Limited to one structures.
 - b. Constructed of materials in keeping with the dwelling.
 - c. Maximum floor area of 300 square feet.
 - d. Side Set Back 15 feet.
 - e. Rear Set Back 15 feet.
 - f. Front Set Back – no closer than the midpoint of the side of the dwelling.
9. Storage of materials. Firewood, construction materials, etc must be stored in buildings or screened, Materials not stored in buildings must be placed to meet the set back requirements of accessory buildings. Screening material shall consist of suitable fencing in character with the main house or an evergreen barrier. All materials must be secured in a safe manner so as not to endanger persons or property.

Sec. 205. RH – Higher Density Residential District

- A. Intent. To establish and preserve areas suitable for a mixture of housing types, including single –family homes, duplexes, and apartments with a density ranging from three (3) to fourteen (14) dwelling units per gross acre.
- B. Uses Permitted. The following uses are permitted but in no case shall more than fourteen (14) dwelling units per gross acre be permitted:



1. one-family dwelling, including Class A, manufactured homes on a permanent foundation.
2. Duplexes
3. Apartments

C. Conditional/Special Uses.

1. Attached or free standing garage for personal use as storage for vehicle. Must meet minimum Set Back for dwelling and be located to the side or rear of dwelling.
2. Home occupations with the written permission of the property owner and approval by the Zoning Administrator after consulting the Planning Commission.
3. The following uses are permitted in this district only on lots fronting on and with principal driveway access to a street with paving at least thirty (30) feet in width, and so located, site-planned and designed as to avoid undue noise and other nuisances and dangers: churches, unlighted golf courses, private parks, swimming pools and similar facilities.

D. Prohibited Uses.

1. Livestock or shelters therefor.
2. Auto repair shops
3. Small engine repair shops

E. Lot Requirements.

1. Required Off Street Parking.
 - a. Two (2) parking spaces per dwelling unit.
 - b. Driveways are to be limited in width to no greater than the width of two cars.
 - c. Driveways are to be located to preserve the required front yard with preference to the side or rear of dwelling. For apartments, parking is to be located to the rear of dwelling.
2. Set Backs for Dwelling.



- a. Front Set Back – 25 feet.
 - b. Side Set Back – 15 feet.
 - c. Rear Set Back – 35 feet.
 - d. Height Limit – 40 feet.
 - e. Minimum Lot Area – 2,500 square feet per dwelling unit plus 200 sq. ft. per bedroom.
 - f. Minimum Lot Width – 75 feet.
 - g. Maximum Ground Coverage Ratio (%) – 30 %. This includes building footprint, decks, accessory buildings, driveways, and parking lots.
 - h. Maximum Floor Area Ratio (%) – 60%.
- F. Set Backs for accessories and utilities such as gas tanks, condensers, furnaces, etc., shall be the same as the Set Backs for dwellings.
- G. Accessory buildings or structures shall be limited as follows:
- a. Limited to one structures.
 - b. Constructed of materials in keeping with the dwelling.
 - c. Maximum floor area of 300 square feet.
 - d. Side Set Back 15 feet.
 - e. Rear Set Back 15 feet.
 - f. Front Set Back – no closer than the midpoint of the side of the dwelling.
- H. Storage of materials. Firewood, construction materials, etc must be stored in buildings or screened. Materials not stored in buildings must be placed to meet the setback requirements of accessory buildings. Screening material shall consist of suitable fencing in character with the main house or an evergreen barrier. All materials must be secured in a safe manner so as not to endanger persons or property.

Sec. 206. O – Office District



- A. Intent. To establish and preserve areas for employment activity and service to the public which do not materially detract from nearby residential uses.
- B. Uses Permitted. Churches, offices of business, professional or financial organizations, of individuals and of labor unions, civic, social, fraternal and other non-profit organizations. Also laboratories and other research facilities, where all activities and equipment, including ventilators and other equipment on roofs, is housed in a fully enclosed building or screened so as not to be visible from off the premises, and where no noise or odors are created which are discernible beyond the boundaries of the lot. **Restaurants, mobile.** Banks are not permitted in the O – Office District.
- C. Lot Requirements.
1. Required Off Street Parking.
 - a. One (1) parking space for each two hundred (200) square feet of gross floor area or fraction thereof.
 2. Buildings to be constructed in keeping with the style, mass, and materials of surrounding structures.
 3. Set Backs.
 - a. Front Set Back – 20 feet.
 - b. Side Set Back – 15 feet.
 - c. Rear Set Back – 35 feet.
 - d. Height Limit – 40 feet.
 - e. Minimum Lot Area – 6,000 square feet.
 - f. Minimum Lot Width – 100 feet.
 - g. Maximum Ground Coverage Ratio (%) – 40 %. This includes building footprint, decks, accessory buildings, driveways, and parking lots.
 - h. Maximum Floor Area Ratio (%) – 120%.
 4. Set Backs for accessories and utilities such as gas tanks, condensers, furnaces, etc., shall be the same as the Set Backs for building.



5. Must meet landscape and parking ordinance requirements.

Sec. 207. TR – Trade District

A. Intent. To establish and preserve a central business district convenient and attractive for a wide range of retail uses and businesses, government, and professional offices in a setting conducive to and safe for a high volume of pedestrian traffic and pedestrian oriented retail sales.

B. Uses Permitted.

1. Establishments selling goods and services at retail and conducted entirely within and enclosed building except that restaurants may have outside tables;
2. theaters conducted entirely in an enclosed building;
3. second story offices;
4. barber and beauty shops;
5. banks and other financial institutions;
6. second story social and fraternal clubs;
7. single family homes and second story apartments;
8. pedestrian oriented retail; and
9. Residential occupancy is permitted in structures originally designed as single family homes or in second story apartments.

10. Brewpub.

Standards;

- a. The use shall conform to all restaurant standards
- b. Parking shall be located behind the front line of the principal building. The Zoning Administrator may authorize a waiver to this provision for existing parking lots or onstreet parking that he or she determines adequate for the use.
- c. Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood. Sufficient screening meeting the standards Section 301 of this ordinance shall be provided to screen and diffuse noise impacts on adjacent residences. A buffer yard in accordance with Section 301.B.5. shall be required when a loading area is located adjacent to a residential use.



- d. The street elevation of the principal structure shall have at least one (1) street-oriented entrance, and contain the principal windows of the store.
- e. The use of tractor-trailers or similarly sized vehicles is prohibited for any type of delivery of brew-related goods produced on-site for off-site sales or consumption.
- f. A maximum of one (1) delivery vehicle for the company is permitted and shall be parked behind the front line of the principal building.
- g. Delivery activities for beer produced on-site for off-site sales and consumption shall be limited to non-peak traffic hours at the use site.

11. Pet Grooming

12. Restaurants, mobile.

13. Bed & Breakfast/Inn

The Zoning Administrator shall have the responsibility and authority for making the determination if a proposed business or other use is in keeping with a pedestrian oriented retail district, or if it will detract from or interfere with pedestrian shopping activity.

C. Conditional/Special Uses. The following uses may be permitted by the Planning Commission only after it has conducted necessary investigations and determined that public safety is not endangered or that pedestrian oriented retail activities will not be affected:

1. vehicle sales, boat sales and rentals;
2. Farmer's Market;
3. outdoor display of merchandise as long as it does not interfere with pedestrian traffic and is completely removed from the sidewalk at the end of each business day;
4. outdoor sale of merchandise on special occasions as approved by the Zoning Administrator after consultation with the Planning Commission;
5. dry cleaning and coin operated laundry establishments and laundry pick up stations.
6. auto repair shop- this use does not allow salvage vehicles to be held on the property. The number of vehicles being repaired at one time may be limited as a condition of the special use permit review. All vehicles being repaired shall be kept in an enclosed building or behind the rear building line or behind an opaque fence screening in the side yard.



D. Prohibited Uses.

1. Ground floor storefronts may not be converted to residential or church uses.
2. Surface parking lots may not be located adjacent to the sidewalk and must be located to the rear of the lot and meet landscape and parking ordinance requirements.
3. Junk yards
4. Garages
5. Tattoo parlors
6. Palm reading and fortune telling

E. Lot Requirements.

1. Front Set Back – 0 feet
2. Side Set Back – 0 feet
3. Rear Set Back – 35 feet
4. Height Limit – Minimum two story up to 40 feet. Must be within at least 10% of adjacent structure.
5. Minimum lot area – reserved.
6. Minimum lot width – 25 feet
7. Maximum Ground Coverage Ratio – 85%
8. Maximum Floor Area Ratio (%) – reserved.
9. Accessories and utilities such as gas tanks, condensers, furnaces, etc. must be placed at the rear of buildings or screened from the street.
10. All new commercial buildings should maintain a zero lot line set back from the street. Any parking is to be provided for at the rear of the building.
11. The width and proportion of new buildings should be similar to and compatible with adjacent buildings at twenty-five to thirty-five feet wide. If a building is wider than



this size, the façade should be divided into sections to reflect the predominate width of historic buildings.

12. The roofs of new commercial buildings should be consistent with and similar to adjacent buildings in type, shape, and material. Possible exceptions include public buildings, churches, banks, municipal buildings where it may be necessary to break the visual continuity to draw attention to the importance of the building.
13. The first floor of commercial buildings should have a greater proportion of void areas made up of windows and doors than solid areas. The upper floors should have a distinctly greater proportion of solid areas than void areas. Placement of windows and doors should be balanced and the windows should be taller than they are wide.
14. New construction should make judicious use of architectural details that are compatible with the architectural detailing of adjacent buildings. Details should consist of cornices, window sills, brick corbellings, fret work, columns, etc.
15. Commercial buildings should use façade materials similar to those of existing buildings in both texture and reflective character. This includes brick, stone window sills, copper window framing, and clear glass.
16. Colors used on commercial buildings should be coordinated and compatible with adjacent buildings and original historic materials.

Sec. 208. M – Manufacturing District

A. Intent. To establish and preserve areas for production and assembly plants and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are most appropriately located as neighbors of manufacturing and industrial uses or which are necessary to service the immediate needs of people in these areas.

B. Uses Permitted.

1. Any of the following uses:
 - a. Bakery
 - b. Bottling works
 - c. Book bindery
 - d. Candy manufacturing



- e. Electrical equipment assembly
- f. Electronic equipment assembly and manufacturing
- g. Engraving plant
- h. Food products processing and packing
- i. Furniture manufacturing
- j. Instrument and meter manufacturing
- k. Jewelry and watch manufacturing
- l. Laboratories, experimental
- m. Laundry and cleaning establishment
- n. Leather goods fabrication
- o. Optical goods manufacturing
- p. Sporting goods manufacturing
- q. **Microbrewery.**
- r. **Brewpub.**
Standards;
 - a. The use shall conform to all restaurant standards.
 - b. Parking shall be located behind the front line of the principal building. The Zoning Administrator may authorize a waiver to this provision for existing parking lots or onstreet parking that he or she determines adequate for the use.
 - c. Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood. Sufficient screening meeting the standards Section 301 of this ordinance shall be provided to screen and diffuse noise impacts on adjacent residences. A buffer yard in accordance with Section 301.B.5. shall be required when a loading area is located adjacent to a residential use.
 - d. The street elevation of the principal structure shall have at least one (1) street-oriented entrance, and contain the principal windows of the store.



- e. The use of tractor-trailers or similarly sized vehicles is prohibited for any type of delivery of brew-related goods produced on-site for off-site sales or consumption.
 - f. A maximum of one (1) delivery vehicle for the company is permitted and shall be parked behind the front line of the principal building.
 - g. Delivery activities for beer produced on-site for off-site sales and consumption shall be limited to non-peak traffic hours at the use site.
 - s. Pet Grooming
 - t. Restaurants, mobile.
2. Any of the following uses: provided no article or material shall be kept, stored, or displayed outside the confines of a building unless it be so screened by fences, walls, or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level:
- a. Building material sales yard and lumber yard, including the sale of rock, sand, gravel, and the like as an incidental part of the main business, but not including a concrete batch plant or transit mix plant.
 - b. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.
3. The following uses when conducted within a completely enclosed building:
- a. The manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, ice, perfumes, pharmaceuticals, quarry products, perfumed toilet soap, toiletries, and food products.
 - b. The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood yarn, and paint not employing a boiling process.
 - c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
 - d. The manufacture and maintenance of electrical and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like.



- e. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.
 - f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing.
 - g. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers, and automobile screw machines.
 - h. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.
 - i. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture or small parts only, such as coils, condensers, transformers, crystal holders, and the like.
 - j. Wholesale storage or manufacture of alcoholic beverages.
4. The following commercial uses are also permitted: gas stations, restaurants, sales of new and used motor vehicles, motor vehicle rental, and sales of construction equipment, campers, manufactured homes, and recreation vehicles. Fitness center.

C. Conditional/Special Uses:

- 1. Drive-in theaters, if designed so that patron entrance and exit drives lead only to streets having a paved surface at least forty-four (44) feet in width, and if there is off-street waiting space for at least 10 percent of the vehicle capacity; and if no part of the motion picture screen can be seen from any street or from any residential district.
- 2. The following uses may be permitted after they have been studied by the Planning Commission and received the express approval of Town Council. The Town Council may require approval of the County Health Department, the State Fire Marshall, and other State and County regulating agencies, and may attach to the approval specific restrictions designed to protect the public safety, public health, or public welfare:
 - a. Cement, lime, gypsum, or plaster of paris manufacture.
 - b. Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products.



3. Property and buildings in the M – Manufacturing District when used for the following purposes shall have the uses thereon conducted in such a manner that all operation, display, or storage of material or equipment is so screened by fences, walls, and/or permanent evergreen planting that it cannot be seen from a street.
 - a. Scrap metal storage yard.
4. Uses authorized in this M – Manufacturing District do not include any such uses which emit fumes, vibration, smoke or noise, except the noise of vehicles coming and going, which is detectable from off the premises by the senses of normal human beings. No merchandise shall be displayed for sale in any front yard.
5. Public utility generating, booster or relay stations, transformers, substations, transmission lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewerage installations.
6. Social/Fraternal Clubs

Sec. 209. P – Public District.

