

PROPOSED ZONING ORDINANCE



WYTHE COUNTY, VIRGINIA

WYTHE COUNTY ZONING ORDINANCE
Table of Contents

Article I	Title, Effective Date, Purpose, and Interpretation	1
1.1	Title	1
1.2	Effective Date and Application	1
1.3	Purpose	1
1.4	Interpretation	2
Article II	Zoning District and Zoning District Map	4
2.1	Establishment of Districts	4
2.2	Zoning District Map; Flood Boundary and Floodway Map; Airport Safety District Map	4
2.3	Identification of the Official Zoning Map	5
2.4	Amendments to the Official Zoning Map	5
2.5	Location of the Official Zoning Map	6
2.6	Rules of Interpretation of District Boundaries	6
2.7	Lot Shapes.....	6
Article III	District Regulations.....	7
3.1	Agricultural District (A-1)	7
3.2	General Agricultural District (A-2)	10
3.3	Residential District 1 (R-1)	12
3.4	Residential District 2 (R-2)	12
3.5	Commercial District (C)	13
3.6	Industrial District (I).....	15
3.7	Conservation/Recreation (C/R).....	17
3.8	Shoreline Recreation District (SR).....	18
3.9	Floodplain Management District (FM).....	18
3.10	Airport Safety District (AS)	19
3.11	Planned Unit Development	19
Article IV	General Provisions and Supplementary Regulations.....	31
4.1	Transitional Provisions	31
4.2	Compliance with Provisions	31
4.3	Lots Recorded Prior to this Ordinance.....	31
4.4	More Than One Principal Residence on any Lot.....	32
4.5	Accessory Buildings	32
4.6	Temporary Buildings and Construction Trailers	32
4.7	Junk Storage and Automobile Graveyards	32
4.8	Public Utilities.....	33
4.9	Manufactured Homes	33
4.10	Parking Requirements	33
4.11	Regulations on Communication Towers	33
4.12	Outdoor Lighting	36

4.13	Sign Regulations	39
4.14	Intensive Hog and Poultry Operations	43
4.15	Fencing	43
4.16	Landfill	43
4.17	Uses Not Specified	44
Article V	Nonconforming Uses and Features	44
5.1	Nonconforming Uses and Features	44
5.2	Expansion of Nonconforming Uses	44
5.3	Change of Nonconforming Uses	44
5.4	Discontinuance of Nonconforming Uses	45
5.5	Alterations or Repairs to Buildings Devoted to Nonconforming Uses	45
5.6	Alterations or Repairs to Buildings Having Nonconforming Features	45
5.7	Damage to Buildings Devoted to Nonconforming Uses	45
5.8	Damage to Buildings with Nonconforming Features	46
5.9	Intermittent or Illegal Uses.....	46
5.10	Existence of Nonconforming Uses and Features.....	46
5.11	Manufactured Homes Having Nonconforming Features	46
Article VI	Special Use Permits.....	46
6.1	Special Use Provisions	46
6.2	Procedures for Review and Approval of Special Uses	46
6.3	Right of Appeal	49
Article VII	Board of Zoning Appeals and Administration of Variances	49
7.1	Creation, Membership, and Appointment of the Board.....	49
7.2	Variance	51
7.3	Right of Appeal	53
Article VIII	Administration and Enforcement	53
8.1	Appointment of Zoning Administrator	53
8.2	Duties of Zoning Administrator	53
8.3	Zoning Permits.....	54
8.4	Review and Approval of Certificate of Occupancy	55
8.5	Duties of Zoning Administrator Regarding Enforcement and Remedies..	56
8.6	Duties of Zoning Administrator on Zoning Amendments, Zoning	57
	Map Changes (Rezoning), Special Use Permits, Variances, and Appeals	
Article IX	Amendments	58
9.1	General	58
9.2	Procedure for Amendment	58
9.3	Conditional Zoning Amendments	59
9.4	Right of Appeal	61
Article X	Definitions.....	61

ARTICLE I
Title, Effective Date, Purpose, and Interpretation

Section 1.1 Title

This ordinance shall be known and may be cited as the Zoning Ordinance of Wythe County, Virginia.

Section 1.2 Effective Date and Application

This ordinance shall become effective on _____. The provisions contained in this ordinance shall apply to the unincorporated territory of Wythe County, Virginia.

Section 1.3 Purpose

This ordinance is established pursuant to Chapter 22 of Title 15.2 of the *Code of Virginia*, 1950, as amended, and is intended to promote the health, safety, and general welfare of the public and furthering the objectives of § 15.2-2200 et. seq. of the *Code of Virginia*, 1950, as amended. This ordinance aims to classify the unincorporated territory of Wythe County, Virginia into zoning districts to carry out the purposes of Chapter 22 of Title 15.2 of the *Code of Virginia*, 1950, as amended.

Only lawful uses and structures at the time of adoption of the Zoning Ordinance will be protected. Provisions for nonconforming uses and structures appear under Article V of this Ordinance.

The ordinance is designed to give reasonable consideration to each of the following purposes, where applicable:

- 1) To provide guidance for the growth and development of the county in areas so designed and effectively preserve our tax revenue base.
- 2) To reduce or prevent congestion in the public streets and roadways.
- 3) To facilitate creation of a convenient, attractive and harmonious community.
- 4) To facilitate provision of adequate law enforcement and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, playgrounds, recreational facilities, airports and other public requirements.
- 5) To protect against one or more of the following: Overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health, or property from fire, flood, panic, or other dangers.

- 6) To encourage economic development activities that provide desirable employment and enlarge the tax base.
- 7) To preserve agricultural and forestal lands and other land of significance for the protection of the natural environment.
- 8) To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities.
- 9) To promote affordable housing.
- 10) To protect surface and ground water.
- 11) To provide comprehensive planning and encourage the establishment of the necessary infrastructure for the continued improvement of Wythe County as a desirable location to live and work.

It is further intended that this ordinance provide a careful balance between the fundamental property rights and interests of private citizens versus the needs of the community as a whole. The development of this ordinance is intended to be in harmony with the Comprehensive Plan and the Subdivision Ordinance.

It is not the intent of these regulations to exclude any economic, racial, religious or ethnic group from enjoyment of residence, land ownership, or tenancy within the County. Nor is it the intent of this Ordinance to use public powers in any way to promote the separation within the County of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in Section 1.3.

Section 1.4 Interpretation

1.4-1 Relationship to Comprehensive Plan.

The Comprehensive Plan is an important instrument in guiding development in any community, and zoning decisions, whether amendments to the text of the Zoning Ordinance or amendments to the official Zoning Map, should be made with due consideration to the Comprehensive Plan.

- a) The Comprehensive Plan guides and implements coordinated, adjusted and harmonious development of the community that will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of residents of the County.

- b) The Comprehensive Plan designates the general or approximate location, character, and extent of each feature shown on the plan and indicates where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be. The plan, with accompanying maps, plats, charts, and descriptive matter, provides long-range recommendations for the general development of the unincorporated territory of the County.
- c) This Zoning Ordinance and the districts created by this Ordinance have been drawn with reasonable consideration of the Comprehensive Plan. It is the intent of this Zoning Ordinance to create land use regulations that will encourage the realization and implementation of the Comprehensive Plan. To this end, development is encouraged to promote the efficient and cost-effective use of land; to be situated so as to make possible future economies in the provision of services by the private and/or public sectors; and to be located so as to protect the watersheds, shore land areas, surface and groundwater supplies and to discourage development in floodplains, wetlands, and conservation areas.

1.4-2 Provisions are Minimum Requirements.

In their interpretation and application, the provisions in this Ordinance shall be construed to be minimum requirements. The provisions of this Ordinance shall be interpreted and applied in accordance with the definitions of words and terms found in Article X of this Ordinance and the general rules of interpretation set forth in Article II and Article VIII of this Ordinance. Any terms not defined in this Ordinance are defined according to the terms found in Webster's New Collegiate Dictionary.

1.4-3 Conflict with Other Provisions.

Where a requirement imposed by any provision of this Ordinance is at variance with any other provision thereof or with the requirements of any other lawfully adopted regulation, the most restrictive requirement, or that which imposes the higher standard, shall govern.

1.4-4 Private Covenants and Restrictions.

The provision of this Ordinance shall not be construed to affect, interfere with, or abrogate any condition, covenant, limitation, or restriction contained in any deed, contract or other private agreement relating to the use of any land or buildings; provided that whenever the provisions of the Ordinance impose greater restrictions on the use of land or buildings than are imposed by any such condition, covenant, limitation, restriction, the provision of this Ordinance shall govern.

1.4-5 Vested Rights.

Nothing in this chapter shall be construed to authorize the impairment of any vested right. All lawful uses and structures existing upon the date of adoption of this Ordinance that do not conform to the zoning prescribed for the district in which they are situated may be continued, in accordance with Article V, pertaining to Nonconforming Uses and Features. Land with respect to which the Virginia Department of Mines, Minerals and Energy has issued a permit/license to operate a mine but on which no active quarry operations have begun on the date of adoption of this ordinance, the rights granted by the permit or license shall be vested for a period of five (5) years.

1.4-6 Severability.

Should any section, subsection, paragraph, phrase, definition or provision of this Ordinance be declared by the courts 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 so declared to be invalid or unconstitutional.

**ARTICLE II
Zoning District And Zoning District Map**

Section 2.1 Establishment of Districts

In order to carry out the purpose of this Ordinance and to advance the objectives of the Comprehensive Plan, the following zoning districts are established:

<u>District Name</u>	<u>District Code</u>	<u>Page</u>
Agricultural District 1	A-1	7
Agricultural District 2	A-2	10
Residential District 1	R-1	12
Residential District 2	R-2	12
Commercial District	C	13
Industrial District	I	15
Conservation/Recreation District	C/R	17
Shoreline Recreation District	SR	18
Floodplain Management District	FM	18
Airport Safety District	AS	19

Section 2.2 Zoning District Map; Flood Boundary and Floodway Map; Airport Safety District Map

2.2-1 Establishment of Official Zoning District Map.

The locations and the boundaries of the zoning districts established by this Ordinance, other than Floodplain Management District and the Airport Safety District, shall be shown on a map or series of maps designated as the "Official Zoning Map of Wythe County, Virginia" which, together with all approved notations and explanatory matter shown thereon, is incorporated herein as a part of this Ordinance.

2.2-2 Flood Boundary and Floodway Map.

The locations and boundaries of the Floodplain Management District shall be as described in the Wythe County Flood Management Ordinance and shown on the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency, which Ordinance and Map are incorporated herein as a part of this Ordinance.

2.2-3 Airport Safety District Map.

The locations and boundaries of the Airport Safety District shall be as described in the Airport Safety Zoning Ordinance and shown on the official map accompanying said Ordinance, which Ordinance and map are incorporated herein as a part of this Ordinance.

Section 2.3 Identification of the Official Zoning Map

The official Zoning Map shall be identified by the County Seal and the signature of the Chairman of the Board of Supervisors under the following words, "This is to certify that this map is the official Zoning Map of the County of Wythe," together with the adoption date of the map and ordinance.

Section 2.4 Amendments to the Official Zoning Map

The Zoning Administrator is charged with the responsibility of entering on the official Zoning Map any changes made in district boundaries or other amendments that have been approved by the Board of Supervisors.

Any changes to the official Zoning Map must be done in accordance with the provisions of this Ordinance and the *Code of Virginia*, 1950, as amended, and shall be entered on the official Zoning Map within seven (7) days after the amendment has been approved by the Board of Supervisors. Any amendments to this ordinance that involve a change on the official Zoning Map shall become effective immediately upon action of the Board of Supervisors. A brief statement shall be included describing the nature of the change and the date of adoption.

No changes of any kind shall be made on the official Zoning Map, or matters shown thereon, except in conformity with procedures set forth in this ordinance. Any unauthorized change shall be considered a violation of this ordinance and punishable as a Class 2 misdemeanor.

Section 2.5 Location of Official Zoning Map

The official Zoning Map shall be located and maintained in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of areas within the unincorporated territory of the County, regardless of other purported copies of the official Zoning Map that may be in existence. An official copy of the Zoning Map shall also be kept in the County Administrator 's office.