- A. Intent. To establish and preserve areas for certain public purposes.
- B. Permitted Uses. Any governmental or proprietary function conducted by any governmental agency or publicly owned corporation which is authorized to conduct such functions, except such uses as constitute a nuisance in the place where conducted.
- C. Conditional/Special Uses. Railways and public service utility installations.
- D. Height Exception. Water tanks servicing the Town of Buchanan may exceed the height of the district.

Sec. 210. Schedule of Height, Placement, Land Use Density and Intensity Regulations.

Zone	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)	Height Limit (feet)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Maximum Ground Coverage Ratio	Maximum Floor Area Ratio
F-Floodplain	-	-	-	-	-	-	-	-



RL-Low Density Residential	30	15	35	30	10,000	100	25	40
RM-Medium Density Residential	30	15	30	30	8,500 per dwelling unit	85	35	50
RH-High Density Residential	25	15	35	30	2,500 per dwelling unit plus 200 per bedroom	75	30	60
O-Office	20	15	20	40	6,000	100	40	120
TR-Trade District	None	None	None	45	None	None	100	400
M-Manufacturing District	30	50	20	100% of distance from structure to lot line	10,000	None	60	120
P-Public	20	10	10	35	3,000	None	None	None

Sec. 211. C – Commercial District.

A. Intent. To establish and preserve nodes of more intense commercial uses on parcels that were zoned Botetourt County B-1, B-2 and SC at the time of the 1990 Town boundary adjustment. This district is generally located at the western and eastern ends of Town, specifically located in nodes beyond the downtown core and residential neighborhoods.



Quality development should provide an appropriate gateway into the Town as this district is usually the first impression for travelers. The district is not intended to be strip development along the Rout 11 corridor. Uses expected are those that are more often associated with vehicle-orientated pattern of development. Shared entrances and service roads are encouraged to meet access management for safety of the traveling public. Parking should be to the sides and rear leaving building facades at the front of parcels with room for street tree plantings.

B. Uses Permitted.

1. Establishments selling goods and services conducted entirely within an enclosed building
2. Restaurants- may have outside tables
3. Commercial indoor entertainment, including theaters, conducted entirely in an enclosed building
4. Professional offices
5. Personal services such as barber and beauty shops
6. Banks and other financial institutions
7. Upper-level or second-story apartments
8. Residential occupancy is permitted in structures originally designed as single family homes or in second story apartments
9. Laboratories and non-industrial research facilities where all activities and equipment, including ventilators and other equipment on roofs is housed in a fully enclosed building or screened so as not to be visible from off the premises, and where no noise or odors are created which are discernible beyond the boundaries of the lot.
10. Brewpub
11. Pet Grooming
12. Fitness Center
13. Laundry facility including laundromat or dry cleaning establishment
14. Restaurants, mobile.

C. Conditional / Special uses.

1. Car wash
2. Gas station
3. Sales of recreational vehicles
4. Service of recreational vehicles if located to the rear of the property
5. Agricultural Equipment Sales and Services
6. Nursery products
7. Mini-warehouses / storage unit facility
8. Church / Place of Worship
9. Auto repair shop- This use does not allow salvage vehicles to be held on the property. The number of vehicles being repaired at one time may be limited as a condition of the special use permit review. All vehicles being repaired shall be



kept in an enclosed building or behind the rear building line or behind an opaque fence screening in the side yard.

10. Contractor yard
11. Bed and Breakfast / Inn
12. Kennel, commercial

D. Lot Requirements.

1. Minimum lot size. One-half acre (21,780 square feet)
2. Minimum lot frontage. 125 feet on a public street.
3. Minimum yards. (no disturbance)
 - a. Front: Twenty-five (25) feet
 - b. Side: Ten (10) feet. (Fifty (50) feet if adjoining residential use).
 - c. Rear: Ten (10) feet. (Fifty (50) feet if adjoining residential use).
 - d. Display of material or items for sale is not permitted in the required minimum yards.
4. Minimum building setback. If any of the following standards are met, the building setback shall be twenty-five (25) feet; if none of these standards are met, the building setback shall be fifty (50) feet plus the distance covered by the impervious surfaces:
 - a. Parking is located behind principal building;
 - b. Parking is screened from public road view with berms at least two and one-half (2.5) feet in height and/ or deciduous landscaping; or
 - c. Parking lot landscaping is increased by at least fifty (50) percent over the minimum requirements.
5. Maximum ground coverage. Impervious surfaces on any lot shall not exceed 75% percent of the lot area.
6. Maximum height of buildings and structures- 35 feet.
7. Required Off-Street Parking
 - a. Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing, conforming buildings; or for enlargements of existing structures.
 - b. For enlargements of existing structures or uses which do not conform to these regulations, required parking must equal the sum of those spaces furnished by the use prior to the enlargement and the number of spaces required by these regulations for any additional use area.
 - c. All required off-street parking spaces shall be located on the same lot as the structure or use, except under the following conditions:
 - 1) All required parking spaces are on a contiguous lot under the same ownership or in a permanent parking easement adjacent property.
 - 2) Such required spaces are within five hundred (500) feet walking distance of a building entrance or use and such spaces do not require pedestrians to cross a minor arterial or greater highway



- 3) Contiguous lots providing off-street parking for more than one use shall provide sufficient spaces to comply with the parking requirements for all uses.
- d. Spaces for disabled parking. The number, type of surface material and location of nonresidential parking spaces reserved for the disabled shall comply with the Virginia Uniform Statewide building Code, as amended.
- e. Materials for parking surfaces using technology to reduce or minimize stormwater runoff are encouraged. Examples of material include permeable concrete, permeable asphalt, pervious pavers, etc.

Sec. 212. AR – Agricultural Residential District.

A. Intent. The Agricultural- Residential district is established to allow land to be used of limited agricultural purposes that would be appropriate on smaller lots minimizing conflicts with residential uses. Other more intensive or urban uses (industrial, commercial and residential) shall be regulated and examined on an individual basis in respect to their physical, social and environmental effects on agricultural areas.

B. Uses Permitted.

1. Detached one-family dwelling including Class A Manufactured Homes (double-wide), provided that the Manufactured Home rests on a permanent foundation.
2. Individual manufactured homes, including single-wide mobile homes. (moved up)
3. Public and semi-public uses, such as schools, churches and church cemeteries.
4. Community operated playgrounds, parks and similar recreational facilities.
5. Home occupations conducted by the occupant.
6. Agriculture, including accessory buildings and uses incidental thereto. Such uses are defined as the production and sale of plant or animal products useful to man or devoted to another qualifying use, including but not limited to:
 - a. Forage crops
 - b. Commercial sod
 - c. Grain and feed crops
 - d. Tobacco, cotton, and peanuts
 - e. Poultry and poultry products limited to 10 hens, and excluding roosters. All poultry must be contained on the property with a fenced area and appropriate coop within the area. More than 10 hens or a rooster requires a special use permit.
 - f. Limited numbers of livestock, including beef cattle, sheep, swine, horses, ponies, donkeys, mules or goats, including the breeding and gazing of any or all such animals. The number of animals permitted shall be limited to one animal per fenced acre. One acre will be removed from the limit calculation for a dwelling. More than one animal per acre shall require a special use permit.
 - g. Bees and apiary products



- h. Fruits and nuts
- i. Vegetables
- j. Nursery products and floral products
- 7. Family day care homes and child care center
- 8. Commercial stables

C. Conditional/Special Uses.

The Following uses may be allowed in the agricultural district after meeting conditions specified by the Town Council.

- 1. Manufactured home parks
- 2. Campground
- 3. Forestry uses and operations, including necessary buildings and uses incidental thereto.
- 4. Bed and Breakfast/Inns
- 5. Boarding kennels
- 6. Antique shops
- 7. Public utility generating, booster or relay stations, transformers, substations, transmission lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewerage installations.
- 8. Kennel, private

D. Lot Area. The minimum lot area shall be one (1) acre for uses utilizing an individual sewage disposal system. The health official and the Zoning Administrator may require greater area, if considered necessary for soil and site conditions for sewage disposal. The minimum lot area for new lots served by both Town water and sewer shall be 0.5 acre (21,780 square feet).

E. Lot Frontage. The minimum frontage on a street shall be one hundred (100) feet.

F. Setbacks. The following setback yard requirements shall apply:

- 1. Buildings shall be located no less than 35 feet from any street right-of way which is 50 feet or greater in width, or no less than 60 feet from the center line of any street right-of-way of less than 50 feet in width. This shall be known as the setback line.
- 2. The minimum side yard shall be 10 feet and the total width of the two side yards shall be 25 feet or more.
- 3. Each main building shall have a minimum rear yard of 25 feet or more.

G. Coverage. Maximum Ground Coverage – 30%. This includes building footprint(s), decks, accessory buildings, driveways, and parking lots.



ARTICLE III. SUPPLEMENTAL REGULATIONS

Sec. 301. Landscape and Parking

- A. Applicability. This section shall apply to new property development or to any cumulative landscaping renovation in excess of 20 percent on existing individual lots. No permits shall be issued unless all parking and screening conditions of site plan meet conditions provided in this ordinance.
- B. Landscape Design Standards. The following standards shall be considered the minimum requirements for site development.
1. *Minimum tree and shrub planting or preservation requirements.*
 - a. General – Trees shall not be placed where they interfere with the site drainage or where they shall require frequent pruning in order to avoid interference with overhead power lines. A minimum of 75% of all required trees for site plans shall be shade trees. Conflicts with existing utilities should be addressed with species selection or other suitable location as determined by the Planning Commission.
 2. *Standards for Landscape Material.*
 - a. Quality of Plants. All plant materials shall be a minimum of American Nurserymen's Standard's.
 - b. Tree Planting Standards. Immediately upon planting, shade trees shall be a minimum of 6' – 8' in height and shall have minimum caliper of 4 inches.
 - c. Tree Species Mix. When more than 10 trees are to be planted to meet the requirements of this ordinance, a mix of species shall be provided. The minimum number of species to be planted are indicated in Table 1 below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.
 - d. Noxious and invasive plant materials shall not be used as landscaping material and shall be kept off of the property,

Table 1 Required Species mix



A. Required Number of Trees	B. Minimum Number of Species
11 – 20	2
21 – 30	3
31 - 40	4
41+	5

3. *Landscaping the Interior of Off-Street Parking Areas.*

- a. Landscaping the interior of off-street parking areas is required.
- b. All rows of parking spaces shall be provided a terminal island to protect parked vehicles, provide visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. In addition to providing such terminal islands, there shall be provided within each row of parking spaces, landscaped islands with trees, located so as to prevent more than ten vehicles from being parked side-by-side in an abutting configuration. Such islands shall measure not less than five feet in width and 15 feet in length. Three or four spaces in excess of a multiple of ten spaces shall constitute a requirement for an additional island. A terminal island for a single row of parking spaces shall be landscaped with at least one tree and vegetative ground cover or grass. A terminal island for a double row of parking spaces shall contain not less than two trees and vegetative groundcover or grass.
- c. Off street parking areas designed to provide double rows of abutting side-by-side spaces shall include a continuous landscaped island centered on the dividing line between such rows of spaces. Entrance drives shall have a divider island with a width of not less than five feet, shall be surrounded by a raised curb or wheel stops to prevent vehicular encroachment and shall be maintained in grass or other plant materials. Not less than one tree shall be installed in a landscaped divider strip for each five abutting parking spaces. Three or four spaces in excess of a multiple of ten shall constitute a requirement for one additional tree.
- d. Not less than 10 percent of the interior of off-street parking areas shall be landscaped and maintained with grass or other living vegetation materials. Landscaped divider strips, terminal islands and other islands as required in paragraphs b and c above may be included in computing the minimum landscaped area.
- e. Additional Landscape Treatment. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass,



ground cover, shrubs or other appropriate landscape treatment. Sand, gravel, concrete or asphalt shall not be considered appropriate landscape material.

- f. **Curbing Requirements.** Except as provided in Subsection 3(h), all landscape areas shall be separated from vehicular use areas by non mountable reinforced concrete curbing or other suitable alternatives such as granite or brick as determined by the Planning Commission.
 - g. **Use of Wheel Stops.** All landscaped areas at the front of off-street parking spaces may be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above finished grade of the parking area, shall be properly anchored and maintained in good condition. Where wheel stops are located two feet from the front of the parking space, that two feet need not be paved, however the area between the wheel stop and the landscape area shall receive appropriate landscape treatment, including but not limited to the planting of grass or groundcover.
 - h. **Width of curbing excluded from calculations of Minimum Dimensions of Required Landscaped Areas.** The width of curbing shall be excluded from the calculations of the minimum dimensions of all required landscaped areas.
 - i. **Replacement requirements.** Vegetation that is required to be planted or preserved by this ordinance shall be replaced with equivalent vegetation if it is not living within one year of issuance of a certificate of occupancy. All required planted and preserved trees for which credit was awarded but, which subsequently die after occupancy of site, shall be replaced within ninety days by the requisite number of living trees according to the standards of this ordinance and maintained in a healthy state.
4. *Landscaping the Perimeter of Lots.* Landscape strips shall be provided around the perimeter of lots, as follows:
- a. **Perimeter landscape strips separating vehicular use areas from abutting rights-of-way -General requirements.** Whenever a vehicular use area abuts a right-of-way, public or private, a perimeter landscape strip may be pierced by accessway to the extent necessary to comply with the provisions of this code or other applicable ordinances.
 - b. **Minimum Dimensions of Perimeter Landscape Strip - minimum width.** Unless otherwise provided in this ordinance, the minimum width of the perimeter landscape strip separating a vehicular use area from abutting rights-of-way shall be:



- i. In residential districts – No parking lots may be located in front yard areas and may be located no closer to the front façade of the structure than the midpoint of the side elevation of the structure. There shall be no paving of tree lawn areas for parking or paving of the public right-of-way. Parking shall be placed on site in keeping with the historic character of the neighborhood.
- ii. In the downtown district, all parking lots must be located to the rear of buildings, no surface parking lots are allowed adjacent to the sidewalk. No contributing historic structure within the historic district may be demolished for use as a surface parking lot.
- iii. On street parking must be parallel parking only except for special events such as July 4th celebration, carnival, etc.
- iv. All drive thru, service delivery facilities and trash service areas must be located to the rear of the building and screened.
- v. For all lots with a depth of less than 50 feet – five feet.
- vi. All lots with a depth of 50 feet or more – five feet on side property lines; 10 feet on front property or more if determined to be necessary to adequately buffer the parking at the discretion of the Planning Commission.
- vii. All rear lot lines – 10 feet, or more if determined to be necessary to adequately buffer the parking at the discretion of the Planning Commission.
- viii. Minimum length. The perimeter landscape strip shall extend along the length of the boundary between the vehicular use area and the abutting right-of-way. The landscape strip may be pierced by accesses as necessary to comply with the requirements of this ordinance or other applicable ordinances.

5. *Supplemental landscape requirements.*

a. Landscape barrier:

- i. General. Buffers are required between land uses shall consist of a densely planted evergreen screen. At planting, screen materials must be 4' – 6' in height and spaced in staggered rows as to permit maximum screening with proper spacing for plant materials, 10' – 15' spacing depending on species. This buffer must be maintained in a healthy state and reach a minimum height of 20 feet.
- ii. Street Trees. Street Trees shall be planted at a minimum of every thirty feet alongside roads. Such trees shall be defined as shade trees.



- iii. Earth berms. Berms may be used only when installed with sufficient plant material to satisfy the provision of this ordinance. The slope of a berm shall not exceed a ratio of 3:1.
- b. Chain link fencing. Chain link fencing used as a barrier for detention and retention ponds must have a black color finish to structure and fencing.
- c. Fencing. The choice of fencing material in residential areas shall be consistent with the character of the main house. No stockade or solid fences shall be allowed along the front perimeter of property or adjacent to streets or sidewalks. When only one side of a fence is finished, the finished side of a fence must face the street or adjacent neighbors. Fences adjacent to streets or sidewalks may not exceed three (3) feet in height.
- d. Utilities. All utilities, delivery docks and dumpster areas must be located to the rear of property and screened with plant materials or fencing with a solid material that is compatible with the main structure on the property.
- e. Lawn Areas.
 - i. All lawn areas, excluding any mature wooded areas or areas used for agricultural purposes, , must be maintained at a height below twelve (12) inches. This requirement includes all grass, weeds, and foreign growth. Any such owner or occupant who shall violate the provision of this Section shall be given reasonable notice of such violation by the Town manager. The notice shall describe the violation, demand removal, provide the time period by which corrective measures must be completed, advise that the Town's costs will constitute a lien on the property, and provide the opportunity to meet with the Town manager to discuss the alleged violation. For purposes of this section, one written notice per growing season to the owner of the property shall be considered reasonable notice.
 - ii. Any such owner who fails to cut such grass, weed, or other foreign growth shall be subject to a civil penalty. The penalty for the first violation, and penalty arising from the same set of operative facts as the first violation, shall be \$50.00. The penalty for any subsequent violation not arising from the same set of operative facts as the first violation, but occurring within 12 months of the first violation, shall be \$100 for the first subsequent violation, and \$200 for each additional subsequent violation thereafter. Each business day during which the same violation is found to have existed shall constitute a separate offense and shall be subject to a separate penalty. The aggregate of



civil penalties assessed to such owner shall not exceed a total of \$3,000 in a 12-month period for any series of specified violations arising from the same operative set of facts. Any civil penalty issued in accordance with this Section shall be in lieu of any criminal penalty for the same offense, except as permitted by Virginia law for repeat offenses, and shall constitute a lien against the property.

- iii. In the event the owner or occupant of the property fails to correct the violation, the Town may deem it necessary to have such grass, weeds, or other foreign growth cut by its agents or employees. The costs, expenses, and penalties imposed under this Section, including reasonable attorneys' fees to enforce the collection of such costs, expenses, or penalties, may be collected by the Town by any lawful means under Virginia law, including, without limitation, collection as taxes are collected, or a civil action in the General District Court or the Circuit Court for the County of Botetourt against the owner or occupant of the property

6. *Parking Lot Lighting.*

- a. When a luminaire has total cutoff light at an angle of 90 degrees or greater the following table applies:

Use/Density Category	Maximum Permitted Illumination	Maximum Permitted Height of Luminaire
Residential	0.3	15 ft.
Low – and moderate – density nonresidential	0.5	20 ft.
High – density residential	1.5	25 ft.

- b. When a luminaire has a total cutoff of light at an angle of less than 90 degrees and is located so that the bare bulb, lamp, or light source is completely shielded from direct view of an observer five feet above the ground at the point at which the cut off angle intersects the ground the following table applies:

Use/Density Category	Maximum Permitted Illumination	Maximum Permitted Height of Luminaire
Residential	0.5	15 ft.
Low – and moderate – density nonresidential	1.0 2.0	20 ft.



High – density residential	4.0	15 ft.
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- c. The cutoff is the point at which all light rays are completely shielded.
- d. The maximum permitted illumination is measured in footcandles at the interior buffer yard line at ground level. Lighting levels must be measured in footcandles with a direct reading, portable light meter. The equipment used must allow accurate measurements, and all measurements must be made after dark with the lights on and then again with the lights off. The difference between the two readings must be compared to the standard for maximum permitted illumination.

C. Keeping inoperable vehicles on certain property removal of such vehicles.

- a) It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view from the public right of way, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semi-trailer, as such are defined in Code of Virginia, § 46.2-100, which is inoperable. As used in this section, the term “inoperable motor vehicle” means;
 - Any motor vehicle, which is not in operating condition; or
 - Any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or
 - Any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal.
- b) The owners of property zoned for residential, commercial or agricultural purposes shall, within 30 days after written notice received from the zoning administrator or the Sheriff’s office, remove therefrom any inoperable motor vehicles, trailers or semitrailers located thereon contrary to this section.
- c) Whenever the owner of the premises fails to remove a motor vehicle, trailer, or semitrailer pursuant to notice given pursuant to this section, the town may, through its own agents or employees, remove such motor vehicle, trailer or semitrailer, and the town may dispose of the same, after giving an additional notice of 15 days to the owner of the vehicle.
- d) The cost of any removal and disposal by the town under this section shall be chargeable to the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, and the lien shall continue until actual payment of such cost shall have been made to the town.
- e) Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate active restoration or repair of the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that tis shielded or screened from view and being used for the restoration or repair may remain on the property.



- f) In addition to any other penalty imposed, the town may seek an injunction to enjoin the continuing violation of any provision of this chapter.
- g) As used in this section, notwithstanding any other provision of law, general or special, “shielded or screened from view” means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located. Tarpaulins (tarps), tents, and similar shields shall not be deemed to satisfy the requirements of this article. However, a fitted car cover designed for the model of vehicle shall satisfy the requirement of this article.
- h) The owner of any property in violation of this Section shall be subject to a civil penalty, not to exceed \$200 for the first violation for each inoperable vehicle, and not to exceed \$500 for any subsequent violation for each inoperable vehicle. Each day during which the violation is found to have existed shall constitute a separate offense; however, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period. The aggregate of civil penalties assessed to the owner of such property shall not exceed a total of \$5,000 for any series of specified violations arising from the same operative set of facts. Any penalty imposed by the Town under this Section shall be chargeable to the owner of the vehicle or the premises and any penalty imposed by the Town against the owner of the premises shall constitute a lien against the property.
- i) The costs, expenses, and penalties imposed under this Section, including reasonable attorneys’ fees to enforce the collection of such costs, expenses, or penalties, may be collected by the Town by any lawful means under Virginia law, including, without limitation, collection as taxes are collected, or a civil action in the General District Court or the Circuit Court for the County of Botetourt against the owner of the subject parcel or the owner of any inoperable vehicle.
- j)

Should any portion or provision of this ordinance be held by any court to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

Sec. 302. Buchanan Public Tree Ordinance

- A. Definitions. For the purposes of this chapter, the following words and phrases shall have these meanings respectively ascribed to them:

Buchanan Beautification Committee. A committee made up of volunteers from the Buchanan Downtown Revitalization Program, Town Council, Planning Commission and Town Citizens responsible for master planning of public trees under this chapter.



Park. All Town owned parks, or public open spaces having individual names and owned by the Town.

Property line. The right-of- way line of a street or highway.

Property owner. The person owning real property as shown by the records in the clerk's office of the circuit court for the county and Town.

Public trees. All shade and ornamental trees now or hereafter growing on any public areas including but not limited to parks, Town buildings and facilities, and public rights-of-way.

Street or highway. The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of pedestrian and vehicular traffic.

Town horticulturist. The person within the Beautification Committee, or his/her representative, assigned to carry out certain duties of this chapter.

Treelawn. That part of a street or highway, not covered by a sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

B. Master street tree plan.

1. The Beautification Committee shall have the authority to formulate, administer, and amend a master street tree plan. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the Town. From and after the effective date of the master street tree plan, or any amendment thereof, all planting shall conform thereto whenever possible.
2. The horticulturist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the Town.

C. Obstruction.

1. Duty of occupant. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon whose property there may be trees or other vegetation, to prune such trees or vegetation in such manner that they will not interfere with utility lines on the right-of-way, obstruct the passage of pedestrians on sidewalks, obstruct the view of any street or alley intersection, or obstruct view of any traffic control devices (including but not limited to signs and traffic signals). Suggested minimum vertical clearance of any overhanging portion thereof shall be eight feet over sidewalks, and 16 feet over all streets. Suggested minimal horizontal distance to any traffic signal equipment, traffic control signs, or utility lines should be



ten feet. If the occupant fails to perform these duties, Town maintenance crews or other maintenance crews authorized by the Town shall have the right to prune for such clearance over public rights-of-way for safety and accessibility as needed. Town maintenance crew or other tree maintenance crews authorized by the Town shall have the right to maintain public trees located in the public right-of-way.

- D. Abuse or mutilation of public trees. Unless specifically authorized by the Town horticulturist or Beautification Committee in writing, no person shall intentionally damage, cut, carve, transplant or remove any public tree; nor attach any rope, wire, nails, staples, advertising posters, or other contrivance to any public tree; nor allow any gas, liquid, or solid substance which is harmful to such trees to come in contact with them; nor set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. Any person violating the provisions of this section shall be guilty of a class 2 misdemeanor and, in addition thereto, shall be responsible for the cost of repair or replacement of any public tree so damaged.
- E. “Topping” of Trees. It shall be unlawful as a normal practice to top any public tree. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wire or other obstruction where other pruning practices are impractical may be exempted from this ordinance at the determination of the Town horticulturist.
- F. Placing materials on public property. No person shall deposit, place, store, or maintain upon any public place of the Town, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing thereon, except by written permit of the Beautification Committee. In event of an emergency or in order to repair existing utilities, these written permits may be waived.
- G. Removal, planting, replanting, and replacement. Whenever practical, the Town shall replace a tree or trees in a treelawn when such trees are removed for street or highway paving. No person, other than the Town, shall remove a tree from the treelawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Town horticulturist, and without replacing the removed tree or trees to the satisfaction of the horticulturist. The person or property owner shall bear the cost of removal and replacement of all trees removed. No person shall plant a tree on Town property or right-of-way contrary to the master street tree plan. Any such planting may be removed by the Town at the cost of such person. Any person violating the provisions of this section shall be guilty of a class 2 misdemeanor.
- H. Timing of application for permits. Application for permits required by the provisions of this section shall be made at the office of the Town horticulturist not less than 72 hours in advance of the time the work is to be done.



- I. Decision review. The Town Council shall have the right to review the conduct, acts, masterplanning, and decisions of the Town horticulturist. Any person may appeal from any ruling or order of the Town horticulturist to the Town Council. If not satisfied by the decision of this director, the Town Council shall review the matter and the decision shall be final.

Sec. 303. Sign Regulations.

Sec. 303-1. Purpose.

- A. To promote the safety, comfort, and well-being of the users of streets, roads, and highways in the Town;
- B. To reduce distractions and obstructions from signs which would adversely affect traffic safety, and to alleviate hazards caused by signs projecting over or encroaching upon public ways;
- C. To discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- D. To preserve or enhance Buchanan Town character by requiring new and replacement signage which is:
 1. creative and distinctive;
 2. compatible with the surroundings;
 3. appropriate to the type of activity to which it pertains;
 4. expressive of the identity of individual proprietors or of the community as a whole; and
 5. appropriately sized in its context, so as to be easily readable.

Sec. 303-2. Definitions.

Billboard. A free-standing sign larger than thirty-five (35) sq. ft. in gross area, or a wall sign covering more than ten percent (10%) of the area to which it is affixed.

Façade. The exterior surface of a building.



Flashing Sign. A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, direction, or animation. Illuminated signs which indicate the date, time, and temperature will not be considered flashing signs.

Free-Standing Sign. A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

Home Occupation. An activity customarily carried on by the occupants of a dwelling unit, inside the dwelling unit, requiring only hobby type equipment, and not involving:

- a. the sale of articles produced elsewhere than on the premises;
- b. the storage of materials or products outside of a principal building;
- c. the making of external structural alterations which are not customarily in residential buildings;
- d. the production of offensive noise, vibration, smoke, dust, or other particulate matter; heat; humidity; glare; odors, aromas, or scents; or other objectionable effects.

(Refer to Article III, Section 304, Home Occupations for home occupation list.)

Illuminated Sign. Any sign lit by electric bulbs, fluorescent lights, or neon tubes. Neon tubes used as abstract, graphic, decorative, or architectural elements shall be considered to constitute an illuminated sign.

Landmark Sign. An older sign of artistic or historic merit, uniqueness, or extraordinary significance to the Town as identified by the local Revitalization Program, or the Planning Commission in their absence.