Section 2.6 Rules of Interpretation of District Boundaries

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

- 2.6-1 Boundaries indicated as approximately following the centerlines of roads, streets, or alleys shall be interpreted as following such centerlines.
- 2.6-2 Boundaries indicated as approximately following platted lot lines shall be interpreted as following such lot lines and the extension of lot lines in the event that the boundary extends across un-platted tracts.
- 2.6-3 Boundaries indicated as approximately following corporate limits shall be interpreted as following such corporate limits
- 2.6-4 Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be interpreted as following such centerlines, and in the event of a change in the course of the body of water, shall be interpreted as moving with the actual centerline.
- 2.6-5 Where natural or man-made features actually existing differ with those shown on the official Zoning Map, the Planning Commission shall determine the district boundary.
- 2.6-6 Where a district boundary line divides a lot that was in single ownership at the time of passage of this ordinance, the Planning Commission may permit the extension of the regulations for either portion of the lot into the remaining portion of the lot, not to exceed fifty (50) feet beyond the district line.
- 2.6-7 If it is necessary to determine a distance that is not indicated on the official Zoning Map, the scale of the map should be used for that purpose.

Section 2.7 Lot Shapes.

Lot arrangement, design, and shape shall be such that all lots will provide satisfactory and desirable building sites and be properly related to topography and the character of the surrounding development while conforming to the regulations of this Ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area that would be unusable for normal purposes. Flag lots are not allowed.

These regulations shall apply to all lots in all districts described in this Ordinance.

ARTICLE III District Regulations

Section 3.1 Agricultural District (A-1)

3.1-1 Purpose

This district is composed of those areas of the County whose predominant land use is devoted to agricultural activities. It is established to protect and stabilize agriculture as an ongoing economic activity by permitting only those land uses and activities which are either agricultural in nature or act in direct support thereof. In the interest of public health, safety, and welfare, the A-1 district is further intended to accomplish the following:

- a) Encourage the preservation of productive farmland within the County as a valuable resource, which is not reclaimable once it is developed for building purposes. Future population and housing needs can be accommodated in other zoning districts.
- b) Prevent adverse effects resulting from the encroachment and mixing of residential and other incompatible development with agricultural uses. For agricultural enterprises such mixing of land uses would cause increased traffic on the narrow roads used to move farm machinery and livestock, and complaints about odors, noise, dust, barbed wire, or electric fences, and night operations which are a normal part of farming. In A-1, agriculture is the primary use with residential uses secondary to farm operations.
- c) Guide development incompatible with agriculture into more appropriate zoning districts and in harmony with the intent and purpose of the policy objectives of the Comprehensive Plan. To implement the following policy objectives of the land use plan as follows:
 - Agriculture should be maintained as a major economic base of the County.
 - Productive agricultural lands should be conserved for agricultural production.
 - Agricultural areas should be established to give priority to agricultural uses.
- d) Provide protection to existing and future agricultural enterprises.
- e) Provide a minimum setback for the placement of a well eighty (80) feet from the property line of an A-1 parcel. This 80-foot setback from an A-1 zoned property line shall be required for any adjoining parcel.
- f) Family subdivisions must comply with the Wythe County Subdivision Ordinance.

g) A letter of acknowledgement will be requested of persons who propose to develop lots abutting any A-1 zoned property line. The letter is intended to help people understand the nature of agricultural operations. The text of the letter of acknowledgement shall be as follows:

**A-1 Zoning District
Letter of Acknowledgement
Wythe County, Virginia**

This letter acknowledges that you are wishing to reside in or adjacent to an A-1 agricultural zoning district. This zoning district offers many advantages including open space and a rural environment. Farmers residing in this district perform their normal daily and seasonal business activities including the planting and harvesting of crops and the removal and application of waste products on crop and pastureland up to the property lines. These applications are performed using best management practices and are included in the farm’s nutrient management plan, if applicable. Please note that odors and noises of farm animals, the operation of agricultural implements on Wythe County roads, and other such activities are normal and customary in agricultural areas.

Agricultural enterprises are important for rural preservation and place the overall safety, care and concern for our neighborhoods as a high priority. Please acknowledge with your signature below that you have read the above.

Landowner Signature

Date

3.1-2 Uses Permitted by Right.

Accessory building	Accessory dwelling
Agriculture	Animal clinic
Antique or craft shop	Bed & Breakfast inn
Cemetery	Commercial greenhouse
Community center	Convenience store
Fish Hatchery	Fire Dept./Rescue Squad
Fruit & vegetable packing plant	Game farm
Home occupation	Hunting club
Intensive hog or poultry operation (see Article IV)	Library
Manufactured home	Museum
Park/playground/ball field	Personal service business
Post office	Rest home
Recreation facilities, trail or dwelling	Religious Assembly
Riding stables, show rings (no admission fee)	Sawmill, temporary

(permitted uses continued - A-1)

Single-family dwelling	Slaughterhouse, private
Two-family dwelling	Winery

3.1-3 Uses Permitted with Special Use Permit.

Agriculture equipment sales & service	Animal shelter
Asphalt plant	Auto body shop (inside vehicle storage)
Auto sales & service	Campground/RV park
Circus, carnival, tent meeting, etc.	Childcare center
Commercial feed mixing	Communication tower
Dormitory housing (farm workers)	Educational Facility
Electric generation or booster facility	Government, administration or service building
Junkyards/auto graveyards	Kennel, commercial
Laboratory	
Livestock market	Machinery sales & service
Mining, quarrying, mineral	Multi-family dwellings
Raising fur-bearing animals, pelt processing	Restaurant
Retail store & shop	Riding stable, commercial
Roadside market	Service business
Shooting range	Slaughterhouse, commercial
Solid waste/recycle station	Uses, which in the opinion of the Zoning Administrator, are similar to the foregoing uses including either permitted or special uses.

3.1-4 Minimum Lot Areas.

The minimum lot area for land zoned in the A-1 District shall be 10 acres with the exception of parcels that are created for immediate family members in accordance with the Wythe County Subdivision Ordinance.

Setback Requirements

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.2 General Agricultural District(A-2)

3.2-1 Purpose

This district provides separate areas for the establishment of agriculturally related uses essential to the support of uses in the agricultural district A-1. This district should contain the existing low-density residential areas of a rural character and is designed to promote a balance of agricultural land and related uses. Areas in the A-2 district could have development potential due to the presence of or planned provision of water and sewer services, particularly in rural service areas as recognized in the Comprehensive Plan.

3.2-2 Uses Permitted By Right.

Accessory building	Accessory dwelling
Agriculture	Animal clinic
Antique or craft shop	Bed & Breakfast inn
Cemetery	Childcare center
Commercial greenhouse	Community center
Convenience store	Fire Dept./Rescue Squad
Fish hatchery	Fruit & vegetable packing plant
Game farm	Home occupation
Hunting club	Intensive Hog/Poultry Operation
Library	Manufactured home
Museum	Park/playground/ball field
Personal service business	Post office
Recreation facilities, trail, or dwelling	Religious Assembly
Rest home	Riding stables, show rings (no admission fee)
Sawmill, temporary	Single-family dwelling
Slaughterhouse, private	Two-family dwelling
Wildlife refuges	Winery

3.2-3 Uses Permitted with Special Use Permit.

Agricultural equipment sales & service	Amusement/Entertainment Est.
Animal shelter	Asphalt Plant
Auto body shop (inside vehicle storage)	Auto sales & service
Banks/Financial Institutions	Call Center/Data Processing
Campground/RV park	Circus, carnival, tent meeting, etc.
Commercial feed mixing	Commercial outdoor entertainment

(special uses continued - A-2)

Communication tower	Country Inn
Dormitory housing (farm workers)	Dry Cleaners
Educational Facility	Electric generation or booster facility
Funeral Home	Golf course
Government, administration or service building	Health/Fitness Club
Junkyards/auto graveyards	Kennel, commercial
Laboratory	Light Manufacturing
Livestock market	Lodge or country inn
Machinery sales & service	Manufacturing home park
Medical service & supply sales	Mini warehouse
Mining, quarrying, mineral	Multi-family dwellings
Printing establishment	Professional office
Raising fur-bearing animals/pelt processing	Restaurant
Retail store & shop	Riding stable, commercial
Roadside market	Service business
Shooting range	Slaughterhouse, commercial
Solid waste/recycle station	Theaters
Townhouses	Uses, which in the opinion of the Zoning Administrator, are similar to the foregoing uses, including either permitted uses or special uses.

3.2-4 Setback Requirements

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County

3.2-5 Minimum Lot Areas.

The minimum lot area for land zoned in the A-2 District shall be as required in the Subdivision Ordinance of Wythe County.

3.2-6 Corner Lots

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

3.2-7 Other Considerations.

If an A-2 zoned parcel is proposed to be subdivided and if the subdivision includes the creation of a new state-maintained road, then this parcel must first be approved for a rezoning to the proposed use of the subdivision (residential, commercial or industrial).

Section 3.3 Residential District 1 (R-1)

3.3-1 Purpose.

The district is composed of certain quiet residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to ban all activities of a commercial nature. To meet these ends, development is limited to relatively low concentration development, and permitted uses are limited basically to permanent, single-unit dwellings.

3.3-2 Uses Permitted by Right.

Accessory building @ 200 sf or less	Single-family dwelling
Home occupation	

3.3-3 Uses Permitted with Special Use Permit.

Accessory buildings @ more than 200 sf	Educational Facility
Parks, Playgrounds, Ballfield	Religious Assembly

3.3-4 Minimum Lot Areas.

The minimum lot area for land zoned in the R-1 District shall be as required in the Subdivision Ordinance of Wythe County.

3.3-5 Setback Requirements

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.3-6 Corner Lots

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.4 Residential District 2 (R-2)

3.4-1 Purpose

The purpose of the R-2 District is to provide quality, well-planned areas for single-family residential development and allow for higher density residential development only if appropriate to the area. The district is designed to preserve the essential character of existing residential areas, encourage new residential development in accordance with modern subdivision standards, protect single-family residential areas from encroachment by potentially incompatible commercial land uses, maintain a low density of development to avoid undue burden on utilities and other public services, and allow for higher density residential development, if compatible with the surrounding neighborhood and if suitable public services are available.

3.4-2 Uses Permitted by Right.

Accessory buildings @ 200 sf or less	Community center
Home occupation	Single-family dwelling
Two-family dwelling	

3.4-3 Uses Permitted with Special Use Permit.

Accessory buildings @ more than 200 sf	Agriculture
Childcare center	Educational Facility
Manufactured home, if double-wide or larger	Multi-family dwelling
Park/playground/ball field	Recreation facilities
Religious Assembly	Townhouses

3.4-4 Minimum Lot Areas.

The minimum lot area for land zoned in the R-2 District shall be as required in the Subdivision Ordinance of Wythe County.

3.4-5 Setback Requirements

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.4-6 Corner Lots

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.5 Commercial District (C)

3.5-1 Purpose

The Commercial District (C) is designed to provide for a general range of retail, office, and service businesses, with business uses taking priority over any other type of use. The district is intended to promote business opportunities, economic development, and the provision of services for nearby residential neighborhoods and the community as a whole. The activities may generate relatively large volumes of customer traffic and have frequent delivery of goods and services.

3.5-2 Uses Permitted by Right.

Accessory dwelling	Animal clinic
Antique or craft shop	Auto body shop
Auto sales & service	Banks/financial institutions
Bed & Breakfast inn	Call center/data processing
Cemetery	Childcare center

(permitted uses continued - Commercial)

Commercial greenhouse	Commercial outdoor entertainment
Community center	Construction sales & service
Convenience store	Dry cleaners/Laundromat
Fire Dept./Rescue Squad	Fish hatchery
Funeral home	Government, administration or service building
Health/Fitness club	Hospital or medical clinic
Hotels/motels	Laboratory
Library	Lodge or country inn
Machinery sales & service	Major recreational sales
Manufactured or modular home sales	Medical service & supply sales
Mini warehouse	Museum
Park/playground/ball field	Personal service business
Post office	Printing establishment
Professional office	Recreation facilities or trail
Religious Assembly	Restaurant
Retail store & shop	Roadside market
Service business	Theater

3.5-3 Uses Permitted with Special Use Permit.

Agricultural equipment sales & service	Amusement/entertainment establishment
Campground/RV park	Commercial feed mixing
Communication tower	Educational Facility
Electric generation or booster facility	Kennel, commercial
Light manufacturing	Livestock market
Multi-family dwellings	Rest home
Riding stable, commercial	Solid waste/recycle station
Storage warehouses	Truck stop
Truck terminal	Wholesale distributors, sales

3.5-4 Minimum Lot Area.