Lintel. The horizontal support member across the head of a door or window.

Moveable Sign. A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

Off-Premises Signs. Any sign which is not on the premises of the business, including a billboard.

On-Premises Signs. Any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent.



Projecting Sign. A sign which is affixed to a building, tree, or other structure and which extends more than six (6) inches beyond the surface to which it is affixed.

Roof Sign. A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

Sign. Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, excluding window displays and merchandise.

Temporary Sign. A sign intended to be used for a period of no more than thirty (30) days. Exceptions for pennants and similar devices intended for civic purposes may be granted by special permit.

Wall Sign. Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six (6) inches from the surface of that building.

Sec. 303-3. General.

A. Permitted Signs. Only signs which refer to a permitted use or an approved conditional use are permitted, provided such signs conform to the provisions of this ordinance.

e. Prohibited Signs.

1. Billboards, streamers, pennants, ribbons, spinners or other similar devices shall not be constructed, posted or erected in any zone. *Exceptions include flags and bunting exhibited to commemorate national patriotic holidays, 30 day temporary banner for business opening announcement and temporary banner announcing charitable or civic events.*
2. Flashing signs, roof signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight are not permitted. No electrical wires may be exposed on signs. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions herein.
3. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is not permitted. Exceptions are granted to Landmark Signs which may be preserved and maintained even if they no longer pertain to the present use of the premises. Current Landmark signs consist of Ransone's Drug Store Marquis and the Buchanan Theater Marquis.



4. No sign shall be larger than sixty four (64) sq. ft.
5. No sign, except for a traffic, regulatory, or information sign, shall use the words "stop," "caution," or "danger," or shall incorporate red, amber, or green lights resembling traffic signals, or shall resemble "stop" or "yield" signs in shape and color.
6. Strings of bulbs are permitted as part of holiday celebrations and at other times at the discretion of the Planning Commission.
7. No person may erect a sign that constitutes a hazard to pedestrians or vehicular traffic because of intensity or direction of illumination.

Sec. 303-4. Placement Standards.

- A. No person may erect a sign which is affixed to a fence, utility pole, or structure, or tree, shrubs, rock, or other natural object unless it is a historic designation sign or street address sign.
- B. Signs shall not be mounted on roofs or extend above the roof line (unless mounted on a parapet wall which extends above the roof line, in which case the sign may not extend above the top of said parapet).
- C. No projecting sign shall extend into a vehicular public way, or be less than eight (8) feet above a pedestrian way.
- D. No sign together with any supporting framework shall extend to a height above the maximum building height allowed in a district.
- E. Signs shall not cover architectural details such as, but not limited to arches, sills, mouldings, cornices, and transom windows.

Sec. 303-5. Safety Standards. No person may erect a sign which:

- A. is structurally unsafe;
- B. constitutes a hazard to public safety and health;
- C. obstructs free entrance or exit;
- D. obstructs light or air or interferes with proper functioning of the building; or
- E. is capable of causing electrical shock.



Sec. 303-6. Exceptions. For the purposes of this ordinance, the term "sign" shall not include:

- A. signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, bylaw, or other regulation;
- B. a bulletin board or similar sign not exceeding twenty (20) sq. ft. in display area, in connection with any church, museum, library, school, or similar public or semi-public structure, provided that the top of such sign shall not be more than eight (8) feet above ground level, and provided that it does not possess any of the characteristics listed in Section 303-5 above;
- C. directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, and where display area does not exceed three (3) sq. ft. or extend higher than four (4) feet above ground level. Such signs will conform in all respects with the requirements of this code; and
- D. signs relating to trespassing and hunting, not exceeding two (2) sq. ft. in area.

Sec. 303-7. Non-Conforming Signs.

- A. Continuance. A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of these sign regulations may continue, although such sign does not conform to the provisions herein.
- B. Maintenance. Any lawfully existing sign cannot be enlarged, reworded (other than in the case of cinema or theater signs, or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements herein; Further, any such sign which has deteriorated to such an extent that the cost of restoration would exceed 50% of the replacement cost, shall not be repaired or rebuilt or altered except to conform to the requirements herein.
- C. Replacement. Any sign replacing a non-conforming sign shall conform to the provisions of this ordinance, and the non-conforming sign shall no longer be displayed.

Sec. 303-8. Administration.

- A. Permits.
 - 1. No sign shall be erected, displayed, altered, or enlarged until an application has been filed, and until a permit for such action has been issued. Applications shall be on forms prescribed by the Planning Commission. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes,



colors, support systems, and location on land or buildings, with all relevant measurements.

2. Permits shall be issued only if the Planning Commission or its designee, determines the sign complies or will comply with all applicable provisions of this ordinance. Such application may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises.
 3. The Planning Commission or its designee, shall act within 30 days of receipt of such application together with the required fee.
 4. A Special Permit application for lighted signs, signs which are larger than those allowed by right, or signs in any districts shall be referred to the Planning Commission, which shall make recommendations to the Town Council. The Town Council and or Planning Commission may hold a public hearing if it deems necessary. If the Planning Commission or Town Council holds a public hearing, the decision may be delayed until 30 days after that stated in Section 303-8.A.3.
- B. Fees. A schedule of fees for such permits may be established and amended from time to time by the Town Council.
- C. Enforcement. The Planning Commission is designated as the Sign Officer and is authorized to enforce the regulations set forth herein. The Planning Commission is authorized to order in writing, the repair or removal of any sign and its supporting structure which is judged dangerous, or in disrepair, or which is erected or maintained contrary to these sign regulations.
- D. Removal of Signs. Any sign which has been ordered removed by the Planning Commission, or is abandoned or discontinued, shall be removed by the person, firm, or corporation responsible for the sign within thirty (30) days of written notice to remove. Expenses for removal of signs are the responsibility of the person, firm or corporation responsible for the sign.
- E. Penalties. Violation of any provision of this ordinance or any lawful order pursuant there to of the Town Council shall be subject to a fine of not more than \$100.00 per offense. Each day that such violation continues shall constitute a separate offense.

Sec. 303-9. Measurement of Sign Area.

- A. Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.



- B. For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color, or finish material of the building.
- C. For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- D. The area of supporting framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display.
- E. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

Sec. 303-10. Measurement of Height. The height of any sign shall be measured from the surface of the road or sidewalk up to the highest point of the sign. In situations where a sign is intended to be visible from two roads of different elevations, measurement shall be from the surface of the lower roadway.

Sec. 303-11. General Standards for Specific Types of Signs.

- A. Address. One sign displaying the street number or name of the occupant of the premises, or both.
 - 1. Such sign may include identification of an on-premise professional office or customary home occupation.
 - 2. Such sign may be attached to the building or may be on a post not more than four (4) feet high, and setback at least three (3) feet from the public right-of-way.
 - 3. Such sign may not exceed two (2) sq. ft. in area.
- B. Awning. A sign painted on or attached to the cover of a movable metallic frame, of the hinged, roll, or folding type of awning.
 - 1. Such sign must be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.
 - 2. Letters shall not exceed eight (8) inches in height.



3. A minimum of eight (8) feet above sidewalk level must be allowed for pedestrian clearance.

C. Construction Signage. An on-premise sign identifying the contractor, architect, landscape architect, and/or engineer's name, address, and other pertinent information.

1. Such signs shall not exceed twelve (12) sq. ft. in area, and shall be set back at least ten (10) feet from the street lot line, or one-half the building set-back distance, whichever is less.

2. Such a sign may be maintained on the building or property being sold or rented, and they shall be removed by the owner or agent within thirty (30) days of sale, rent, or lease.

D. Free-Standing. A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs. Dimensional standards for free-standing signs in different districts are specified in the table below, which relates requirements to the character of each area and the speed at which traffic usually travels within them.

	Highway	Roadside	Town Center	Residential	Scenic Roadside
Typical Speed Limit	45-55	35-45	25-35	25	35-55
Free Standing Tavern Style Hanging Signs					
Height (max. ft.)	16	12	10	8	10
Area (max. sq. ft.)	16	12	8	2	4
Ground Clearance (min. ft.)	8	7	7	4	7
Other Free Standing Signs – Monument Style Signs					
Height (max. ft.)	4	4	4	4	4
Area (max. sq. ft.)	24	20	4	4	6

1. Free-standing signs over six (6) feet in height may have no more than two (2) sides; those less than six (6) feet in height may have three (3) or four (4) sides.

2. A lot with frontage of three hundred (300) feet or more may have two (2) free-standing signs, not less than one hundred seventy five (175) feet apart.

E. Illuminated Signs.

1. Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare.



2. Internal illumination is generally discouraged, but it may be appropriate in certain circumstances, such as:

- a. individual back-lit letters which are silhouetted against softly illuminated wall;
- b. individual letters with translucent faces, containing soft lighting elements inside each letter; and
- c. metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.

(However, such signs are generally suitable only on contemporary buildings.) The display of internally illuminated plastic signs with dark-colored moveable letters shall be strictly prohibited in all districts.

- d. Neon window signs may be permitted in cases where they are custom designed to be compatible with the building historic and/or architectural character, and where their color has been selected to harmonize with the building's exterior colors.
- e. Gas-filled light tubes shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the public roadway or sidewalk.
- f. Signs shall not be illuminated directly or indirectly between the hours of 12 a.m. and 6 a.m. unless the premises are open during such hours.
- g. Illuminated signs shall not be permitted to shine onto residential properties and traveled ways.

F. Individual Letters or Symbols. These may be attached to an awning, marquee, building surface, wall, or sign board.

1. Letters or symbols shall not project more than twelve (12) inches from the building surface.
2. Such letters and symbols shall not obscure the architectural features of the building to which they are attached.
3. Such letters and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached.
4. Letters or symbols shall have an aggregate area not exceeding 1.5 sq. ft. for each foot of building face parallel to a street lot line, or ten percent (10%) of the wall area to



which they are affixed, whichever is less. When a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.

- G. Landmark Signs. An older sign of artistic or historic merit, uniqueness or extraordinary significant to the town. The character of such signs warrants their preservation in original condition, or their restoration.
- H. Marquee Signs. A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.
1. Such signs may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside of the overhang.
 2. Letters or symbols shall not exceed twelve (12) inches in height.
 3. A minimum clearance of ten (10) feet above the sidewalk level must be allowed for pedestrian clearance.
- I. Moveable Signs. Moveable signs are not permitted in any district except in the Town Center district. In this area, moveable signs made only of wood, metal, or, other historic materials and standing on legs not over four (4) feet in total height, may be allowed by special permit only. Town and Village Center districts have a pedestrian orientation and therefore the smaller, personal scale of the free-standing moveable sign may be appropriate. All moveable signs must be removed when business is closed.
- J. Multiple Signs. A group of signs clustered together in a single structure or compositional unit. Multiple signs are used to advertise several occupants of the same building or building complex.
1. The display board shall be of an integrated and uniform design.
 2. The maximum sign area permitted is sixteen (16) sq. ft. for the sign bearing the name of the building or office park, and two (2) sq. ft. for the name of each business or office located there.
 3. Complexes with over 300 feet of frontage will be allowed two (2) free-standing signs.
- K. Off-Premise Signs.
1. Informational and directional signs containing no advertising are permitted to direct traffic flow, indicate parking space, identify points of interest, locate businesses, or provide other essential information to guide vehicular or pedestrian traffic flow.



2. Off-premise signs shall not be larger than one (1) sq. ft. in size, and shall be uniform in color, having a dark background with light colors, or a light background with dark colors. Neon or "day-glow" colors should be avoided.
 3. There shall not be more than two (2) off-premise signs per establishment.
 4. Off-premise directory boards containing small identification signs conforming to the above requirements may be permitted in special situations where visibility is a significant problem and where they can be harmoniously integrated with environment.
- L. A permanent mural or message painted directly onto a building surface. A special permit is required for all new signs of this type, and will comply with the dimensional requirements of a wall sign. Exceptions are granted to landmark signs which may be preserved and maintained, even if they no longer pertain to the present use of the premises.
- M. Political Signs. A sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, or other local election.
1. Such signs are permitted if they are stationary, unlighted, and temporary.
 2. Such signs shall be displayed no earlier than twenty (30) days prior to a voting day and shall be removed within five (5) days after a voting day.
 3. Such signs may not exceed four (4) sq. ft. in area.
 4. A maximum of two (2) signs per lot is allowed.
- N. Projecting Signs. A wall-mounted sign perpendicular to the building surface.
1. If flat, each face shall not exceed ten (10) sq. ft.
 2. The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine (9) sq. ft.
 3. Such sign shall be hung at right angles to the building and shall not project closer than two (2) feet to the curb line.
 4. The supporting framework shall be in proportion to the size of such sign.



5. Signs which overhang a public way (including sidewalks) shall be covered by a public liability insurance policy which names the Town as the insured party.
 6. The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the sign officer:
 - a. suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or
 - b. the lowest point of the roof of a one story building.
 - c. Projecting signs shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least thirteen (13) feet.
- O. Public Service Signs. A sign located for the purpose of providing directions towards or indication of use not readily visible from the street (e.g. restrooms, telephone, parking, etc.)
1. Such signs necessary for public safety and convenience shall not exceed two (2) sq. ft. and may bear no advertising.
- P. Wall Signs. A sign which is attached parallel to the exterior surface of a building or structure.
1. Such sign shall not project more than fifteen (15) inches from the building surface.
 2. Such sign shall not obscure architectural features of the building, not limited to features such as arches, sills, mouldings, cornices, and transoms.
 3. Such sign shall not extend above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.
 4. Such signs shall have an aggregate area not exceeding 1.5 sq. ft. for each lineal foot of building face parallel to a street lot line, or ten percent (10%) of the wall area to which it is attached, whichever is less. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.
 5. Where two (2) or more wall signs are affixed to one wall, the gross display area shall be the sum total area of all signs.



6. Wall signs shall not extend higher than the cave line or top of the parapet wall of the principal building.
7. No part of a wall sign, including the display surface, shall extend more than six (6) inches from the building surface.
8. The size of signs attached to buildings may be increased in area (over allowable size) by 25% for every 100 feet of building setback. This shall apply to building setback more than 100 feet from the road right-of-way, and the increase may be pro-rated according to the actual setback distance.

Q. Window Signs. Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the side-walk or street. Window signs shall not exceed more than thirty percent (30%) of the window area in which type are displayed. Non-temporary signs hung inside windows shall be made of clear materials such as plexi-glass with lettering applied to them.

Sec. 303-12. Districts and Special Regulations.

A. Type of Districts.

1. **Town Center.** The town center is generally characterized by traditional architecture lining the street, civic buildings often with a town common or green, and generally containing a mix of residential and commercial building uses.
2. **Commercial Roadside.** Concentrated commercial development along roads leading to and from the Town center.
3. **Scenic Roadside.** A combination of limited commercial development, scattered residential areas, and agricultural land characterized largely by open space, fields, and long scenic views.
4. **General Highway.** Open highways not near commercial districts.

B. District Requirements.

1. *Town Center:* Within the district the intent of sign regulation is to ensure visual compatibility with the scale and character of the surrounding architecture. The signage must also be readable by pedestrians and people in slow-moving vehicles.
 - a. **Number:** There shall be no more than three (3) types of signs employed per building, regardless of number of occupancies. (e.g. free-standing, awning,



window, or wall, window and awning). Each ground floor occupant of a building may display two (2) signs. Each occupant in an upper level of a building may display one sign.

- b. **Materials:** All signs shall be made of wood or metal. If plywood is to be used, it must have exceptionally smooth and weather resistant surfaces, such as those obtained with medium-density overlay ("MDO") board.
- c. **Location:**
 - i. Signs should be concentrated near the pedestrian level.
 - ii. The upper facades of buildings should not be cluttered with signs.
 - iii. Signs shall not obscure important architectural details or features such as windows, transom panels, sills, mouldings, and cornices.
 - iv. Wall signs identifying commercial establishments shall generally be placed within an information band immediately above the storefront. The information band should be confined to the vertical distance separating windows on the ground and the second floors, or should be no more than two (2) feet in length, whichever is lesser.
 - v. Signs on adjacent storefronts within the same building shall be coordinated in height and proportion, and should be encouraged to use the same signing format.
 - vi. **Colors:** Colors should be chosen to complement, not clash with the facade color of the building. Signs should normally not contain more than three colors, except in instances of an illustration. Dark backgrounds with light-colored lettering shall generally be required, as this is traditional. Examples of preferred background colors are burgundy red, forest green, chocolate brown, black, charcoal, and navy blue. Preferred lettering colors are ivory, white, or gold. "Day-glow" colors are prohibited.
 - vii. **Size:** The size of signs should be restricted to ensure that signs do not overpower the facades to which they are affixed. Not more than one and a half sq. ft. (1.5 sq. ft.) of total signage area will be permitted per linear foot of storefront.
 - viii. **Preferred Sign Types:**



- a) Free-standing monument only as a multiple sign or with large building setback
 - b) Wall
 - c) Moveable Card
 - d) Window
 - e) Neon
 - f) Projecting
 - g) Landmark
 - h) Awning
 - i) Marquee
2. *Commercial Roadside.* The goal in this district is to provide legible signage for auto-oriented commercial facilities, while moderating visual competition.
- a. **Number.** There shall be no more than three (3) types of signs employed per building (e.g. free-standing, wall, window). There shall be no more than three (3) separate signs on a structure unless the structure is designed for and has more than three (3) occupancies, in which case there can be one sign per occupancy plus two additional signs.
 - b. **Materials.** The use of wood and metal signs is strongly encouraged.
 - c. **Location.** Signs should be located where they can be most easily read, thus reducing the size needed for legibility.
 - d. **Colors.** The number of colors should be limited to three (3). Since these signs must be legible from a distance, the degree of contrast between the background and letter color is important. Dark backgrounds with light-colored lettering is strongly encouraged. "Day-glow" colors are prohibited.
 - e. **Size.** Due to the traffic speed, and the larger setbacks common in this type of district, slightly larger signs than in Town Centers are permissible.
 - f. **Preferred Sign Types:**
 - i. Wall



ii. Monument

3. *Scenic Roadside*. The most important goal in this area is to maintain the residential character and scenic open space. The significant historic architecture often found within these districts and the surrounding rural landscape form the essence of the existing visual quality of the scenic roadside. Special care should be taken with this quality in the style, location, design, and use of materials for signs.
- a. Number: Each business may display not more than two (2) signs. Each structure or complex may only display one (1) free-standing sign.
 - b. Materials: Signs in this district shall be of wood or metal. Interior lit signs are strictly prohibited.
 - c. Location: As in Commercial Roadside Districts, signs should be placed in clear view of traffic to minimize their required size.
 - d. Colors: The number of colors used in a sign should be limited to three (3) unless used in an illustration. To ensure legibility of the sign, a high degree of contrast between the background and letters is preferable. "Day-glow" colors are prohibited. The use of dark backgrounds with light-colored lettering shall generally be required.
 - e. Size: Signs in this district shall generally be smaller than in Commercial Roadside Districts.
 - f. Preferred Sign Types:
 - i. Free-standing
 - ii. Wall
 - iii. Awning

C. Maintenance. A sign shall be maintained in a secure and safe condition. If the Planning Commission is of the opinion that a sign is not secure, safe, or in a good state of repair, written notice of this fact shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted, the Planning Commission may revoke the sign permit and take possession of the permit until the owner pays the cost of removal, thus placing the sign owner in violation of this sign ordinance and liable for a fine as specified herein.



D. Non-conforming Signs and Sign Structures. Non-conforming signs and sign structures may remain except as qualified below:

1. Other than sign maintenance, no non-conforming sign shall be reconstructed, remodeled, relocated, or changed in size or content to show a new trade name, different words, letters or numbers, new design, different colors or different logo, unless such action will make the sign conforming in all respects.
2. Nothing in this Section shall be deemed to prevent keeping in good repair a non-conforming sign, including sign maintenance, repainting, and replacement of broken or deteriorated parts of the sign itself. Supporting structures for non-conforming signs shall not be replaced, unless such replacement will make the sign and sign structure conforming in all respects.
3. A non-conforming sign or sign structure which is destroyed or damaged by any casualty may be restored within six (6) months after such destruction or damage only after the owner has shown that the damage did not exceed fifty percent (50%) of the structures appraisal value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty percent (50%), it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming in all respects.
4. A non-conforming sign or sign structure shall be removed within thirty (30) days if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building's appraised value.
5. Removed Signs to be Stored: A sign or sign structure removed by the Town shall be held not less than thirty (30) days by the Town during which period it may be recovered by the owner upon paying the Town for cost of removal and storage, and upon payment of any imposed fine. If not recovered within the thirty (30) day period, the sign or sign structure is hereby declared abandoned and title thereto shall be vested in the Town for disposal in any manner permitted by law.

E. Sample Sign Application Package. To conduct an effective sign review process, and to ensure the uniformity of decision-making in interpreting the regulations herein, it is important the Town require uniform and complete sign application packages. The sign application package should consist of three main parts: a photograph or elevation drawing illustrating and describing the sign location; a sketch and cross-section of the proposed sign (drawn to scale, noting all dimensions, materials, paint color, and mounting methods) and a written application. To save time, effort, and money on the part of both the applicant and the Town of Buchanan, a copy of sample application, the sign regulations and sign design guidelines should be given to all applicants.



Sec. 304. Home Occupations. Home occupations, home businesses, and rural home businesses as defined in Article I, section 108 are permitted in certain districts as provided herein, subject to the following requirements:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation.
- B. 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 twenty-five percent (25%) of said floor area of the dwelling unit or twenty-five (25%) of said floor area if conducted in an accessory building, shall be used in the conduct of the home occupation.
- C. 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 one square foot in area, non-illuminated.
- D. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family dwelling or outside the dwelling unit if conducted in other than a single family dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- F. Boarding and rooming houses, tourist homes, and private educational institutions shall not be deemed home occupations; the conducting of a tea room or restaurant, rest home, clinic, doctor, or dentist office, real estate office, or cabinet, metal or auto repair shop shall not be deemed as a home occupation.
- G. The following are excluded from the definition of a home occupation:
 - 1. Bed and breakfast/Inns
 - 2. Tourist homes
 - 3. Private educational institutions
 - 4. Tea room or restaurant
 - 5. Clinic
 - 6. Rest home



7. Doctor or dentist office
8. Lawn mower repair shop
9. Small engine repair shop
10. Auto sales or repair
11. Welding shop
12. Tatoo or piercing establishment
13. Palm reading, fortune telling, or other divination activity

Sec. 305. Commercial and Private Kennels

(a) All Kennels shall consist of an enclosure with fixed partitions such as a fence or walls. The enclosed area must be large enough to permit each dog to stand, turn freely and sit or lie in a comfortable position. The construction of the Kennel must be such as to prevent the dogs from escaping, and to prevent their injury.

(b) Each dog maintained in a Kennel shall have clean water available at all times. The Kennel shall also have sheltered bedding for each dog.

(c) No Kennel shall be located within one hundred (100) feet from any residence other than that of the Kennel owner or operator. Solid waste must be removed on a regular basis and offensive odors and excessive insects are not permitted.

(d) The owner or operator of a Kennel shall securely fasten the Botetourt County license tag to the Kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the Kennel. A Kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding or participating in a field trial or show. Tags must be displayed on any dogs leaving the kennel in accordance with this Article.

Kennels shall be inspected annually by Botetourt County animal control officer who shall issue a certificate of approval therefore if all requirements of the Zoning Ordinance and Town Code have been met. This certificate of approval may thereafter be revoked if the Kennel owner or operator violates any of the requirements of the Zoning Ordinance or the Town Code.

(e) The provisions of this Section shall not apply to a Foster Care Provider (as defined in the Town Code).

ARTICLE 4. NONCONFORMANCE



Sec. 401. Nonconforming uses and features may continue. Subject to the limitations set forth in this Article, nonconforming uses, nonconforming features and nonconforming buildings may continue. The terms "nonconforming use," "nonconforming feature" and "nonconforming building" shall have such meaning as specified in Article I of this ordinance.

A. Extension of nonconforming uses. No nonconforming use shall be extended, enlarged or moved so as to occupy a different or greater area of land or buildings than was occupied by and actively devoted to such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout such portion of land or such part of a building which was lawfully arranged, designed, equipped and intended for such use at the time it became nonconforming.

B. Alterations to buildings devoted to nonconforming uses.

1. Except as otherwise provided in this article, no building or portion of a building devoted to a nonconforming use shall be enlarged, extended, structurally altered, reconstructed or moved, unless such building or portion of a building is thereafter devoted to a use which conforms with the use regulations of this ordinance. Nothing in this article shall be construed to prohibit normal repair, maintenance or incidental alteration of a building or the alteration, strengthening or restoring of a building to safe condition as may be required by law.
2. A single-family dwelling which is a nonconforming use in a O, TR, or M district may be structurally altered and may be enlarged or extended, and a building or structure accessory thereto may be altered, enlarged or constructed, provided that in no case shall the total amount of floor area, including all enclosed and unenclosed space and garage or carport space, be increased more than 800 square feet. No existing lot area, lot width or yard shall be reduced to less than required for single-family dwelling use in the RH residential district.

C. Change of nonconforming use.

1. A nonconforming use of land or a nonconforming use of a building may be changed to a use which conforms to the use regulations of the district in which it is located. The nonconforming use may also be changed to a use (other than a multifamily dwelling), which is permitted by right in a more restricted zoning district. Whenever a nonconforming use has been changed to a conforming use or to a more restricted use, such use shall not thereafter be changed back to the original nonconforming use.
2. For purposes of this article, a more restricted zoning district shall be construed to be a district in which the permitted uses and intensity of use are more limited. The term "use" shall be construed to be a type of activity as listed in the use regulations of a



zoning district, and a change in occupancy, ownership or management shall not in itself constitute a change in use.

D. Discontinuance of nonconforming uses.

1. Whenever a nonconforming use of land or a nonconforming use of a building is discontinued for a period of more than two years, whether or not equipment or fixtures intended for such uses are removed, any subsequent use shall conform with the use regulations of the district in which the property is located.
2. In case of determination by the Zoning Administrator that a nonconforming use has been changed to an illegal use, such illegal use shall cease and any subsequent use of the premises shall be in conformity with the use regulations of this ordinance, or the illegal use may be changed to the last lawful nonconforming use to occupy the premises.

E. Nonconforming lots. Any lot in a historic area or district as designated on the Town's Zoning Map, legally in existence at the time this Zoning Ordinance was adopted, which does not meet the minimum lot size, minimum lot frontage requirements, or set backs, for the district in which it is located, may be developed or redeveloped for any principal use permitted in that district with lot frontage, set backs, and other applicable lot dimensions equal to or substantially in conformance with the lot frontage, set backs, and other applicable lot dimensions of adjacent or similarly situated historic properties in the immediate area.

F. Use and alteration of buildings with nonconforming features.

1. A building which is nonconforming with respect to the bulk regulations or other feature required by this ordinance may nonetheless be converted to and occupied by a use permitted in the district in which the building is located, provided that off-street parking and other requirements applicable to the new use are satisfied.
2. A building which is devoted to a conforming use and is nonconforming with respect to the bulk regulations or other feature required by this ordinance may be enlarged, extended or structurally altered, provided that the degree or extent of any nonconforming feature is not increased.
3. An increase in the height of any portion of a building which is nonconforming with respect to a yard requirement shall be deemed to be an increase in the extent of the nonconforming yard of the building.