The minimum lot area for land zoned in the Commercial District (C) shall be as required in the Subdivision Ordinance of Wythe County.

3.5-5 Setback Requirements.

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.5-6 Corner Lots.

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.6 Industrial District (I)

3.6-1 Purpose

This district is designed to provide areas suitable for industrial land uses and to allow for economic and employment growth. The primary activity in the industrial district is the manufacturing of new products, including processing, packaging, treatment and assembly of components for new products. The intent of the district is to promote land uses that are as compatible as possible with adjacent commercial and residential areas.

3.6-2 Uses Permitted by Right.

Call center/data processing	Computer/electronic production
Concrete mixing plant	Construction sales & service
Contractor equipment yards	Electrical equipment manufacturing
Fabricated metals	Fish hatchery
Food and beverage processing	Furniture manufacturing
Leather manufacturing	Light manufacturing
Machinery manufacturing	Paper products manufacturing
Pharmaceutical manufacturing	Plastics and rubber manufacturing
Printing establishment	Recreation trail
Storage warehouses	Textile/knitting/apparel manufacturing
Tobacco processing	Truck terminal
Wholesale distributors, sales	Wood products manufacturing

3.6-3 Uses Permitted with Special Use Permit.

Asphalt plant	Cement manufacturing
Chemical manufacturing	Childcare center
Communication tower	Electric generation or booster facility
Incineration facility	Livestock market
Mining, quarrying, mineral processing	Paper/pulp/paperboard mills
Park/playground/ball field	Petroleum/coal products manufacturing

(special uses continued - Industrial)

Primary metal manufacturing	Religious Assembly
Sawmill, stationary	Slaughterhouse, commercial
Solid waste/recycle station	

3.6-4 Minimum Lot Area.

The following minimum lot areas apply in this district with the exception of lots on record as allowed in Article IV. Greater lot areas may be required where individual septic systems or individual wells are used if the health department determines that there are factors of drainage, soil conditions or other conditions that cause potential health problems. Greater lot areas may also be required to meet any parking requirements contained in Article IV of this chapter.

- a) Lot area with Public Water and Sewer. Lots served by both public water and public sewer systems shall be one-hundred (100) feet or more in width and ten thousand (10,000) square feet or more in area.
- b) Lot area with Public Sewer. Lots served by a public sewer system, but not a public water system, shall be one hundred (100) feet or more in width and twelve thousand (12,000) square feet or more in area.
- c) Lot area with Public Water. Lots served by a public water system, but not a public sewer system, shall be one hundred (100) feet or more in width and twenty thousand (20,000) square feet or more in area.
- d) Lot area with Neither Public Water or Sewer. Lots served by neither public water nor public sewer systems shall be one hundred (100) feet or more in width and twenty-five thousand (25,000) square feet or more in area.
- e) Greater lot areas may be required where individual septic tanks or individual wells or factors of drainage, soil conditions, or other conditions to cause potential health problems. The Zoning Administrator shall require percolation tests for each lot to be submitted as a basis for passing upon residential and commercial subdivisions dependent upon septic tanks as a means of sewage disposal. These tests and soil studies shall be performed by or under the supervision of the Health Official.
- f) Satisfaction of lot dimensions shall not be achieved by including land covered by water or flowage easements.
- g) The minimum frontage of any lot shall be one hundred (100) feet and must meet VDOT-recommended road construction guidelines.

3.6-5 Setback Requirements.

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.6-6 Corner Lots.

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.7 Conservation/Recreation District (C/R)

3.7-1 Purpose

This district covers portions of the County occupied by various open uses, such as national forests and parks, state-owned forest and parks, and local government-owned lands, as well as privately owned open space. This district is established for the purpose of providing recreation and open space uses, conservation of water and other natural resources, reducing soil erosion, protecting watersheds, and reducing hazards from flood and fire. This district is designed to protect the natural environment and scenic quality of the County from inappropriate development.

3.7-2 Uses Permitted by Right.

Agriculture	Cemetery
Home occupation	Hunting club
Park/playground/ball field	Recreation trail or dwelling
Religious Assembly	Single-family dwelling
Wildlife Refuges	

3.7-3 Uses Permitted with Special Use Permit.

Bed & Breakfast inn	Campground/RV park
Community center	Country inn
Manufactured home	Outdoor Amphitheater
Recreation facilities	Restaurant
Retail store & shop	Riding stables, show ring (no admission fee)
Riding stable, commercial	Theater

3.7-4 Minimum Lot Areas.

The minimum lot area in this district shall be two (2) acres, with the exception of lots of record as allowed in Article IV.

3.7-5 Setback Requirements.

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.7-6 Corner Lots.

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

Section 3.8 Shoreline Recreation District (SR)

3.8-1 Purpose

The purpose of this district is to promote the orderly development of the shoreline of the New River and of selected portions of Cripple Creek and Reed Creek, with emphasis on recreational use, and to protect the water quality and scenic resources of the river and creeks.

3.8-2 Uses Permitted by Right.

Agriculture	Recreation trail
Wildlife refuges	

3.8-3 Uses Permitted with Special Use Permit.

Golf course	Hunting club
Park/playground/ball field	Recreation facilities
Any uses similar in scope and nature to those listed, provided acceptable sewage service is available.	

3.8-4 Minimum Lot Area.

The minimum lot area for land zoned in the Shoreline Recreation District (SR) shall be as required in the Subdivision Ordinance of Wythe County.

3.8-5 Setback Requirements.

Building setbacks shall be as required in the Subdivision Ordinance of Wythe County.

3.8-6 Corner Lots.

Requirements for corner lots shall be as required in the Subdivision Ordinance of Wythe County.

3.8-7 Lot Frontage.

The minimum lot frontage on a State maintained road shall be one hundred (100) feet measured at the setback line.

Section 3.9 Floodplain Management District (FM)

3.9-1 Purpose

The intent of the Floodplain Management District is to accomplish the purposes of the Floodplain Management Ordinance as set forth in the County Code, adopted on July 11, 1989 and as thereafter amended.

3.9-2 Application of District.

The Floodplain Management district shall be in addition to, and shall be construed to overlay, overlap, and be superimposed on other zoning districts established by this Ordinance and shown on the official Zoning Map. Any property lying within the Floodplain district shall also lie within and be subject to the regulations of one or more of the other zoning districts established by this Ordinance. Those districts shall be known as underlying districts.

3.9-3 District Regulations and Boundaries.

The locations and boundaries of the Floodplain Management district shall be as described in the Floodplain Management Ordinance and shown on the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency. The regulations applicable within the district shall be as set forth in the Floodplain Management Ordinance adopted by the Board of Supervisors on July 11, 1989, and as hereafter amended. The regulations and other provisions of said Ordinance and the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency, and hereafter amended, are supplemental requirements for the land affected herein.

Section 3.10 Airport Safety District (AS)

3.10-1 Purpose

The purpose of the Airport Safety District (AS) is to accomplish the purposes of the Airport Safety Zoning Ordinance as set forth in the County Code, adopted February 4, 1991, and as hereafter amended.

3.10-2 Application of District.

The Airport Safety district shall be in addition to, and shall be construed to overlay other zoning districts established by this Ordinance and shown on the Official Zoning Map. Any property lying within the Airport Safety district shall also lie within and be subject to the regulations of one or more of the other zoning districts established by this Ordinance. Those districts shall be known as underlying districts.

3.10-3 District Regulations and Boundaries.

The locations and boundaries of the Airport Safety district shall be as described in the Airport Safety Zoning Ordinance and shown on the Airport Safety Zoning Map. The regulations applicable within the district shall be as set forth in the Airport Safety Zoning Ordinance adopted by the Board of Supervisors on February 4, 1991, and as hereafter amended. The regulations and other provisions of said Ordinance and the Airport Safety Zoning Map, adopted February 4, 1991, and hereafter amended, are supplemental zoning requirements for the land affected therein.

Section 3.11 Planned Unit Development

3.11-1 Statement of Intent

It is the intent of this section that cluster developments may be permitted as a means of creating a well planned living environment within a compact area. To achieve such living environment, it is the intent of the section that flexibility in the design and

development of land be permitted by providing certain deviations in requirements from those applying generally in certain residential zones.

3.11-2 Purpose

The purpose of this section is to establish procedures and standards for planned unit development in Wythe County, in order that one or more of the following objectives may be attained:

- a) Flexibility in design to take the greatest advantage of natural land, trees, historical and other features.
- b) Accumulation of large areas of usable open space for recreation, preservation of natural amenities, and provision of community facilities.
- c) Creation of a variety of residential and compatible neighborhood arrangements that give the home occupant greater choice in selecting types of environment and living units.
- d) Clustering of one residential type for better use of land and open space, as long as the resultant density does not exceed the allowed density.
- e) Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as for utilizing innovation techniques to enhance appearances.
- f) Efficient use of land which may result in reduction in development and maintenance costs of street and utility systems.
- g) Establishment of criteria for the inclusion of compatible associated uses to compliment the residential areas within the planned unit development.

3.11-3 Types

There are hereby established two types of Planned Unit Developments; Type R-2 and Type R-3, each respectively having specific regulations as set forth herein.

3.11-4 Primary Residential Uses - Type R-2

Single family, two-family, and multi-family (not to exceed 4 units) residential dwelling units in detached, semi-detached, attached and multi-storied structures shall be permitted uses. No planned unit development shall be allowed which does not incorporate a variety of dwelling designs.

3.11-5 Primary Residential Uses - Type R-3

Single family, two-family, and multi-family residential dwelling units in detached, semi-detached, attached and multi-storied structures shall be permitted uses. No planned unit development shall be allowed which does not incorporate a variety of dwelling designs.

3.11-6 Secondary Non-Residential Uses

Nonresidential uses of a religious, public or semi-public, cultural, or recreation character, structures for exclusive use of the owners in maintenance and operation of the development, and laundry facilities, likewise for the exclusive use of the occupants of the development, shall be permitted uses.

In tracts of more than ten (10) acres, limited retail sales uses are permitted if located within the development, if not adjacent to existing R-1 residential uses and if it is reasonably determined that the retail uses are appropriately located and screened from the residential areas.

Retail uses shall be limited to the following types: grocery stores; convenience stores; drug stores; bake shops; laundromats; barber and beauty shops; banks; restaurants; video stores. The total retail sales area for any single establishment shall not exceed 2,500 square feet and the gross area for one structure utilized for non-residential use shall not exceed 5,000 square feet. Retail uses may be grouped, however, the developer must show what methods are being used to appropriately integrate the design into the surrounding residential development and how required parking will be provided and integrated. Each retail establishment shall have at least one (1) parking space for each 200 square feet of retail sales area.

Structures for such nonresidential uses shall be compatible in appearance to the residential structures.

3.11-7 Qualifying Requirements and Minimum Area Regulations

A tract or parcel of land proposed for a planned unit development application must be either in one ownership or filed jointly by the owners of all the property included. The holder of a written option to purchase land shall for purposes of such application be deemed to be an owner of such land. Notwithstanding the foregoing, each and every planned unit development must be in single ownership by the time the final development plan is approved.

The minimum required land area for a planned unit development shall be 1.5 contiguous acres.

3.11-8 Coordination with Subdivision Regulations

It is the intent of these regulations that subdivision review under the Subdivision Ordinance be carried out simultaneously with the review of a planned unit development under this article. Although many provisions of the Subdivision Ordinance may not be applicable, it is intended that the overall plan for providing for logical divisions of land and the provision of adequate space for intended uses will be maintained.

The preliminary development plan required in this section must be submitted in a form which will satisfy the applicable requirements of the Subdivision Ordinance for the preliminary and final plans required under those regulations, as determined by the zoning administrator.

Before any final plat will be approved by the Zoning Administrator for units in the planned unit development to be sold, the initial developer and any subsequent developer shall, in lieu of the completion and approval of all construction of all required improvements, furnish a bond guaranteed by an acceptable surety company acceptable to and in an amount calculated by the Zoning Administrator to secure the required improvements in a workmanlike manner and in accordance with the standards set forth herein and in the Subdivision Ordinance.

All construction within the Planned Unit Development shall meet the same development standards as are required for subdivisions with the exceptions of setback, lot size, and street widths. (See Subdivision Ordinance).

3.11-9 Permitted Areas - Type R-2

Residential Type R-2 Planned Unit Developments are permitted in the R-2 Residential District.