G. Damage to nonconforming buildings and uses.



1. *Damage by fire, natural disaster, act of God.* A building having a nonconforming feature or a building devoted to a nonconforming use which is damaged by accidental fire, explosion, act of God or the public enemy may be restored, repaired, reconstructed and used as before the damage, provided that the degree or extent of any nonconforming feature that existed prior to the damage shall not be increased, and the area devoted to any nonconforming use prior to the damage shall not be increased. Such restoration, repair, reconstruction or reuse shall be completed within two years of the date of damage. If the building is located in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of the conditions that gave rise to the declaration, then any restoration must be started and completed within four years of the date of the damaging event.
2. Before undertaking any work to restore, repair, or reconstruct the building as set forth in (a) above, the owner shall apply for a building permit and all work done shall be in compliance with the provisions of the Virginia Uniform Statewide Building Code and the provisions of the Floodplain Overlay District.

H. Intermittent, temporary or illegal use. Intermittent, temporary or illegal use of land or buildings shall not be construed to establish the existence of a nonconforming use for the purposes of this article, provided that a lawful seasonal use that was in operation for at least two consecutive seasons immediately prior to the adoption of this ordinance or subsequent amendment thereto shall be considered a nonconforming use for seasonal purposes only and shall be subject to the provisions of this article.

ARTICLE 5. ADMINISTRATION AND ENFORCEMENT

Sec. 501. Zoning Permits. No use of any real property within the corporate limits of the Town of Buchanan shall take place nor shall any construction or excavation or grading therefore commence prior to the issuance of a zoning permit therefor by the Zoning Administrator. The zoning permit shall state that the proposed construction, use, or other activity is in accord with all provisions of this Zoning Ordinance. The Zoning Administrator may promulgate rules determining what information shall accompany each application for a permit hereunder.

Sec. 501-1. Zoning permit required. No building or other structure shall be constructed, reconstructed, erected, enlarged, structurally altered, moved, or converted to accommodate a different use, nor shall any sign be erected or installed, until a zoning permit for such building, structure or sign has been issued by the Zoning Administrator. A zoning permit shall not be required for any fence, wall, deck or patio for which a building permit is not required under the provisions of the uniform statewide building code.

Sec. 501-2. Application for zoning permit.



- A. Every application for a zoning permit shall be submitted to the Zoning Administrator by the owner of the property involved or by an agent of the owner or tenant of the property, with the written consent of the owner.
- B. Applications shall be submitted on forms provided by the Zoning Administrator for such purpose and shall include all plans, documents and information necessary to determine compliance or noncompliance with this ordinance.
- C. Every application for a zoning permit shall include the following, together with any additional information required by the Zoning Administrator:
 1. Statement by the public works director that necessary sewer and water facilities are or will be available to serve the site in accordance with town policies and regulations.
 2. Statement of the intended use of buildings and structures, and the number of dwelling units, if applicable.

Sec. 501-3. Plans to be submitted with zoning permit application.

- A. Every application for a zoning permit which does not require site plan review shall be accompanied by three copies of a plot plan legibly drawn and showing the following:
 1. Area, shape and dimensions of the property involved and existing and proposed easements, watercourses, drainageways and floodplains.
 2. Dimensions and heights of proposed buildings, structures or additions and existing buildings and structures to remain, and the dimensions of yards and setbacks with respect to property lines and existing and proposed street lines.
 3. Existing and proposed driveways providing access to the site and the arrangement, dimensions and improvement of off-street parking and vehicular circulation areas.
 4. Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.
 5. Any additional information deemed necessary by the Zoning Administrator to determine compliance with specific requirements of this ordinance or other applicable provision of the Town Code.
- B. Every application for a zoning permit which requires site plan review shall be accompanied by such plans as required by that division. No such zoning permit shall be issued until the required site plan is reviewed and approved by the Zoning Administrator as provided in that division.



Sec. 501-4. Waiver of certain plan requirements. With prior approval by the Zoning Administrator, particular information may be omitted from required plans when, due to the nature or limited scope of a project, such information is not necessary for evaluation of the zoning permit application or for purposes of maintaining a record of zoning permit approval.

Sec. 501-5. Zoning permits for signs.

- A. In the case of zoning permit applications for signs, only the plan requirements of Section 501-3.A.4 shall apply, provided that the location of any freestanding sign shall be shown on a site drawing. Where necessary to depict existing and proposed signs, building elevation drawings shall be submitted.
- B. In any case where a sign is approved in conjunction with a zoning permit for construction, alteration or conversion of a building and no change to the sign is proposed, a separate zoning permit for such sign shall not be required.

Sec. 501-6. Issuance of zoning permit. The Zoning Administrator shall issue a zoning permit only if he or she is satisfied that the proposed construction and use are in conformity with applicable provisions of this ordinance.

Sec. 501-7. Expiration of zoning permit. A zoning permit shall be valid for a period of one year from the date of issuance by the Zoning Administrator and shall become null and void if, within such period, no building permit pursuant thereto has been issued. In a case where no building permit is required, a zoning permit shall become null and void if, within one year from the date of its issuance, the feature authorized by the zoning permit has not been established. In any case where a zoning permit has expired, application may be made for a new zoning permit in accordance with the provisions of this article.

Sec. 501-8. Certificate of zoning compliance required.

- A. A certificate of zoning compliance issued by the Zoning Administrator shall be required prior to any of the following:
 - 1. Use or occupancy of a building after completion of any construction, reconstruction, erection, enlargement, structural alteration, moving, or conversion for which a zoning permit is required by this article;
 - 2. Change in use or occupancy of an existing building, including a change in tenant of a building or premises, provided that change in occupancy or tenant of an existing dwelling use shall not be subject to this requirement; and



3. Use of land or any change in use or occupancy of land, except for agricultural or forestry uses permitted by this ordinance.
- B. The certificate of zoning compliance shall certify that the building or premises and the proposed use and occupancy thereof comply with the applicable provisions of this ordinance. Where a certificate of zoning compliance required by this section involves a nonconforming use or the use or occupancy of a nonconforming building, such certificate shall state the nature and extent of the nonconformity.

Sec. 501-9. Procedure for issuance of certificate of zoning compliance.

- A. Application for a certificate of zoning compliance shall be made by the owner of the property involved or by an agent of the owner or tenant of the property, with the written consent of the owner.
- B. The Zoning Administrator shall issue the certificate of zoning compliance if the Zoning Administrator is satisfied that the building or premises and the proposed use and occupancy thereof comply with the applicable provisions of this ordinance. Otherwise, the certificate of zoning compliance shall not be issued, and the building, premises or use shall be deemed to be in violation of this ordinance.

Sec. 501-10. Temporary certificate of zoning compliance.

- A. To the extent that such action does not conflict with any provisions of the uniform statewide building code, the Zoning Administrator may issue a temporary certificate of zoning compliance for a specified period not to exceed six months and under such conditions and safeguards as deemed necessary by the Zoning Administrator to protect the health, safety and welfare of occupants of the building or premises and the general public. Such temporary certificate shall be issued only for purposes of enabling limited or partial use or occupancy of a building or premises pending completion of construction or site improvements.
- B. The Zoning Administrator may require a bond with surety or other performance guarantee approved by the town attorney, payable to the town and in an amount adequate to ensure satisfactory completion of required improvements.
- C. The Zoning Administrator may grant one extension of a temporary certificate of zoning compliance for a period not to exceed six months.

Sec. 501-11. Building permit; relation to zoning permit. No building permit or permit to erect a sign shall be issued by the building official until a zoning permit as required by this article has been issued by the Zoning Administrator and the building official has been provided with a copy thereof.



Sec. 501-12. Certificate of use and occupancy and certificate of zoning compliance. No certificate of use and occupancy shall be issued by the building official until a certificate of zoning compliance as required by this article has been issued by the Zoning Administrator and the building official has been provided with a copy thereof.

Sec. 501-13. Land disturbing permit; relation to zoning. No land disturbing permit required by the provisions of the erosion and sediment control ordinance applicable within the town shall be issued until the Zoning Administrator has reviewed the application for such permit and certified that the proposed land disturbing activity and the intended use of the property will not result in any violation of the provisions of this ordinance.

Sec. 502. Site Plan Review.

Sec. 502-1. Purpose of site plan review. The purpose of site plan review is to provide sufficient plans and information for review and approval by the Zoning Administrator to ensure compliance with the regulations contained in this ordinance and ensure that the purpose and intent of the ordinance are met.

Sec. 502-2. Applicability of site plan review. Site plan review shall be required prior to issuance of any zoning permit, building permit or land disturbing permit for any of the following:

- A. Construction of a new building, other than a single-family dwelling or building accessory thereto.
- B. Enlargement of an existing building, other than a single-family dwelling or building accessory thereto, when such enlargement exceeds ten percent of the floor area of the building or 500 square feet, whichever is less.
- C. Construction of a parking area for five or more vehicles, or any addition to or alteration of the arrangement or means of access to an existing parking area for five or more vehicles.

Sec. 502-3. General requirements for site plans. Site plans shall be prepared by a professional engineer, certified land surveyor, licensed architect or certified landscape architect in accordance with criteria established by the Zoning Administrator regarding scale and format.

Sec. 502-4. Required information on site plans. Six copies of site plans drawn to scale and containing the following information shall be submitted:

- A. Location of the property by an insert vicinity map at appropriate scale.
- B. Identification of the property by street address, tax parcel number and subdivision name, block and lot number.



- C. North arrow, scale of plans, preparation date, revision date(s) and names, addresses and telephone numbers of preparer, owner and developer.
- D. Existing zoning classification of and zoning district boundaries located on the property and adjoining properties.
- E. Boundary survey of the property showing property lines, distances and bearings and existing and proposed easements and street right-of-way lines.
- F. Width of existing streets, location and size of existing sanitary and storm sewers, culverts, curbs and gutters, water lines, gas lines and other utilities.
- G. Floodplain and floodway boundaries, including base flood elevation, and watercourses and other prominent physical features of the property and of adjoining property.
- H. Existing wooded areas on the property, and significant trees and other vegetated areas to be retained.
- I. Existing topography of the property prior to grading and proposed finished grades with contour intervals of not greater than two feet and spot elevations where needed.
- J. Existing and proposed uses of land, buildings and structures, and the number and types of dwelling units on the property, where applicable, and the present uses of adjoining properties.
- K. Locations, dimensions, height, number of floors and floor areas of proposed buildings and structures, existing buildings and structures to remain and additions or alterations to existing buildings and structures, including dimensions of yards and setbacks.
- L. Entrances, driveways, parking and loading spaces, access aisles, fire lanes and other areas for vehicular circulation and related pedestrian walkways, including the arrangement, dimensions and surface improvements of such areas and a schedule showing numbers of parking spaces provided.
- M. Utilities plans, including proposed water and sanitary sewer pipe locations, sizes, types, grades, related capacity and strength calculations and connections to town or other systems, and proposed gas lines, other utility lines and all utility easements.
- N. Stormwater management plan and related calculations, and detailed plans showing locations, sizes, types and grades of ditches, catch basins, pipes and other drainage structures, including connections to existing drainage systems or suitable outlets.



- O. Provisions for the adequate control of erosion and sedimentation in accordance with applicable erosion and sedimentation control standards and practices, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- P. Locations, dimensions and functions of proposed recreation areas, open spaces and similar amenities and improvements, including pedestrian walkways.
- Q. Buffers, screening, fencing, major landscaping and similar features required by this or other town ordinance, including location and improvement of trash receptacle areas.
- R. Location, type, height and intensity of outdoor lighting, if provided.
- S. Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.
- T. Any additional information deemed necessary by the Zoning Administrator to determine compliance with specific requirements of this ordinance, other town ordinances, requirements of the Virginia Department of Transportation or other applicable requirements.

Sec. 502-5. Waiver of certain site plan requirements. Required plans described herein are intended in cases where extensive plans and information are necessary to determine compliance with the provisions of this ordinance. With prior approval by the Zoning Administrator, particular information may be omitted from required plans when, due to the nature or limited scope of a project, the Zoning Administrator determines such information is not necessary for evaluation of the site plan or for maintaining a record of site plan review.

Sec. 502-6. Procedure for site plan review and approval.

- A. Every site plan shall be submitted to the Zoning Administrator, who shall review such plan for compliance with the applicable provisions of this ordinance and other applicable requirements. The Zoning Administrator shall circulate the site plan to the Town Engineer and other relevant town and state agencies and officials for review and comment prior to taking action.
- B. The Zoning Administrator shall approve, approve with modifications or conditions, or disapprove the site plan within 45 days of receipt of all required plans and information. The Zoning Administrator shall notify the applicant in writing of the action taken. In the case of approval with modifications or conditions or disapproval of the site plan, such notification shall describe the modifications or conditions of approval or reasons for disapproval, including changes which would make the site plan acceptable.



- C. All site plans approved by the Zoning Administrator shall comply with the district regulations, supplementary regulations and other applicable requirements of this ordinance. The Zoning Administrator shall have no authority to waive such regulations or requirements unless specific authority to do so is set forth in this ordinance.

Sec. 502-7. Modifications to approved site plan.

- A. Minor modifications to an approved site plan may be authorized in writing by the Zoning Administrator when such modifications comply with the requirements of this ordinance and do not materially affect approvals granted or permits issued pursuant to the approved site plan. Any deviation from an approved site plan without the written approval of the Zoning Administrator shall void the site plan and require submission of a new site plan for consideration in accordance with the provisions of this article.
- B. Major revisions to an approved site plan which, in the judgment of the Zoning Administrator, significantly alter the proposed development or materially affect approvals granted or permits issued pursuant to the approved site plan shall require that a new site plan be prepared and submitted for consideration.

Sec. 502-8. Guarantees. The Zoning Administrator shall have the authority to require execution of an agreement by the applicant to construct required or proposed improvements located within public rights-of-way or easements or connected to any public facility. The Zoning Administrator may require a performance guarantee or surety in form acceptable to the Town Attorney in the amount of the estimated cost of such improvements as determined by the applicant and verified by the Town Engineer.

Sec. 502-9. Compliance with approved site plan.