3.11-10 Permitted Areas - Type R-3

Residential Type R-3 Planned Unit Developments are permitted in the R-2 Residential District.

3.11-11 Minimum Standards - Type R-2

Minimum lot size, maximum lot coverage, street width, setbacks, height and distance between buildings shall in general meet health, safety and welfare requirements and be in harmony with good planning practices.

Setback lines on public streets shall be a minimum of 20 feet from the right of way if the right of way is 50 feet and 25 feet if the right of way is less than 50 feet. Otherwise, there shall be no required minimum setback lines in a Planned Unit Development with exception that in the area on the outer perimeter of a planned unit development shall be 25 feet. Private streets shall have a minimum right of way of 40 feet and a minimum pavement width of 24 feet and shall be located in such a way that 30' pavement width and 50' right of way can be established in the future. Private streets shall be built to the same construction standards as public streets with the exception of width. Private streets shall have documentation provided to show responsibility for initial construction and maintenance.

Structures within the Planned Unit Development shall be connected to County water mains and sewer lines where available; and so far as practicable, with exception of major transmission lines, utility wires shall be placed underground. Adequate provisions for on site drainage shall be made, and on site drainage retention may be required to protect downstream properties. Adequate easements for utilities and drainage shall be provided.

Water and sewer lines and appurtenances shall be placed in the public right of way or in utility easement of a minimum of fifteen (15) feet wide. Upon completion of the project, the water and sewer lines shall become property of the County provided they are connected to an existing County system.

Each dwelling unit shall have a minimum of two (2) outdoor off-street parking spaces. The regulations contained in this ordinance pertaining to minimum off-street parking shall apply. However, the Planning Commission may recommend and the Board of Supervisors may approve a deviation in the off-street parking requirements.

All development of roads, streets, utilities, storm water drainage, and street lighting within a planned unit development shall meet the same requirements as those for subdivisions. (See Subdivision Ordinance). The minimum floor area requirements and minimum ground coverage requirements shall be the same as Residential R-2.

3.11-12 Standards - Type R-3

Minimum lot size, maximum lot coverage, street width, setbacks, height and distance between buildings shall in general meet health, safety and welfare requirements and be in harmony with good planning practices.

Setback lines on public streets shall be a minimum of 20 feet if the right of way is 50 feet and shall be 25 feet if the right of way is less than 50 feet. Otherwise, there shall be no required minimum setback lines in a Planned Unit Development with exception that in the area on the outer perimeter of a planned unit development shall be 25 feet. Private streets shall have a minimum right of way of 40 feet and pavement width of 24 feet and shall be located in such a way that 30' pavement width and 50' right of way can be established in the future. Private streets shall have documentation provided to show responsibility for initial construction and maintenance.

Structures within the Planned Unit Development shall be connected to County water mains and sewer lines where available provided they are connected to an existing County system; and so far as practicable, with exception of major transmission lines, utility wires shall be placed underground. Adequate provisions for on site drainage shall be made, and on site drainage retention may be required to protect downstream properties. Adequate easements for utilities and drainage shall be provided. Water and sewer lines and appurtenances shall be placed in the public right of way or in utility easement of a minimum of fifteen (15) feet wide. Upon completion of the project, the water and sewer lines shall become County property.

Each dwelling unit shall have a minimum of two (2) outdoor off-street parking spaces. The regulations contained in this ordinance pertaining to minimum off-street parking shall apply. However, the Planning Commission may recommend and the Board of Supervisors may approve a deviation in the off-street parking requirements.

3.11-13 Open Space or Common Space Requirements

A minimum of forty (40) percent of the entire planned unit development tract shall be devoted to open space and recreational facilities. At least 1/4 of this area shall be developed for public/community use such as parks or playgrounds. In calculating the minimum area for open space and recreational facilities to be provided, the area of any parking areas, street, and alleys are not to be included. The park area shall be considered as "open" space for purposes of compliance with this section.

3.11-14 Permitted Densities - Type R-2

The gross density within a planned unit development shall be computed by dividing the total number of proposed dwelling units within the development by the gross development area. The maximum gross density shall not exceed ten (10) units per acre.

3.11-15 Permitted Densities - Type R-3

The gross density within a planned unit development shall be computed by dividing the total number of proposed dwelling units within the development by gross development area. The maximum gross density shall not exceed fourteen (14) units per acre.

3.11-16 Preliminary Development Plan

- 1) An applicant shall make application for approval of a planned unit development to the Board of Supervisors, which will, if it deems appropriate, refer the matter to the Planning Commission for study and recommendation.
- 2) A preliminary development plan must include a written statement (delineated below #4) and must show enough of the area surrounding the proposed planned unit development to demonstrate the relationship of the planned unit development to adjoining uses, both existing and proposed, and also include all of the following information:
 - (a) A plan showing the layout of roads, streets, utility systems, plot lines and plot designs.
 - (b) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings and similar public and semipublic uses.
 - (c) A plot plan for each building site and common open space showing the proposed location of all buildings, structures and improvements and indicating the open space around buildings and structures.
 - (d) Plans and elevations of all proposed structures and improvements except single-family residences. The drawings do not need to be the final contract documents, however, they must be in adequate detail to convey general design and appearance of the structures.
 - (e) A preliminary engineering report (PER), performed by a licensed civil engineer, which addresses streets, roads, water, sewer, storm water, other utilities, their availability, and the impact of the development on the existing infrastructure and neighborhood.
 - (f) A development schedule indicating (1) the approximate date when construction of the project can be expected to begin; (2) the stages in which the project will be built and the approximate date when

construction of each stage can be expected to begin; (3) the anticipated rate of development; (4) the approximate dates when the development of each of the stages in the development will be completed; and (5) the area and location of common open space that will be provided at each stage.

- (g) Agreements and the provisions of the covenants which govern the use, maintenance, and continued protection of the planned development and any of its common areas. In the event streets within the Planned Unit Development will not be constructed to meet the standards for inclusion into the VDOT system, the planned unit development plat and all approved planned unit development deeds, or similar instruments, must contain a statement that the streets in the planned unit development do not meet VDOT standards and will not be maintained by VDOT. Grantors of any lots to which such statement applies must include the statement on each deed of conveyance thereof. (See '15.1-466.D). In addition, the agreements and covenants shall clearly describe which, if any, of the streets within the development are private and explain that such private streets have not been accepted into the County right of way system and will not be maintained by the County. The agreements and covenants shall also clearly explain that the County has no obligation whatsoever to pay for any grading or paving, or for sidewalks, sanitary or storm sewers, water lines, curb and gutter improvements, or construction to the private street (See '15.1-479) and further is under no obligation to accept these private streets into its public street system. The County would, however, consider the issue of acceptance of the private street into the public street system upon receipt of a petition submitted by a majority of the planned unit development property owners. During their deliberation of such a petition, the Board of Supervisors may or may not, at its discretion, recommend inclusion of these streets into the VDOT right of way system. The Board shall only consider acceptance of private streets into the public street system when the streets which are under consideration meet all the applicable standards of the Virginia Department of Transportation for right of way width, pavement width, and construction standards as established by VDOT. The agreements and covenants shall also explain that neither the submitting of a petition nor the fact that the private street(s) within the planned unit development meets the aforementioned standards are cause for the VDOT to accept the street(s) into the public street system.
- (3) The following plans and diagrams, insofar as the Planning Commission finds that the planned development creates special problems of traffic, parking, landscaping or economic feasibility:
 - (a) An off-street parking and loading plan.

- (b) Layout of roads, streets, walks, and bikeways with a circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the planned development and to and from existing thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern must be shown.
 - (c) A landscaping and tree planting plan with common names of the proposed plants, trees, and shrubs identified.
 - (d) An economic feasibility report or market analysis verifying the need for the development.
- (4) The written statement to accompany the preliminary development plan must contain the following information:
- (a) An explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the planned unit development regulations.
 - (b) A statement of proposed financing.
 - (c) A statement of the present ownership of all of the land included within the planned unit development.
 - (d) A general indication of the expected schedule of development.
- (5) As a part of the Preliminary Approval Process, the developer shall submit to the Planning Commission a plan specifying the municipal services that are desired to be utilized or not to be utilized within the boundaries of the planned unit development. This plan should discuss such services as fire protection, police services, solid waste services, and any other municipal services that are provided as a matter of a normal course to non-private residential areas but which may be different within the planned unit development. Following review of this plan and negotiation with the Planning Commission, the Developer will prepare for the Board of Supervisors' review, a "Memorandum of Understanding" which must be approved by the Board. When the "Memorandum of Understanding" is approved by the Board, the provisions shall be mandatory on the planned unit development until such time that the Board, in its own discretion, deems it appropriate or necessary to amend. The provisions agreed upon in this document shall be identified to property owners in the planned unit development covenants.

3.11-17 Approval of Preliminary Development Plan

Within thirty days after the filing of the preliminary development plan, the Planning Commission shall forward the plan to the Board of Supervisors with a written report recommending that the plan be disapproved, approved, or approved with modifications, and giving the reasons for these recommendations.

The Board shall make known through its published agenda its intention to review the preliminary development plan. After reviewing the plans and pertinent information and accepting citizen comments, the Board of Supervisors shall have 30 days to approve, disapprove or approve with modifications the preliminary development plan. The County Administrator shall, by the end of the 30 day period, notify the developer the decision of the Board giving reasons for their decision. If the plans are approved with modifications, the developer shall reflect the modifications in the final development plans.

3.11-18 Approval of Final Development Plan

Within six months following the approval of the preliminary development plan, the applicant shall file with the County a final development plan. Final development plans need not be construction documents, however, they shall be adequately detailed to determine compliance with standards of the County, the Virginia Department of Transportation, the Virginia Department of Health for water and sewer systems, the Virginia Department of Conservation and Recreation, and any other agency for which approval may be required. In its discretion, and for good cause, the Board of Supervisors may extend for six months the period for the filing of the final development plan.

The Board of Supervisors shall give notice and provide an opportunity to be heard on the final development plan to:

- (a) Any person who appeared of record at the review by the Board of Supervisors of the preliminary development plan.
- (b) Any other person who has indicated to the Board in writing that he wished to be notified.

The Board of Supervisors shall review the final development plan, and shall approve it if it is deemed to be in compliance with the approved preliminary development plan. The clerk of the court in whose office deeds are conveyed will record the final development plan in the manner provided for recording plats of subdivision.

Permission to proceed with construction will not be granted until all approvals are obtained.

3.11-19 Failure to Begin Planned Unit Development

If no construction has begun and no use established in the planned development within one year from the approval of the Final Development Plan, the plan shall lapse and be of no further effect. In its discretion and for good cause, the Board may extend for one additional year the period for the beginning of construction or the establishment of a use. If a Final Development Plan lapses under the provisions of this section, it shall be considered void and of no further effect.

3.11-20 Changes in the Final Development Plan

No changes may be made in the approved final plan during the construction of the planned development except upon application to the County Administrator for the following:

- (a) Minor changes in the location, siting and height of buildings and structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the final plan was approved. No changes authorized by this section may increase the cubic volume of any building or structure by more than one percent.
- (b) All other changes in use, any arrangement of lots, blocks and building tracts, any changes in the provision of common open spaces, and all other changes must be submitted to the Planning Commission for review. The Planning Commission shall forward the plan to Board with a report recommending action be taken. The Board of Supervisors, after reviewing the plans and pertinent information, shall approve, disapprove, or approve with modifications the development plan.

No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the community.

3.11-21 Rate of Construction; Conveyance of Common Space

The construction of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan the Building Official shall review all of the building permits for the planned development and examine the construction which has taken place on the site. If he shall find that the rate at which common open spaces and public and recreational facilities have been constructed and provided is not satisfactory, he shall forward this information to the Board of Supervisors which may revoke the building permit. The Building Official shall not issue a permit for any building or structure shown on the final development plan unless the common space to be conveyed has been adequately assured in a manner satisfactory to the Board. This may be a bond, corporate surety or other acceptable financial guarantee, including escrow agreements.

3.11-22 Control of Planned Unit Development Following Completion

The Building Official shall issue a certificate certifying the completion of the planned unit development and the clerk shall note the issuance on the recorded final development plan.

After the certificate of completion has been issued, the use of land and the construction, modification or alteration of any buildings or structures within the planned unit development will be governed by the approved final development plan rather than by other provision of this chapter.