- A. Periodic inspections shall be made during the installation of required on-site and off-site improvements by the Zoning Administrator and public works director or their designated representatives in order to determine compliance with approved site plans.
- B. The owner or developer shall be responsible for providing adequate supervision at the site during installation of required improvements. A copy of the approved site plan and construction plans shall be maintained at the site at all times work is being performed.

Sec. 502-10. Expiration of approved site plan. An approved site plan shall be valid for a period of one year from the date of approval by the Zoning Administrator and shall become null and void if, within such period, work has not proceeded and no building permit pursuant thereto has been issued. In any case where an approved site plan has expired, the site plan may be resubmitted for review and approval in accordance with the provisions of this Article.

Sec. 502-11. Appeals. Any person aggrieved by any decision of the Zoning Administrator



regarding a site plan may appeal such decision to the Board of Zoning Appeals in accordance with the provisions of Article V, section 504 of this ordinance.

Sec 503. Conditional/Special Uses.

Sec. 503-1. Intent of conditional/special use provisions. Conditional/special use provisions are intended as a means for the Town Council, after review and recommendation by the Planning Commission, to authorize certain uses which, although generally appropriate in the district in which they are permitted, have potentially greater impacts on neighboring properties than uses which are permitted by right. The special use permit procedure provides the opportunity for the Town Council to review each proposed conditional/special use and impose such conditions as reasonably necessary to ensure the use will be compatible with the surrounding area and consistent with the purposes of this ordinance.

Sec. 503-2. Special use permit required.

- A. When required. A use indicated as permitted as a conditional/special use in this ordinance shall be authorized only upon approval of a special use permit by the Town Council in accordance with the provisions of Article V, section 503.
- B. Relation to other permits. Zoning permits, certificates of zoning compliance, site plans and other reviews and approvals required by this ordinance are required for conditional/special uses in the same manner as for other uses. No zoning permit or certificate of zoning compliance for a conditional/special use or for a building devoted to a conditional/special use shall be issued unless a special use permit has been approved.
- C. Existing uses. A use lawfully existing at the effective date of this division which is specified as a conditional/special use in the district in which it is located and for which no special use permit has been approved shall not be considered a nonconforming use because of its classification as a conditional/special use. No zoning permit or certificate of zoning compliance involving expansion of such use or reconstruction, enlargement or moving a building devoted to such use shall be issued unless a special use permit is approved in accordance with this article.

Sec. 503-3. Application for special use permit.

- A. Submission of applications. Applications for special use permits shall be submitted to the Zoning Administrator and may be filed by the owner of the property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.
- B. Applicant's report. Every application for a special use permit shall be accompanied by three copies of a report from the applicant describing the proposed conditional/special use



and explaining the manner in which it complies with the requirements and standards of this division.

C. Content of plans. Every application for a special use permit shall be accompanied by three copies of plans drawn to scale and showing the following:

1. Area, shape and dimensions of the property involved and existing and proposed street lines, easements, watercourses, drainage ways and floodplains.
2. Existing and proposed uses of land, buildings and structures, and the number and types of dwelling units on the property, where applicable.
3. Dimensions and heights of proposed buildings, structures or additions and existing buildings and structures to remain, and the dimensions of yards and setbacks with respect to property lines and existing and proposed street lines.
4. Elevation drawings of proposed buildings and structures and additions or modifications to the exterior of existing buildings and structures.
5. Existing and proposed driveways providing access to the site and the arrangement, dimensions and improvement of off-street parking and vehicular circulation areas.
6. Buffers, screening, fencing, major landscaping, pedestrian walkways and similar features, existing wooded areas, significant trees and other vegetated areas to be retained, location and improvement of trash receptacle areas and location, type, height and intensity of outdoor lighting, if provided.
7. Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.

D. Waiver of plan elements or additional plans. The Zoning Administrator may waive plan elements that are unnecessary to determine compliance with this ordinance and may require such additional information as necessary to determine compliance with this ordinance and to assist the Planning Commission and Town Council in evaluating potential impacts of a proposed conditional/special use.

Sec. 503-4. Procedure for issuance of special use permits.

A. Review by Zoning Administrator. The Zoning Administrator shall review each application for [a] special use permit and forward the application to the Planning Commission. At such time as requested by the Commission, the Zoning Administrator shall submit to it a report indicating the manner in which the proposed conditional/special use complies or does not comply with the provisions of this ordinance and any



recommendations the Zoning Administrator may have regarding approval, disapproval or conditions to be attached.

- B. Action by Planning Commission. The Planning Commission shall review each special use permit application for compliance with the provisions of this ordinance and shall provide a recommendation to the Town Council in accordance with the following.
1. The Commission shall give notice and hold a public hearing as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the Town Council.
 2. After holding a public hearing, the Commission may recommend approval or disapproval of the special use permit or that conditions be imposed to ensure compliance with requirements of this ordinance. In making its recommendation, the Commission shall consider at least the factors indicated in section 503-5 of this ordinance.
 3. Action by the Commission shall be in the form of a motion, giving the reasons for its action and the vote of each member, and shall be recorded in the Commission's records. Each recommendation to the Council shall include a statement of the relationship of the proposed use to the comprehensive plan.
 4. In any case where the Commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the Council stating such fact and summarizing its discussions on the matter.
 5. Failure of the Commission to provide a recommendation or report to Council within 90 days of receiving the special use permit application shall be considered a recommendation of approval.
 6. Action by Town Council. The Town Council shall take action on each special use permit application in accordance with the following:
 - a. After receiving the recommendation of the Planning Commission, the Town Council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold a public hearing. A joint public hearing may be held with the Planning Commission.
 - b. The Town Council may approve or disapprove the special use permit application and may impose conditions that it deems reasonable and necessary to ensure the conditional/special use will comply with the requirements of this ordinance. Action of the Town Council shall be by resolution, which shall include the reasons for its action. Conditions imposed in connection with residential special use permits where affordable housing, as defined in Code of Virginia, § 15.2-



2201, is proposed by the applicant shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the Town Council shall consider the impact of the conditions upon the affordability of housing.

7. The Town Council shall take action on the special use permit application within one year of the date of submission of the application. Failure of the Council to act within such time shall be considered denial of the application.
8. The Town Council may require a guarantee or bond to ensure that conditions imposed will be satisfied, and may specify a date for expiration of a special use permit as a condition of approval.

Sec. 503-5. General requirements for approval of special use permits. A special use permit shall be approved by the Town Council only if it finds that the proposed conditional/special use and related plans:

- A. Will not be contrary to the purposes of this ordinance;
- B. Will not be in conflict with the objectives of the comprehensive plan for the Town;
- C. Conform with all applicable provisions of this article and all other applicable requirements of the district in which such use is located; and
- D. Include satisfactory provision for or arrangement of the following, if applicable;
 - E. Sewer, water and other public utilities;
 - F. Ingress and egress, including access for fire and other emergency vehicles;
 - G. Off-street parking and vehicular circulation, including safety of motorists and pedestrians;
 - H. Yards, open spaces and other elements of the site plan;
 - I. Retention of natural vegetation and topographic features; and
 - J. Landscaping, buffers, screening, fences and other features to protect adjacent properties from potential adverse effects of the conditional/special use.

Sec. 503-6. Modifications or amendments to approved special use permits.



- A. Minor modifications. Minor modifications to approved plans or building details of an approved special use permit may be authorized by the Zoning Administrator when such modifications do not: Significantly alter the boundaries of the property; conflict with specific requirements of this ordinance or conditions of the approved special use permit; significantly decrease the width or depth of any yard, setback or buffer area; or significantly alter points of access to the property or the internal arrangement of site plan elements.
- B. Change of substance; amendment. Any change to an approved special use permit other than a minor modification shall require an amendment subject to the same procedures and requirements as a new application.

Sec. 503-7. Expiration of special use permits. An approved special use permit shall become null and void if no application for a building permit to construct the authorized improvements has been submitted within one year of the date of approval by the Town Council. A special use permit for which no building permit is required shall become null and void if the use is not established within one year of the date of approval by the Town Council. The Town Council may specify a longer period in its approval of a special use permit.

Sec. 503-8. Discontinuance of special use permits. A special use permit shall run with the land, provided that any use established pursuant to an approved special use permit shall not be reestablished if replaced by a different use or if discontinued for a period of two years or longer.

Sec. 503-9. Compliance with approved plans.

- A. Violation of Zoning Ordinance. Failure to comply with approved plans or conditions of a special use permit shall constitute a violation of this ordinance.
- B. Revocation. Upon determination by the Zoning Administrator of any violation of a special use permit, such permit may be subject to revocation if the violation is not corrected within ninety (90) days of written notice to the owner of the property by the Zoning Administrator. If the violation is not corrected within the specified time, and the Zoning Administrator is not satisfied that appropriate means are being taken to correct the violation, the Town Council shall have the authority to revoke the special use permit after notice and hearing as provided by Code of Virginia, § 15.2-2204.

Sec. 503-10. Reconsideration. Whenever a special use permit application is denied, substantially the same application shall not be considered again by the Town Council within one year from the date of denial.

Sec. 503-11. Appeals. Appeals from any decision of the Town Council regarding a special use permit may be taken to the circuit court by any aggrieved party in accordance with the provisions of Code of Virginia, § 15.2-2286.



Sec. 504. Board of Zoning Appeals. There shall be a Board of Zoning Appeals (BZA) whose membership shall be established as provided for in § 15.2-2308 of the Code of Virginia (1950) as amended. The BZA shall have only those responsibilities, duties, powers, and authorizations specifically set forth in the Code of Virginia and shall act on all matters within its jurisdiction in the manner prescribed in said Code and subject always to the rule that it shall give due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land and conserving property values, that it shall permit no building or use injurious, noxious, offensive, detrimental to an area and that it shall prescribe appropriate conditions and safeguards in each case.

Sec. 504-1. Membership and Organization

A. Members.

1. *Appointments.* Pursuant to Code of Virginia, § 15.2-2308, there shall be a Board of Zoning Appeals which shall consist of five members who shall be residents of the Town and shall be appointed for five-year terms by the circuit court of Roanoke County. Members may be reappointed to succeed themselves.
2. *Vacancies.* The secretary of the BZA shall notify the court at least thirty (30) days in advance of the expiration of any term and shall also notify the court promptly if any vacancy occurs. The filling of vacancies and procedures for removal of members of the board shall be as set forth in Code of Virginia, § 15.2-2308.

B. Officers and support.

1. *Chairman and vice-chairman.* The BZA shall elect from among its members a chairman and a vice-chairman who shall serve in the absence of the chairman. The chairman and vice-chairman shall serve annual terms and may succeed themselves.
2. *Secretary.* The BZA shall elect a secretary who may be the Zoning Administrator or other qualified person and may be a member of the Board. The secretary shall be responsible for preparing notices of hearings and minutes of meetings, keeping records, conducting official correspondence and such other duties as assigned by the BZA. The secretary shall not be entitled to vote on matters before the Board.
3. *Support services.* With the approval of the Town Council and within limits of funds that may be appropriated for such purposes, the BZA may employ or contract for such clerical, technical or legal services necessary for it to carry out its responsibilities.

C. Rules, forms and records.



1. *Rules.* The BZA shall adopt such rules as it deems necessary for the conduct of its business consistent with the provisions of this article and the Code of Virginia. Copies of such rules shall be available to the public.
2. *Forms.* The BZA shall see that standard forms are available for the filing of applications and appeals. Forms shall be provided to applicants by the Zoning Administrator.
3. *Records.* The BZA shall keep records of all its official actions, including minutes of its proceedings with the vote of each member on each question and the reasons of the Board for each action taken. Minutes and records shall be public and shall be filed in the office of the Board.
4. *Annual report.* The Board shall submit an annual report of its activities to the Town Council with a copy to the Planning Commission.

D. Meetings and public hearings.

1. *Regular meetings.* The BZA shall, in accordance with its rules, schedule regular monthly meetings which shall be open to the public. The BZA may cancel any regular meeting if, by the filing deadline for applications and appeals to be heard at such meeting, there is no business to be brought before the Board. The BZA may hold such other meetings as may be called by its chairman or by a quorum of its members.
2. *Public hearings.* The BZA shall make no decision on any application or appeal until it has conducted a public hearing in accordance with this article, after giving public notice as required by the provisions of Code of Virginia, § 15.2-2204. Such notice provisions shall be incorporated in or attached to the BZA's rules.
3. *Quorum.* A quorum of not less than three members of the BZA shall be required for the conduct of any hearing and the taking of any action.
- 4.

Sec. 504-2. Powers and Duties

- A. Authority. Pursuant to the provisions of Code of Virginia, § 15.2-2309, the Board of Zoning Appeals shall have such powers and duties as set forth in this division.

Sec. 504-3. Appeals. The BZA shall have the power to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator or any other administrative officer in the administration or enforcement of this ordinance.



Sec. 504-4. Variance.

- A. Criteria for authorization of variance. The BZA shall have the power to authorize upon application in specific cases, such variance as defined in Code of Virginia, § 15.2-2201, from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, provided that the spirit of this ordinance shall be observed and substantial justice done. All variances shall be in harmony with the intended spirit and purpose of this ordinance. The BZA shall grant a variance only when:
1. A property owner can show that his or her property was acquired in good faith; and
 2. Where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance or subsequent amendment thereto, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property; or
 3. Where the BZA is satisfied, based upon the evidence presented, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- B. Required findings by the Board. No variance shall be authorized by the BZA unless it finds that:
1. The strict application of this ordinance would produce undue hardship;
 2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity as the subject property;
 3. The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance; and
 4. The condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Town Council as an amendment to this ordinance.
- C. Prohibition of use variance. No variance granted by the Board shall include a change in use.



- D. Conditions. In authorizing a variance, the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.

Sec. 504-5. Interpretation of the Zoning Map. The BZA shall have the power to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the BZA may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first class mail rather than by registered or certified mail. The BZA shall not have the power to change substantially the locations of district boundaries as established by ordinance.

Sec. 504-6. Special exception.