After the certificate of completion has been issued, no changes may be made in the approved development plan except upon application to the appropriate agency under the procedures provided below:

- (a) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Building Official if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cubic volume of any building or structure by more than ten percent.
- (b) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved by the Board of Supervisors. Change in the use of common open space may be authorized by an amendment to the final development plan, as approved by Board.
- (c) All other changes in the final development plan must be made by the Board of Supervisors under the procedures authorized by this article. No changes may be made in the final development plan unless they are required for the continued successful functioning of the planned unit development, or unless they are required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the community.

3.11-23 Fee

A fee of one hundred dollars shall be charged for processing a planned unit development application. This fee shall be payable at the time of submittal of the application.

3.11-24 Management of Common Open Space, Property and Facilities

- (a) All private streets, parking areas, recreational areas and other common open space, properties, and facilities shall be preserved for their intended purpose as expressed in the approved plan. The developer shall provide the establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to insure the maintenance of all common open space, properties and facilities. If ownership of the Planned Unit Development is retained by the developer, the association or nonprofit corporation may be the developer. In any event, the intent of these provisions is to insure the preservation and maintenance of all common open space, properties and facilities.
- (b) All privately owned common open space, as described above, shall continue to conform to its intended use and remain as expressed in the site plan through the inclusion in all deeds of appropriate restrictions to insure that the common open space is permanently preserved according to the site plan. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

- (c) All common open space as well as public and recreational facilities shall be specifically included in the development schedule and be constructed and fully improved by the developer at a proportionately equivalent or greater rate than the construction of residential structures.
- (d) The nonprofit corporation or association established to own and maintain common open space properties and facilities shall conform to the following requirements, and the developer shall obtain the approval of the County Attorney as to acceptability of incorporation documents:
 - (1) The developer must establish the association or nonprofit corporation prior to the final approval, recording and sale of any lot.
 - (2) Membership in the association or nonprofit corporation shall be mandatory for all owners within the planned unit development and the association or corporation shall not discriminate in its members or shareholders.
 - (3) The association or nonprofit corporation documents shall set forth the purposes of the permanent organization under which common ownership is to be established, including its purposes; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the County, and the method of assessing the individual property for its share of the cost for administering and maintaining such common property.
 - (4) The incorporation document shall set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.
 - (5) In addition, a bond guaranteed by a surety company acceptable to the Zoning Administrator, or other form of security satisfactory to the Zoning Administrator, shall be posted in an amount determined by the Zoning Administrator to insure the performance of the homeowner's association and the maintenance of all common open space properties and facilities until such time as the developer, and any subsequent developer, in his/her capacity as developer no longer has any interest in the planned unit development.

3.11-25 Ownership of Development

All property in a planned unit development shall remain under single entity ownership of a developer or group of developers, and shall not be leased or sold unless provision is made which insures participation by the properties leased or sold in the retention and maintenance of common open space and community facilities in accordance with this article. A certificate of compliance, indicating that such arrangements have been made, shall be issued by the director of planning prior to the sale or lease of the property by the developer.

ARTICLE IV

General Provisions and Supplementary Regulations

Section 4.1 Transitional Provisions

4.1-1 Permits Issued Prior to Ordinance.

Nothing contained in this Ordinance shall be construed to require any change in the plans, construction, or intended use of any building or structure for which a permit was lawfully issued by the County prior to the effective date of this Ordinance or subsequent amendment thereto, provided that such construction begins prior to the expiration of the permit, as specified by the provision of this Ordinance or other applicable laws.

In any case where a permit expires or ceases to be valid, or where construction is abandoned for a period of 12 months or greater, further construction and use shall conform to the applicable provisions of this Ordinance.

4.1-2 Existing Uses, Buildings, and Structures.

Uses, buildings, and structures lawfully existing at the effective date of this Ordinance or subsequent amendment thereto may be continued subject to the provisions of Article V of this Ordinance pertaining to Nonconforming Uses and Features.

Section 4.2 Compliance with Provisions

4.2-1 Changes in Buildings, Structures or Land Uses

After the effective date of this ordinance, no building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, converted or structurally altered, except in conformity with all of the regulations specified for the district in which such building, structure or land is located and with all other applicable provisions of this Ordinance, except as provided in Section 4.1-2 and Article V.

4.2-2 Lots, Yards and Open Spaces

No part of any lot, yard, open space or other feature required for a building, structure or use shall be encroached upon, reduced or eliminated, or considered as lot, yard, open space or other feature for any other building, structure or use, except as may be specifically permitted by the provisions of this Ordinance.

Section 4.3 Lots Recorded Prior to this Ordinance

4.3-1 Nonconforming Lots

Any lot of record lawfully established prior to the effective date of this Ordinance, or subsequent amendment thereto, and that does not conform with the requirements for minimum lot area or lot width applicable in the district in which such lot is situated, may be devoted to any use if such use is permitted in the district, provided that all other applicable provisions of this Ordinance and applicable health regulations shall be met.

Section 4.4 More Than One Principal Residence on Any Lot

Only one principal residence and its accessory buildings, including one accessory dwelling if permitted in the district, shall be located on a single lot, except that additional single family dwellings or manufactured homes, if permitted in the district, may be added provided that:

- a. For each additional single family dwelling/manufactured home, the lot area as required in the zoning ordinance and amount of road frontage required in the subdivision ordinance, shall be met for each structure as though it were on a single lot.
- b. Each additional residence shall be provided with separate utility connections

Section 4.5 Accessory Buildings and Uses

Accessory buildings and uses as defined in Article X, are allowed for any permitted use in each district. All accessory uses shall meet the front setback requirements for the district in which they are located, and shall be located at least five (5) feet from any property line.

Section 4.6 Temporary Buildings and Construction Trailers.

When used only for construction work taking place on the site, temporary buildings, construction trailers and equipment shall be permitted in any district during the period when construction work is in progress, as evidenced by a valid building permit. Such temporary facilities shall be removed immediately upon completion of the construction work.

Section 4.7 Junk Storage and Automobile Graveyards

No motor vehicle, which does not display a current license plate, may be parked on any public street for more than twenty-four (24) hours. No inoperable vehicles requiring a license to operate shall be stored for more than 30 days on any open lot in any district except those vehicles being repaired in conjunction with an automobile service repair business. This provision shall not apply to vehicles enclosed within a private garage, except in accordance with the following provisions:

4.7-1 Location of Junkyards or Automobile Graveyards

No junkyard or automobile graveyard shall be established, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any primary highway, or within five hundred (500) feet of the nearest edge of the right-of-way of any other highway or street, except junkyards or automobile graveyards that are screened by natural objects, plantings, fences, or other appropriate means, so as not to be visible from the main-traveled way of the highway, street, or adjoining property owners, or otherwise removed from sight.

Section 4.8 Public Utilities

Any public utilities used solely for local distribution such as water, sewer, cable TV, electric, telephone and natural gas lines shall not be subject to restrictions in this Ordinance. Major public utility installations such as electric generating and booster stations, high voltage electric towers, and communications towers are subject to compliance with Article III. Communications towers also are subject to regulations under Section 4.11.

Section 4.9 Manufactured Homes

All manufactured homes to be placed or relocated in the county must comply with the County Manufactured Home Ordinance.

Section 4.10 Parking Requirements

Minimum off-street parking shall be provided at the time of construction of any of the following principal buildings, or at the time the principal building is converted or expanded, with adequate provision for access from a public street, as follows:

- a) Multi-family dwellings, including townhouses: Two off-street parking spaces for every dwelling unit.
- b) Group homes, motels, hotels, bed and breakfast establishments, country inns and lodges, rest homes: One off-street parking space for each guest bedroom.
- c) Religious assemblies, auditoriums, theatres, stadiums or other places of assembly: One off-street parking space for every five (5) fixed seats.
- d) Retail stores selling directly to the public and personal service establishments: One off-street parking space for every 250 square feet of retail floor space.
- e) Restaurants: One off-street parking space for each four seats provided for customers.
- f) Manufacturing, wholesale distribution, or call center/data processing facility: One off-street parking space for every employee, with modifications allowed for shift employment.
- g) Other commercial buildings not listed above and hereafter erected or converted, excluding storage warehouses: One off-street parking space for each 250 square feet of business floor space in the building.

Section 4.11 Regulations on Communication Towers

The purpose of the personal wireless service facilities regulations is to establish standards and guidelines to be used in the review of personal wireless service facility applications. Wireless carriers should be encouraged to follow these standards in preparing applications for personal wireless service facilities. These standards will be used in evaluating personal wireless service facilities applications.

4.11-1 Standards to be Applied

These standards are intended to allow for the provision of personal wireless service facilities. Decisions based on the following principles are recommended:

- a) The most important consideration in siting personal wireless service facilities is *visibility*. Enough information should be submitted with the application to allow the County to measure the visibility of a facility. The less a personal wireless service facility can be seen, the more likely it will be approved.
- b) Personal wireless service facilities should not be located on ridge tops or along the ridgeline and they should be provided with an adequate backdrop so that they are not skylined.
- c) Personal wireless service facilities should use existing structures where possible.
- d) Ground-based equipment should be limited in size and designed in keeping with the character of the area.
- e) Antennas should be mounted close to the supporting structure and be designed to minimize visibility.
- f) Other types of wireless facilities are encouraged to follow these principles to the greatest extent possible.

4.11-2 Application Review

A special use permit is required in all zones where applicable. Applications for a personal wireless service facility shall include siting and design considerations including proposed mitigation and the site and location of the proposed facility. Additional information may be required by the Zoning Administrator.

4.11-3 Setback

Towers shall be setback from the property line(s) a distance equal to the height of the tower, unless the Planning Commission grants a modification or waiver.

4.11-4 Definitions

- Antenna - A whip (omni-directional antenna), panel (directional antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals. Panel antennas are used by both cellular and PCS carriers.
- Camouflage - A way of painting and mounting a personal wireless service facility that requires minimal changes to the host structure in order to accommodate the facility.
- Co-location - The use of a common personal wireless service facility or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of two or more personal wireless service facilities on adjacent properties.

- Comprehensive Plan - The Comprehensive Plan establishes governmental policy to help guide public and private activities as they relate to land use and resource utilization.
- Concealment - Enclosing a personal wireless service facility within a natural or man-made feature resulting in the facility being either invisible or made part of the feature enclosing it.
- Design - The appearance of personal wireless service facilities such as their materials, colors, and shape.
- Disguise - A personal wireless service facility designed to appear to be something other than a personal wireless service facility.
- Enhanced Specialized Mobile Radios (ESMR) - Private land mobile radio with telephone services.
- Equipment Cabinet (Shelter, Shed) - An enclosed structure at the base of the mount within which is housed the equipment for the personal wireless service facility such as batteries and electrical equipment.
- Location - The property where a personal wireless service facility is located or proposed to be located.
- Mitigation - The reduction or elimination of visual impacts by the use of one or more methods: concealment, camouflage or disguise.
- Personal Wireless Service - Any personal wireless service defined under the Federal Telecommunications Act, which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), as well as unlicensed wireless services, and common carrier wireless exchange access services.
- Personal Wireless Service Facility - A facility that provides personal wireless services, as defined by Section 704 of the Telecommunications Act of 1996.
- Site - That portion of a property where a personal wireless service is to be placed. An acceptable location may have several potential sites within it.
- Siting - The method and form of placement of personal wireless service facilities on a specific area of a subject property.
- Skylining - Locating a personal wireless service facility in such a way that the backdrop of the facility is the sky.
- Stealth - A wireless industry term for "hidden" or "undetectable."

- Tower - In telecommunications, any tall structure used for the mounting of antennas is a tower.
- Treetop Tower - A mount for personal wireless service facilities no more than 10 feet taller than the tallest tree within 25 feet of the proposed mount.

4.11-5 Siting and Design Considerations

The visibility of a proposed personal wireless service facility may be reduced through devices, techniques or construction methods designed to conceal, camouflage or otherwise disguise the facility. Stealth techniques can be applied to make a personal wireless service facility appear to be hidden or undetectable.

Other methods used to reduce visibility include co-location and similar approaches to concealing a personal wireless service facility.

Section 4.12 Outdoor Lighting

4.12-1 Purpose

The purpose of these regulations is to protect dark skies, protect general welfare by controlling the spillover of light onto adjacent properties, and protect public safety by preventing glare from outdoor lighting. These regulations aim to control the direction of light emitted from certain lighting and to limit the intensity of light on certain adjacent properties.