- A. General authority. The BZA shall have the power to hear and decide applications for such special exceptions as may be specifically authorized elsewhere in this ordinance to be considered by it. In granting any such special exception, the BZA may impose such conditions relating to the use provided for as it may deem necessary in the public interest, including limiting the duration of the special exception, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.
- B. Revocation of special exception. The BZA shall have the authority to revoke a special exception if the BZA determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first class mail rather than by registered or certified mail.

Sec. 504-7. Prohibition on rezoning of property. No provision of this article shall be construed as granting the BZA the power to rezone property, which power shall be vested in the Town Council.

Sec. 504-8. Procedures

- A. Appeal procedure.



1. *Who may file appeal.* An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this ordinance. Any written notice of a zoning violation or a written order of the Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and not appealable if no appeal is filed within thirty (30) days. The appeal period shall not commence until the statement is given.
2. *Filing of appeal.* An appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator and with the BZA, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the BZA all papers and other materials constituting the record upon which the action appealed from was taken. A copy of the notice of appeal shall also be transmitted to any other individual, officer, department or agency involved in the appeal.
3. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the BZA or by a court of record, on application and with notice to the Zoning Administrator, and for good cause shown.

B. Application for variance, interpretation of Zoning Map, and special exception.

1. *Who may file application.* An application for a variance, interpretation of the Zoning Map, or special exception pursuant to sections 504-4, 504-5, or 504-6 of this ordinance may be made by any property owner, tenant, government official, department, board or bureau, on forms provided for such purpose by the BZA and available from the Zoning Administrator.
2. *Application procedure.* Applications shall be submitted to the Zoning Administrator in accordance with rules adopted by the BZA. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the BZA who shall place the matter on the docket to be acted upon by the BZA, or if the Zoning Administrator serves as secretary of the BZA, he or she shall place the matter on the docket to be acted upon by the BZA. The Zoning Administrator shall transmit copies of all applications to the Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.



3. *Reconsideration of application.* Substantially the same application for a variance, interpretation of the Zoning Map or special exception which has been decided by the BZA shall not be considered again by the Board within one year of the date of its decision, except that the BZA may, pursuant to its rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.

Sec. 504-9. Public hearings and decisions.

- A. Notice and hearing. No decision on any application or appeal shall be made by the BZA until it has conducted a public hearing after giving public notice, including newspaper advertisements and written notices to affected parties, as required by the provisions of Code of Virginia, § 15.2-2204. The BZA shall fix a reasonable time for the hearing of an application or appeal, give the required public notice thereof, as well as due notice to the parties in interest, and decide the same within ninety (90) days of the filing of the application or appeal.
- B. Action by the BZA. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of not less than three members of the BZA shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant in any matter upon which it is required to pass under this ordinance, or to effect any variance from the provisions of this ordinance.
- C. Oaths and witnesses. The chairman of the BZA or, in his or her absence, the acting chairman may administer oaths and compel the attendance of witnesses.

Sec. 504-10. Expiration of variance or special exception. A variance or special exception granted by the BZA shall lapse and be of no effect if, after the expiration of one year from the date of such action by the BZA, no construction or change in use pursuant to such variance or special exception has taken place, provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant a variance or special exception.

Sec. 504-11. Amendment of variance or special exception. The procedure for amendment of a variance or special exception granted by the BZA, including any changes in the conditions attached thereto, shall be the same as for a new application.

Sec. 504-12. Enforcement of decisions. Decisions of the BZA shall be administered and enforced by the Zoning Administrator. Noncompliance with any action taken by the BZA, including conditions imposed by the BZA, shall constitute a violation of the provisions of this ordinance.



Sec. 504-13. Appeals from decisions of the BZA. Appeals from decisions of the BZA shall be presented to the Circuit Court of Roanoke County in accordance with the procedures set forth in Code of Virginia, § 15.2-2314, as amended. Any person or persons jointly or severally aggrieved by any decision of the BZA, or any taxpayer or any officer, department, BZA or bureau of the town may present to the circuit court a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the BZA.

Sec. 505. Violations and Penalties

Sec. 505-1. Notice of violation and order of remedy.

- A. Notice and order. Upon finding that any provision of this ordinance is being violated, the Zoning Administrator shall notify in writing the person or persons responsible for such violation and order the remedy of conditions found to be in violation, including the discontinuance of illegal uses of land and buildings, the removal or bringing into compliance of illegal buildings, structures, additions and alterations, and the discontinuance of illegal work being done. Such notice shall specify the provision of this ordinance that is being violated, the remedy necessary to correct the violation and a reasonable time period within which the violation shall be corrected.
- B. Right to appeal. Any written notice of a zoning violation or written order of the Zoning Administrator shall include a statement informing the recipient that he or she may have a right to appeal such notice or order to the BZA within thirty (30) days, and that the decision of the Zoning Administrator shall be final and not appealable if no appeal is filed within thirty (30) days. The appeal period shall not commence until such statement is given.

Sec. 505-2. Legal action to correct violation. Should notice of violation and order of remedy fail to result in correction of a violation, the Zoning Administrator shall have the authority to bring legal action to ensure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding authorized under the laws of the commonwealth.

Sec. 505-3. Coordination of Town Attorney and Zoning Administrator. The Zoning Administrator shall provide to the Town Attorney a copy of every written notice and order involving a violation of this ordinance. The Town Attorney shall advise and assist the Zoning Administrator in his or her efforts to obtain abatement of such violation.

Sec. 505-4. Penalties. Any violation of the provisions of this ordinance shall be a misdemeanor punishable upon conviction by a fine of not less than \$10.00 nor more than \$1,000.00. Each day a violation exists shall constitute a separate offense.

ARTICLE VI. AMENDMENTS



Sec. 601. General Provisions.

Sec. 601-1. Authority to amend. Whenever the public necessity, convenience, general welfare, or good zoning practice require, and subject to the requirements set forth in Code of Virginia, §§ 15.2-2285 and 15.2-2286, the Town Council may by ordinance amend, supplement, change or repeal the regulations, district boundaries, or classifications of property established by this ordinance. All such ordinances shall be enacted in the same manner as all other ordinances.

Sec. 601-2. Initiation of amendments. Amendments to the provisions of this ordinance may be initiated by any of the following methods:

- A. Resolution of the Town Council. The Town Council may, by its own resolution, initiate an ordinance to amend any of the provisions of this ordinance, including the Zoning Map. Every such resolution shall state the public purpose for the amendment.
- B. Motion of the Planning Commission. The Planning Commission may, by adoption of a motion, initiate an amendment to any of the provisions of this ordinance, including the Zoning Map. Every such motion shall state the public purpose for the amendment. The motion shall be forwarded to the Town Council, which shall cause an ordinance to be prepared for its consideration.
- C. Petition of a property owner. A petition to change the zoning classification of property by amendment to the Zoning Map may be filed by the owner of such property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.

Sec. 601-3. Rezoning application.

- A. A petition on behalf of a property owner to change the zoning classification of property shall be in the form of an application for rezoning addressed to the Town Council and filed with the Zoning Administrator. The application shall be accompanied by the required fee and a certified plat of the property proposed to be rezoned. The application shall include indication of the current and proposed zoning classification of the property and a statement of the applicant's reasons for requesting rezoning.
- B. The Zoning Administrator shall review the application for compliance with the requirements of this section. When the Zoning Administrator is satisfied that submission requirements are met, the application shall be forwarded to the Town Council, with a copy to the Planning Commission. The Town Council shall cause an ordinance to be prepared for its consideration of the rezoning application.

Sec. 601-4. Action by the Planning Commission. No amendment to this ordinance shall be



acted upon by the Town Council unless it has been referred by the Council to the Planning Commission for its review and recommendation in accordance with this section.

- A. Public notice and hearing. Before taking action on any amendment, the Planning Commission shall give public notice and hold at least one public hearing on the proposed amendment as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the Town Council.
Report of Zoning Administrator. The Zoning Administrator shall submit a written report and recommendation to the Planning Commission prior to its action.
- B. Recommendation of Planning Commission. The Planning Commission may recommend that the Town Council adopt or reject the amendment or may recommend changes in the amendment. In making its recommendation, the Commission shall consider the matters listed in Article I, section 102 of this ordinance. Failure of the Commission to consider the amendment and report to the Council within ninety (90) days after the first regular meeting of the Commission after the amendment was referred to it by the Council shall be considered a recommendation of approval.
- C. Form of action by Planning Commission. All actions by the Planning Commission shall be in the form of a motion, giving the reasons for the action and the vote of each member. All actions shall be recorded in the Commission's records. Each recommendation to the Town Council shall include a statement of the relationship of the proposed rezoning to the comprehensive plan of the town. In any case where the Commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the Town Council stating such fact and summarizing its deliberations on the matter.

Sec. 601-5. Action by Town Council. Final action shall be taken by Town Council on all proposed amendments in accordance with the following provisions:

- A. Public notice and hearing. Before taking action on any ordinance to amend the provisions of this ordinance, the Town Council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold at least one public hearing on the proposed amendment. A joint public hearing may be held with the Planning Commission. In the case of a proposed amendment to the Zoning Map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan for the property involved.
- B. Final action. After receiving a report from the Planning Commission and after giving public notice and holding a public hearing, the Town Council may adopt or reject the proposed amendment, or may make appropriate changes to the amendment, provided that no land may be zoned to a more intensive use classification nor shall a greater area of land be rezoned than was described in the public notice without referral to the Planning



Commission and an additional public hearing after public notice as required by Code of Virginia, § 15.2-2204.

- C. Continuance or withdrawal. Final action on any proposed amendment may be continued by the Town Council for good cause, provided that all resolutions, motions or petitions for amendments shall be acted upon by the Council within one year of the date of the resolution, motion or petition. This provision shall not apply if the petitioner requests or consents in writing to action beyond such period or if a petition is withdrawn by providing written notice to the Council.

Sec. 601-6. Reconsideration of rezoning application. Whenever a rezoning application is denied, substantially the same application shall not be reconsidered by the Town Council for one year from the date of denial, except:

- A. When a new application, although involving all or a portion of the same property, is for a different zoning classification than the original application; or
- B. When a new application is submitted after a finding by the Town Council that conditions or circumstances that provided the basis for denial of the original application have changed to an extent sufficient to justify reconsideration.

Sec. 602. Conditional Zoning.

Sec. 602-1. Purpose. Pursuant to applicable provisions of Code of Virginia, § 15.2-2296, the purpose of conditional zoning is to recognize that frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate, and that in such cases more flexible and adaptable zoning methods are needed to permit differing land uses, and at the same time to recognize the effects of change. It is, therefore, the intent of this division to provide a more flexible and adaptable zoning method to cope with such situations, whereby a change in the zoning classification of property may be allowed subject to certain conditions proffered by the petitioner for the protection of the community that are not generally applicable to land similarly zoned. It is the intent of the Town Council that the provisions of this division shall not be used for the purpose of discrimination in housing.

Sec. 602-2. Procedure.

- A. Conditions may be proffered. In conjunction with an application for rezoning of property and as a part of a proposed amendment to the Zoning Map as described in division 1 of this article, the owner of such property may voluntarily proffer in writing reasonable conditions in addition to the regulations specified for the zoning district by this ordinance, provided such conditions meet the criteria in this division.



- B. Submission of conditions. The owner may submit such conditions at the time of submission of the application for rezoning or at any other time before the Planning Commission makes its recommendation on the application to the Town Council. The Planning Commission and the Town Council shall not be obligated to accept any or all proffered conditions.

- C. Modifications to conditions. In the event additions, deletions or other modifications to conditions are desired by the owner of the property that is the subject of the rezoning request, they shall be made in writing to the Planning Commission before the Commission makes its recommendation to the Town Council. The Town Council may consider additional conditions, deletions or modifications to conditions after the Planning Commission makes its recommendation, provided that such are voluntarily proffered in writing prior to the public hearing at which the Town Council is to consider the application for rezoning. In any case where modifications to conditions are proposed after the Planning Commission makes its recommendation, the Town Council may refer the rezoning application back to the Commission for further review and action.

Sec. 602-3. Permitted conditions. All conditions proffered shall meet the following criteria:

- A. The rezoning itself must give rise to the need for the condition.
- B. The conditions shall have a reasonable relation to the rezoning.
- C. The conditions shall be in conformity with the town's comprehensive plan.
- D. The conditions shall not be less restrictive than the provisions of this ordinance, and shall not require or permit a standard that is less than required by any law.
- E. The conditions shall be drafted in such manner as to be clearly understandable and enforceable.

Sec. 602-4. Enforcement and guarantees.

- A. Authority of Zoning Administrator. The Zoning administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning or amendment to the Zoning Map, including:
 - 1. The ordering in writing of the remedy of any noncompliance with conditions;
 - 2. The bringing of legal action to ensure compliance with conditions, including injunction, abatement or other appropriate action or proceeding; and



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

- B. Denial of permits. Failure to meet all conditions attached to a rezoning or amendment to the Zoning Map shall constitute cause to deny issuance of any required site plan, zoning permit, certificate of zoning compliance, or other use, occupancy, or building permit, as may be appropriate.

Sec. 602-5. Records. The Zoning Map shall shown by appropriate symbol the existence of conditions attached to the zoning on the map. The Zoning Administrator shall maintain and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district.

Sec. 602-6. Review of Zoning Administrator's decision. Any rezoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of Section 602-4 of this ordinance may petition the Town Council for review of such decision by filing a petition with the Zoning Administrator and with the clerk of the Town Council within thirty (30) days of the decision. Such petition shall specify the grounds upon which the petitioner is aggrieved. In deciding any such case, the Town Council shall have the same authority as vested in the Zoning Administrator, but shall not modify or delete any condition attached to a Zoning Map amendment except by formal amendment pursuant to the provisions of this ordinance.

Sec. 602-7. Amendments and variations of conditions. Amendments and variations of conditions attached to a Zoning Map amendment shall be made only after public notice and hearing in the same manner as an original Zoning Map amendment and in accordance with the provisions of this ordinance and applicable provisions of Code of Virginia, as amended.