4.12-2 Applicability

These regulations shall apply to each outdoor luminaire installed or replaced after the date of adoption of the Zoning Ordinance.

These regulations are limited to the permitted uses in a Commercial and Industrial District, and to special use permits in all districts that have property equipped with a lamp or lamps emitting three thousand (3,000) or more maximum lumens.

4.12-3 Definitions

The following definitions shall apply in the implementation and enforcement of these outdoor lighting regulations:

- a) Foot candle - Intensity of light that falls on a one-square-foot surface from a light source one foot away.
- b) Full cutoff luminaire - An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane.
- c) Lamp - The component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.
- d) Lumen - A standard unit of measurement of luminous flux.

- e) Luminaire - A complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.
- f) Outdoor luminaire - A luminaire that is permanently installed outdoors including, but not limited to, devices used to light any site, structure, or sign. The term does not include an internally illuminated sign.

4.12-4 Standards for Outdoor Luminaires

- a) Each luminaire subject to these regulations shall be a full cutoff luminaire.
- b) For each luminaire subject to these regulations, whether a lamp emits three thousand (3,000) or more maximum lumens shall be determined from the information provided by the manufacturer of the lamp, including, but not limited to, information on the lamp or on the lamp’s packaging materials.
- c) For each luminaire subject to these regulations, the following rated lamp wattages shall be deemed to emit three thousand (3,000) or more maximum lumens unless the Zoning Administrator determines, based upon information provided by a lamp manufacturer, that the rated wattage of a lamp emits either more or less than the three thousand (3,000) maximum lumens:
 - Incandescent lamp: 160 or more watts.
 - Quartz halogen lamp: 160 or more watts.
 - Fluorescent lamp: 35 or more watts.
 - Mercury vapor lamp: 75 or more watts.
 - Metal halide lamp: 40 or more watts.
 - High pressure sodium lamp: 45 or more watts.
 - Low pressure sodium lamp: 25 or more watts.
- d) If a luminaire is equipped with more than one lamp, the lumens of the lamp with the highest maximum lumens shall determine the lumens emitted.

4.12-5 Standards for Lots Containing Outdoor Luminaires

Each lot, except those containing only one or more single-family detached dwellings, shall comply with the following:

- a) The spillover of lighting onto public roads and property shall not present a hazard to driving. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.
- b) All outdoor lighting, regardless of the amount of lumens, shall be arranged or shielded to reflect light away from adjoining residential districts and away from adjacent roads.

4.12-6 Modification or Waiver

Any standard may be modified or waived in an individual case, as follows:

- a) The Planning Commission may modify or waive any standard set forth in this section. The Planning Commission may also impose conditions it deems appropriate to further the purposes of this section, in either of the following circumstances:
 - 1) Upon finding that strict application of the standard would not advance the purposes of this section or otherwise serve the public health, safety, or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.
- b) Prior to considering a request to modify or waive any standard set forth in this section, fifteen (15) days written notice shall be provided to the owner, owner's agent, or occupant of each abutting property or lot and each lot immediately across the street or road from the lot that is the subject of the request. The written notice shall identify the nature of the request and the date and time the Planning Commission will consider the request.
- c) The Board of Supervisors shall consider a modification or waiver of this section only as follows:
 - 1) The denial of a modification or waiver, or the approval of a modification or waiver with condition objectionable to the developer, may be appealed to the Board of Supervisors as an appeal of a denial of the plan as to which the modification or waiver pertains. A modification or waiver considered by the Planning Commission for an application for a special use permit shall be subject to review by the Board of Supervisors.
 - 2) In considering a modification or waiver, the Board of Supervisors may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the Planning Commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a). Otherwise, neither the grant nor denial of a modification or waiver may be appealed to the Board of Supervisors.

4.12-7 Exempt

The following outdoor lighting and related acts shall be exempt from the requirements of these regulations:

- a) Lighting not subject to this chapter under state or federal law;
- b) Construction, agricultural, emergency, or holiday decorative lighting, provided the lighting is temporary and is discontinued within seven (7) days upon completion of the project or holiday for which the lighting was provided;

- c) Lighting the national or state flags and other non-commercial flags that express constitutionally protected speech;
- d) Security lighting controlled by sensors providing lighting for fifteen (15) minutes or less;
- e) Replacement of an inoperable lamp or component contained in a luminaire installed prior to the date of adoption of this ordinance;
- f) The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose;
- g) Lighting for schools and athletic ball fields.

Section 4.13 Sign Regulations

4.13-1 Purpose

The purpose of this section is to permit such signs that will not, by reason of their size, location, construction or manner of display, endanger the public safety; confuse, mislead, or obstruct the vision necessary for traffic safety; or otherwise endanger public health, safety, and morals; and to permit and regulate signs to support and complement land use objectives described in Article I. All signs to be located in Wythe County shall comply with the Outdoor Advertising Laws of Virginia in addition to the requirements set forth in this ordinance.

4.13-2 Definitions

- Business sign - A sign erected for the purpose of advertising and/or promoting a business, product, services, or activity that is on the premises upon which the sign is located.
- Civic sign - A sign identifying the nature of activity and other pertinent information for any civic, community or religious assemblies.
- Directional sign - A sign indicating the direction to which attention is called giving only the name of a business or other establishment responsible for the erection of such sign, but which contains no other advertising matter. May include signs for religious assemblies, community centers, and other non-business facilities.
- Home occupation sign - A sign on the premises of a dwelling unit that has an authorized home occupation that only states the name of the person occupying the dwelling and identifies the product or service offered by the home occupation.
- Identification sign - A sign that indicates only the name of a business, or any non-commercial establishment, and that is located on the premises of such business or establishment.

- Outdoor advertising sign - A sign used for the purpose of advertising or promoting a business, service, activity or product that is not found on the premises where said sign is located.
- Portable sign - A temporary sign that is not permanently affixed to the ground or to a permanent structure, or a sign that can be moved to another location including, but not limited to, a sign erected on a trailer, a sign with attached wheels, a sign consisting of A-shaped or T-shaped frames, or an advertising vehicle.
- Sign - Any display of any letters, words, numerals, figures, devices, emblems, pictures, design, trade names or marks, or any part or parts or combinations thereof by any means whereby the same are made visible for the purpose of making anything known, such as the designation of an individual, a firm, an association, a profession, business, a commodity, or product, which display is visible from any public right-of-way. A display of less than one square foot is excluded from this definition.
- Sign area - The entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all the elements of the matter displayed, but not including any frames, structural elements or the opposite side of a double-faced sign, provided such face is not placed at more than a 45-degree angle to the obverse side.

4.13-3 Exempt

The following shall be exempt from the provisions of this section:

- a) Signs provided or required by a duly constituted government body, including traffic or similar regulatory devices, legal notices and warnings at railroad crossings;
- b) Flags or emblems of political, philanthropic, educational, or religious organizations;
- c) Temporary signs for a period not to exceed three (3) months, announcing a campaign, drive, or event;
- d) Memorial plaques or tablets;
- e) Small signs, each not to exceed six (6) square feet of sign area, displayed for the direction of the public, including signs that identify rest rooms, freight entrances, house numbers and the like;
- f) Vehicular signs attached to or lettered on a licensed operable motor vehicle;

- g) Name or identification signs that are architecturally part of the building, wall-mounted and that identify a company, apartment, public, or semi-public use through the use of integral letters, symbols or logos.

4.13-4 Type and Size of Signs Permitted, by District

The following chart shows the maximum sign area in square feet (either single-faced or double-faced) of signs permitted in each zoning district. If the chart gives no maximum size, then the indicated type of sign is not permitted in the indicated zoning district.

Maximum Sign Area of Signs Permitted in Various Districts (sq. feet)

	Ag (A-1)	Gen.Ag (A-2)	Resid. (R-1)	Resid. (R-2)	Comm & Industrial (C&I)	Conserv Rec (C/R)	Shore Rec (SR)
Business	32	32	---	---	450	---	---
Home Occupation	2	2	---	2	---	---	---
Civic	32	32		32	32	32	---
Identification	32	32	32	32	32	32	32
Directional	6	6	6	6	6	6	---
Outdoor Advertising	150	150	---	---	300	---	---
Portable	---	---	---	---	32	---	---

4.13-5 Prohibition of Obstruction and Certain Signs

No sign may be arranged so that it interferes with traffic, creates glare, blocks reasonable sight lines for streets, sidewalks, or driveways, creates confusion with a traffic control device (by reason of the sign’s color, location, shape, or other characteristics), or through any other means. Rotating beacons and flashing signs are banned.

No signs shall be allowed to protrude into the space above the right-of-way of a public street or a utility easement for overhead electrical service. Roof signs or roof sign structures shall not extend above the roof line and shall not extend beyond or overhang any exterior wall of the building upon which the sign is secured.

4.13-6 Location of Signs

That portion of a sign or a pole or standard of such sign that is in contact with the ground shall be within the lot lines of the property and shall not be within the right-of-way of any dedicated public right-of-way.

4.13-7 Height of Signs

Signs shall not exceed the height of the structure housing the business advertised or fifty (50) feet, whichever is greater.

4.13-8 Motion or Non-Stationary Signs

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

4.13.9 Nonconforming Signs and Closed Businesses

- a) Any advertising structure or sign that was lawfully in existence on the date of adoption of this Ordinance that does not conform to the provisions of this Ordinance shall be deemed a nonconforming sign and be allowed to remain, except as qualified in subsection c) below. A nonconforming sign shall not be enlarged, extended, structurally rebuilt or altered in any manner. A sign face or head, however, may be changed, as long as the new face or head is equal to or reduced in height, sign area and/or projection, and as long as the sign is not changed from an on-premises sign to an off-premises sign.
- b) The addition of lighting or illumination to a nonconforming sign shall constitute an expansion of a nonconforming structure and shall not be permitted.
- c) Nonconforming signs may remain, provided they are kept in good repair, except for the following circumstances:
 - 1) A nonconforming sign that has been destroyed or damaged to the extent exceeding 50% of its replacement value shall not be altered, replaced or re-installed unless it is in conformance with the sign regulations. Signs damaged to a lesser extent may be restored within 90 days of the damage or destruction, but shall not be enlarged in any manner.
 - 2) A nonconforming on-premises sign shall be removed if the structure or use to which it is accessory is discontinued for more than two years.

4.13-10 Sign Construction

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

4.13-11 Sign Permit Required

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

Section 4.14 Intensive Hog and Poultry Operations

4.14-1 Purpose

The purpose of this section is to regulate intensive hog and poultry operations as defined by the U.S. Environmental Protection Agency for Concentrated Animal Feeding Operations (CAFO).

4.14-2 Setbacks

The following setbacks for intensive hog and/or poultry operations shall be required as follows:

At least one hundred fifty (150) feet from property lines and public roadways.

- a) At least three hundred (300) feet from existing dwellings in the A-1 district.
- b) At least six hundred (600) feet from existing dwellings in the A-2 district, designated growth areas, property lines for lots zoned for residential use (including R-1 and R-2, as defined under Article III), manufactured home parks, public schools, and town, county and community recreation areas.
- c) At least one thousand (1,000) feet from incorporated town and city boundaries and from public wells, springs and water intakes.

4.14-3 Expansions of Intensive Hog and/or Poultry Operations.

Existing intensive hog and poultry operations may be expanded, provided the expansion does not encroach upon any adjoining residence, town boundary, city boundary or zoning district to a greater extent than was the case under the original operation, provided that all other requirements of this section are met. This rule applies as follows:

- a) In the event a dwelling is built on property adjoining an existing intensive hog or poultry operation or on property for which valid permits for intensive hog or poultry operations have been obtained;
- b) In the event of an annexation or a county rezoning that makes the intensive hog or poultry operation nonconforming.

Section 4.15 Fencing

The Wythe County Zoning Ordinance will adhere to Virginia State Code Section 55-317 enacted in 1887 and amended 1970 and upheld by the Supreme Court of Virginia in 1991. Further the ordinance will follow Virginia State Code Section 55-317 through 55-322 and the Fence Ordinance of Wythe County, Virginia, #84-7.

Section 4.16 Landfills

Landfills are not permitted in any district in the county.

Section 4.17 Uses Not Specified

If in any district established under this Ordinance a use is not specifically permitted and an application is made by a property owner to the Zoning Administrator for such use, the Zoning Administrator shall refer the application to the Planning Commission, which will make its recommendations to the Board of Supervisors within 90 days after giving notice under § 15.2-2204, *Code of Virginia*, 1950, as amended, and holding a public hearing thereon. The Board of Supervisors shall grant or deny such application after holding a public hearing pursuant to § 15.2-2204. Uses not provided for shall be permitted after a finding that the proposed use or uses are consistent with the Comprehensive Plan, the policies of the County, and the public interest.

ARTICLE V Nonconforming Uses And Features

Section 5.1 Nonconforming Uses and Features

Within the districts established by this Ordinance, or by amendments which may later be adopted, there exist or may exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment. Such uses are considered nonconformities and are hereby declared to be incompatible with the character of the districts in which they occur.

It is the intent of this Ordinance to permit these nonconformities to continue until removed, discontinued or changed to conform with these regulations, but not to encourage their survival, permit their expansion, or permit their use as grounds for adding other structures or uses prohibited elsewhere in the same district.

Section 5.2 Expansion of Nonconforming Uses

No nonconforming use shall be expanded 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, except by issuance of a special use permit. A minor expansion of a nonconforming use that does not entail more than ten (10) percent of the square footage of the existing space is allowed without a special use permit.

Section 5.3 Change of Nonconforming Uses

5.3-1 When Changes are Allowed

A change in a nonconforming use is allowed only when the new use is more conforming to the uses permitted in the applicable district. A special use permit shall be required for any change in a nonconforming use.

5.3-2 Removal or Replacement of Manufactured Homes

Removal and replacement of a manufactured home that constitutes a nonconforming use on an individual lot in the Residential, Commercial, Industrial, or Conservation/Recreation districts shall be permitted as long as the replacement unit conforms to current federal manufactured housing and construction standards, subject to Section 5.4 regarding discontinuance of nonconforming uses.

5.3-3 Manufactured Homes within Existing Manufactured Home Parks

Removal or replacement of a manufactured home within an existing manufactured home park shall be permitted so long as the replacement unit conforms to current federal manufactured housing construction and safety standards.

Section 5.4 Discontinuance of Nonconforming Uses

Whenever a nonconforming use of land or a nonconforming use of a building is discontinued for a period of more than twenty-four (24) consecutive months, whether or not equipment or fixtures intended for such use are removed, any subsequent use shall conform with the use regulations of the district in which the property is located. A seasonal nonconforming use that has been in continual operation for a two-year period or more would not be considered as discontinued.

Section 5.5 Alterations or Repairs to Buildings Devoted to Nonconforming Uses

No building or portion of a building devoted to a nonconforming use shall be enlarged, extended, rebuilt or moved on the premises such that the building is increased by more than ten (10) percent of its existing square footage in size, unless such building or portion of a building is thereafter devoted to a use which conforms with the use regulations of this Ordinance or to a use approved by issuance of a special use permit. Nothing in this Article shall be construed to prevent normal repair, maintenance or structural alteration, or the strengthening or restoring of a building to a safe condition.

Section 5.6 Alterations or Repairs to Buildings Having Nonconforming Features

A building which is devoted to a conforming use and is nonconforming with respect to the yard, height, bulk or area regulations of this Ordinance, or other feature required by this Ordinance, may be repaired, enlarged, extended or structurally altered, provided that such enlargement, extension or structural alteration does not increase the degree or extent of any nonconforming feature of the building.

Section 5.7 Damage to Buildings Devoted to Nonconforming Uses

Any building that is devoted to a nonconforming use under the provisions of this Ordinance but is damaged by fire, explosion, or act of God may be maintained, repaired, reconstructed, improved, or structurally altered, provided it is not enlarged from its original size before the damage occurred, except as provided in Section 5-2, allowing up to an additional ten (10) percent of the square footage before the damage occurred.

Section 5.8 Damages to Buildings with Nonconforming Features

Any building with nonconforming features that is damaged by fire, explosion, or act of God, may be maintained, repaired, rebuilt, improved, or structurally altered, provided that any new construction does not increase the degree or extent of any nonconforming feature of the original structure, and provided that the repair or reconstruction is started within twelve (12) months of the date the damage occurred.

Section 5.9 Intermittent or Illegal Uses

Intermittent, temporary or illegal use of land or buildings shall not be construed to establish the existence of a nonconforming use upon adoption of this Ordinance.

Section 5.10 Existence of Nonconforming Uses and Features

The Zoning Administrator shall have the authority to determine whether a nonconforming use or a nonconforming feature of a use or building exists in accordance with the provisions of this Ordinance. Any decision by the Zoning Administrator may be taken to the Board of Zoning Appeals by any person aggrieved by such decision pursuant to the provisions of Article VII of this Ordinance.

Section 5.11 Manufactured Homes Having Nonconforming Features

A manufactured home that is an allowed use and has nonconforming features may be replaced within ninety (90) days, provided the replacement home does not increase the degree or extent of nonconforming features.

ARTICLE VI Special Use Permits

Section 6.1 Special Use Provisions

Certain uses of land and buildings, designated in Article III as special uses, may be permitted in one or more of the various zoning districts. This section intends that the designation of certain uses as conditional for certain districts, and the procedures set forth for the review and approval or disapproval of such uses, be administered so as to further the purposes of this Ordinance and facilitate the creation of a convenient, attractive and harmonious community.

As described in the following sections, the Planning Commission will consider applications for Special Use Permits and will make recommendations to the Board of Supervisors. The Board of Supervisors shall decide on whether to approve the issuance of the Special Use Permit.

Section 6.2 Procedures for Review and Approval of Special Uses

6.2-1 Application for Special Use Permits.

Any person desiring to use any land or building in a manner classified by this Ordinance as a special use for the district in which said land is located shall apply to the Zoning Administrator for a Special Use Permit, pay the required application fee,

and submit supporting maps and other documents as required by the Zoning Administrator. The required information for a Special Use Permit application shall be consistent with the requirements for a zoning permit application in Section 8.3-3. The Special Use Permit application shall also require an oath regarding property interest of local officials as allowed in §15.2-2287 of the *Code of Virginia*, 1950, as amended, and complete disclosure of ownership as allowed in § 15.2-2289.

6.2-2 Public Hearing and Report to Board of Supervisors

- a) The Zoning Administrator shall forward the application to the Planning Commission members. After a public hearing is held in accordance with § 15.2-2204 of the *Code of Virginia*, 1950, as amended, and after receiving a report from the Zoning Administrator, the Planning Commission shall either recommend approval as submitted, recommend approval with changes, or recommend disapproval of the application. The Planning Commission shall recommend granting the permit if the Commission determines the proposed development fully complies with the standards set forth in Section 6.2-3 and shall record its findings concerning such compliance. The Planning Commission shall give its recommendation to the Board of Supervisors for review at its next meeting. The Board shall also conduct a public hearing, as prescribed by law, on the matter and decide whether to accept, deny or modify the Commission's recommendation within (90) days, unless the matter is extended for another ninety (90) days for good cause. In accordance with Section 15.2-2204 of the Code of Virginia 1950 as amended, the Planning Commission and Board of Supervisors may hold a joint public hearing.
- b) The Commission may recommend and the Board of Supervisors may impose such other conditions and restrictions as may be necessary to reduce or minimize the injurious effect of the special use and insure compatibility with surrounding property. The Commission may recommend and the Board of Supervisors may establish expiration dates for any Special Use Permit as a condition of approval.
- c) If a Special Use Permit is approved, then a final site plan shall be submitted to the Zoning Administrator within six (6) months of the date of approval.
- d) Any significant change, as determined by the Zoning Administrator, of the preliminary site plan approved by the Board of Supervisors shall nullify the Special Use Permit and require re-submittal for Planning Commission review and Board action.

6.2-3 General Standards.

A Special Use Permit may be recommended by the Planning Commission and approved by the Board of Supervisors upon findings the proposed special use meets the following standards:

- a) It is designed, located and operated so that the public health, safety and welfare is protected;
- b) It will not be of substantial detriment to adjacent property;

- c) It will not change the character of the zoning district;
- d) It is within the provision of special uses set forth in this Ordinance;
- e) It conforms to all applicable provisions of this Ordinance for the district in which it is to be located;
- f) The proposed use must have direct access on a public road that can safely and adequately handle the automobile and truck traffic generated;
- g) A satisfactory storm drainage plan must be provided, and there must be adequate safeguards to prevent soil erosion on the site and erosion and sedimentation on neighboring downhill and downstream properties during and after development;
- h) There is suitable provision for the protection of privacy on any adjoining property in residential use or which may develop in residential use under the provisions of this Ordinance. Protection of privacy shall mean effective screening against both visual intrusion and noise;
- i) In the case of manufacturing, there shall be a satisfactory plan proposed to eliminate the adverse impact on any adjoining residential uses from any dust, smoke, odor, or glare resulting from the manufacturing operation;
- j) In the case of quarry and mining operations, where permitted as a special use, all mining activities must be done in accordance with the applicable regulations of the Virginia Department of Mines, Minerals, and Energy;
- k) In the case of junkyards and graveyards, the operation must be a legitimate business involved in buying and selling of discarded materials or used automobile parts and is subject to the requirements of Section 4.7.

6.2-4 Conditions.

In authorizing a special use permit, the Board of Supervisors, after receiving the report and recommendation by the Planning Commission, may impose specific conditions on the development and use of land as necessary to assure compliance with the standards set forth in Section 6.2-3. Such conditions may include, but are not limited to:

- Dimensional requirements for front, side, and rear yards greater than those specified elsewhere in this Ordinance;
- Screening by planting or fences or other devices;
- Landscaping for appearance;
- Noise Barriers
- Banning or regulating signs;
- Requiring additional parking spaces;
- Limiting hours of operation.

Section 6.3 Right of Appeal

Any action taken by the Board of Supervisors on a decision regarding the granting or denial of a special use permit may be contested by filing within thirty (30) days of the decision with the Circuit Court of the County as provided for in § 15.2-2285 (F) of the *Code of Virginia*, 1950, as amended.

ARTICLE VII

Board of Zoning Appeals And Administration Of Variances

Section 7.1 Creation, Membership and Appointment of the Board

The Board of Zoning Appeals is hereby established which may be referred to in this Article as the "Board" or "Board of Zoning Appeals." The Board shall have jurisdiction within the boundaries of the County, and it shall consist of seven (7) County residents and three (3) alternates appointed by the Circuit Court of the County. Board members shall hold no other public office in the County, except that one may be a member of the Planning Commission.

7.1-1 Terms of Office of Board Members, Vacancies, Removals.

Board members shall serve for a five-year term, except that original appointments shall be made for such that the term of at least one member shall expire each year. Initial appointments of the members shall be as follows: two for five-year terms, two for four-year terms; one for a three-year term; one for a two-year term; and one for a one-year term. Initial appointments for alternates shall be as follows: one for a five-year term; one for a four-year term; and one for a three-year term.

The Board secretary shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen (15) days notice.

7.1-2 Staff of Board and Compensation of Board Members.

Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for legal counsel, consultants and other technical and clerical services. Board members may receive such compensation as may be authorized by the Board of Supervisors.

7.1-3 Powers of the Board

The Board of Zoning Appeals shall have the following powers and duties:

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

- b) Hear and decide appeals from decisions made by the Zoning Administrator;
- c) Hear and act upon application for variances in accordance with Section 7-2 of this Article;
- d) Hear and decide applications for interpretation of the official Zoning Map when there is any uncertainty as to the location of a district boundary, in accordance with the provisions of § 15.2-2309 (4) of the *Code of Virginia*, 1950, as amended.
- e) No provision of this section shall be construed as granting the Board of Zoning Appeals the power to rezone property.
- f) Hear and decide all other matters referred to it on which it is required to act under this Ordinance.

7.1-4 Election of Officers.

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

7.1-5 Stay of Proceedings.

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

7.1-6 Rules and Proceedings of the Board.

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

- a) The presence of a majority of all members of the Board shall constitute a quorum;
- b) No action shall be taken by the Board on any case until after a public hearing and notice thereof shall be published and mailed in accordance with § 15.2-2204 of the *Code of Virginia*, 1950, as amended;
- c) Appeals to the Board shall be made within thirty (30) days after the decision by the Zoning Administrator. The process begins with the aggrieved party filing a notice of appeal with the Zoning Administrator. The notice of appeal shall specify the grounds for the appeal. The Zoning Administrator shall then transmit to the Board all the papers constituting the record upon which the action was taken;
- d) The Board shall fix a reasonable time for hearing the application or appeal, give public notice thereof, as well as notify interested parties, and decide the same within sixty (60) days;

- e) The Board may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination appealed from. The concurring vote of a majority of the Board membership shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any variances from the Ordinance;
- f) The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the County Administrator and shall be public records.
- g) The chairman of the Board, or in his absence, the vice chairman, may administer oaths and compel the attendance of witnesses;
- h) The Board may call upon any other officer or agency of the County for information in the performance of its duties. It shall be the duty of such other agencies to render the information to the Board as may be reasonably required;
- i) In decisions or variances, the Board shall indicate the specific section of this Ordinance under which the variance is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare." The Board shall state clearly the specific conditions imposed in granting the variance. For variance cases pertaining to hardship, the Board shall specifically identify the hardship warranting such action by the Board;
- j) At the public hearing of the case before the Board, the appellant shall appear on his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other; and
- k) The Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board, and such opinion shall be made part of the record of the public hearing.

Section 7.2 Variance

7.2-1 Application for Zoning Variance.

Application for a zoning variance may be made by any property owner, agent, or legal counsel of the owner, government official, department, board, or bureau. The application shall be made to the Zoning Administrator in accordance with rules adopted by the Board of Zoning Appeals. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Board. The required information for a variance application shall be consistent with the requirements for a zoning permit application in Section 8-3.3, shall include the applicant's reason for requesting a variance and shall clearly state the specific provision or provisions of the Ordinance to which the applicant is requesting a variance.

7.2-2 Notice to Affected Property Owners.

Notice to affected property owners and public agencies including the Planning Commission and Board of Supervisors shall be given in accordance with notice and hearing procedures of § 15.2-2204 of *Code of Virginia*, 1950, amended.

7.2-3 Standards for Variance.

The Board may grant a variance as defined in Article X from the terms of this Ordinance that 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 the Ordinance shall be observed and substantial justice shall be done.

The Board shall not grant a variance unless it finds that:

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

7.2-4 Nonconforming Does Not Constitute Grounds for Granting a Variance.

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

7.2-5 Prohibition of Use Variances.

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

7.2-6 Conditions and Restrictions by the Board.

The Board may impose such conditions and restrictions upon the property benefited by a variance as may be necessary to comply with the provisions set out in Section 7.2-3 to reduce or minimize the injurious effect of such variance upon surrounding property and to better carry out the general intent of this Ordinance. The Board may establish expiration dates as a condition or as a part of the variance. The Board may require a guarantee or bond to insure that the conditions imposed are being complied with and will continue to be complied with.

Section 7.3 Right of Appeal

Any person, including any agency, office or department of the County government, aggrieved by a decision of the Board of Zoning Appeals, including on a variance application, may appeal any decision of the Board within thirty (30) days of the Board's decision to the Circuit Court of the County as provided for in § 15.2-2314 of the *Code of Virginia*, 1950, as amended.

**ARTICLE VIII
Administration And Enforcement**

Section 8.1 Appointment of Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator, who shall be designated by the Board of Supervisors and who may be given the assistance of others at the direction of the Board of Supervisors. The Zoning Administrator shall have all necessary authority to carry out the duties prescribed in this Ordinance on behalf of the Board of Supervisors. It shall be the responsibility of all other appointed officers and employees of the County to cooperate with the Zoning Administrator in the execution of his or her duties.

Section 8.2 Duties of Zoning Administrator

The Zoning Administrator shall be responsible for the administration and enforcement of this ordinance and shall have all necessary authority on behalf of the Board of Supervisors to carry out the following duties:

8.2-1 Interpretation.

Subject to appeal to the Board of Zoning Appeals as provided under Article VII, the Zoning Administrator shall be the final authority as to the interpretation of the provisions of this Ordinance.

8.2-2 Review and Approval of Applications.

The Zoning Administrator shall review all applications for zoning permits, and shall approve or disapprove in writing the applications based on compliance or noncompliance with the provisions of this Ordinance.

8.2-3 Violations.

The Zoning Administrator shall use his or her best effort to prevent violations of the provisions of this Ordinance and to secure the correction of violations. The Zoning Administrator shall order in writing the remedy of conditions found to be in violation, including discontinuing illegal uses of land and buildings and removing or bringing into compliance illegal buildings, structures, additions and alterations. The Zoning Administrator shall have the authority to bring such legal action to ensure compliance and prevent violations as may be authorized by the laws of the Commonwealth of Virginia.

8.2-4 Other Duties.

The Zoning Administrator shall have such other duties with respect to the administration of this Ordinance as are specifically set forth elsewhere in the Ordinance.

8.2-5 Records.

The Zoning Administrator shall maintain records of all official actions taken with respect to the administration and enforcement of this Ordinance.

Section 8.3 Zoning Permits

No building permit required by the provisions of the Virginia Uniform Statewide Building Code for new construction, building expansion, moving a building, change of building use, or for a manufactured home shall be issued by the Building official until the Zoning Administrator has approved a zoning permit. The Zoning Administrator shall review each application for a zoning permit and may require any other information that he or she may deem necessary for the consideration of the application.

8.3-1 Zoning Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit issued by the Office of the Zoning Administrator. Accessory buildings that do not require a building permit due to size are excluded from the requirement to have a zoning permit. However, accessory buildings shall meet the setback requirements in Section 4.5.

Pet shelters less than 150 square feet in size, retaining walls or landscape walls, and gardens are not regulated by this ordinance.

8.3-2 Permits Not to be Issued.

No zoning permit shall be issued for any land use, building, structure, or part thereof that is not in accordance with the provisions of this Ordinance.

8-3.3 Application for Zoning Permits.

The Zoning Administrator shall provide zoning permit application forms and instructions for the applicant that clearly facilitate timely review of the application. No permit shall be issued without a map number and, if available, a 911 street address.

- a) Each application for a zoning permit shall be accompanied by a plan showing the following: 1) the shape and dimensions of the lot to be built upon, 2) the existing structures on the property, 3) the dimensions and locations of all proposed buildings or structures, including alterations or additions, 4) the existing and intended uses of the land and of each building or part of a building, 5) significant natural features of the property, including wooded areas and streams, 6) existing and proposed roads and driveways; and 7) existing public water and sewer lines.
- b) The following information shall also be included: 911 street address (or state route number and approximate location if 911 address is not available) and map number;
- c) The site plan shall be accompanied by plans and/or a written description explaining the source of water supply and means of sewage disposal.
- d) The Zoning Administrator may accept an owner-prepared sketch for plans, as long as structure dimensions are clearly shown.
- e) The Zoning Administrator may require other necessary information as he or she deems necessary, including a topographic map of the site and a map showing adjoining properties.

8.3-4 Procedures for Approval or Disapproval

- a) If the proposed building or use is found to conform to the provisions of this Ordinance, the Zoning Administrator shall issue a zoning permit to the applicant. Three copies shall be made of the approved permit and plan, with one for the applicant, one for the Building Inspection Office and one for the Zoning Administrator's files.
- b) If the proposed building or use is not in compliance, the Zoning Administrator shall disapprove the zoning permit and advise the applicant in writing as to why the proposed building or use does not meet the provisions of the Ordinance. An applicant shall have right of appeal as permitted in Article VII of this Ordinance.

Section 8.4 Review and Approval of Certificate of Occupancy

The Zoning Administrator shall review all certificates of occupancy for compliance with this Ordinance before approval by the Building Official.

8.4-1 Required for New and Altered Buildings.

The Zoning Administrator shall review and either approve or disapprove all certificates of occupancy for buildings that are erected, constructed, reconstructed, enlarged, converted or moved.

8.4-2 Change in Use.

The Zoning Administrator shall review and either approve or disapprove all certificates of occupancy for buildings that are changed to a different use.

Section 8.5 Duties of Zoning Administrator Regarding Enforcement and Remedies

8.5-1 Complaints Regarding Violations.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint that shall be signed and dated. The complaint shall state fully the causes and basis of such complaint, and it shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record the complaint and shall promptly investigate and take such action as provided for in this Ordinance. The County Attorney shall be immediately advised of all violations of this Ordinance. The Zoning Administrator shall report to the Board of Supervisors any violations not abated through orders issued by the Zoning Administrator.

The provisions of this section shall not be construed to prevent the Zoning Administrator from taking enforcement action of his own initiative or from conducting an investigation based upon unsigned or anonymous complaints.

8.5-2 Enforcement Provisions and Penalties for Violation.

The following enforcement actions may be taken by the Zoning Administrator:

- a) The Zoning Administrator shall enforce the Ordinance in accordance with §15.2-2286 (4) of the *Code of Virginia*, 1950, as amended, which includes ordering in writing the remedying of any condition in violation of the Ordinance and insuring compliance with the Ordinance through legal action; and
- b) The Zoning Administrator may seek penalties in accordance with § 15.2-2286 (5) of the *Code of Virginia*, 1950, as amended.

8.5-3 Remedies.

Upon finding that any provision of this Ordinance is being violated, the Zoning Administrator shall notify in writing by certified mail the person responsible for such violation, which shall be the Owner, as defined by Article X, and shall order the discontinuance of any illegal buildings or structures, or illegal additions, alterations or structural changes, uses, and the discontinuance of any illegal work being done. Should such notice fail to force compliance within thirty (30) days of the date of the notice, the Zoning Administrator may take either or both of the following actions:

- a) If any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building, other structure or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator or other appropriate authority of the Board of Supervisors or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute an injunction, mandamus or other appropriate action to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land.
- b) The Zoning Administrator may request the County Administrator or Board of Supervisors authorize the County Attorney to bring legal action to insure compliance with the Ordinance, including injunction, abatement or other appropriate action or proceeding.

8.5-4 Appeal.

An appeal of the Zoning Administrator's decision shall be filed within thirty (30) days by filing a letter with the Zoning Administrator. Appeals shall go to the Board of Zoning Appeals.

Section 8.6 Duties of Administrator on Zoning Amendments, Zone Map Changes (Rezoning), Special Use Permits, Variances, and Appeals

8.6-1 Applications and procedure.

The Zoning Administrator shall be responsible for receiving each application for a zoning amendment, including a change to the zoning map (rezoning), special use permit, variance, or appeal, and processing those requests as provided for in under this Ordinance, including meeting the public notice requirements contained in §15.2-2204 of the *Code of Virginia*, 1950, as amended.

All applications shall also require an oath regarding property interest of local officials as allowed in § 15.2-2287 of the *Code of Virginia*, 1950, as amended, and complete disclosure of ownership as allowed in § 15.2-2289.

8.6-2 Filing Fees.

Filing fees for the above applications shall be based upon reasonable costs to pay for the expenses involved. The fees shall be set annually by the Board of Supervisors. The fees shall be as follows:

Zoning Permit	No Fee
Zoning Amendment (Text Change)	\$50.00
Rezoning (Change to Zoning Map)	\$50.00
Special Use Permit	\$35.00
Variance and Appeals	\$25.00
Certified Letter (Each)	\$3.50

ARTICLE IX Amendments

Section 9.1 General

Whenever public necessity, convenience, general welfare or good zoning practice require and subject to the requirements set forth in § 15.2-2285 and § 15.2-2286 of the *Code of Virginia*, 1950, as amended, the regulations, restrictions and district boundaries established by the Ordinance may be amended, supplemented, changed or repealed by an ordinance adopted by the Board of Supervisors. Any ordinance to amend the provisions of this Ordinance shall be enacted consistent with state law and the requirements for adoption of ordinances.

Section 9.2 Procedure for Amendment

9.2-1 Board or Commission Action.

The Board of Supervisors may from time to time, on its own or upon motion of the Planning Commission, or on petition as hereinafter provided, after public hearing(s) as required by law, and after report by the Planning Commission, amend, supplement, change or repeal the district boundaries on the official Zoning Map or any of the provisions or text of this Ordinance contained herein or subsequently established.

9.2-2 Owner Amendment.

A petition to amend this Ordinance or to change the zoning district boundaries herein or subsequently established may be filed by the owner or owners, contract purchaser with the written consent of the owner or owners, or the owner's agent with the written consent of the owner, of the property which is the subject of the proposed amendment. Such petition shall be filed with the Zoning Administrator on forms provided by the Zoning Administrator for such purpose.

The petition shall be accompanied by the required filing fee and a certified plat, legal description, or such other documentation as prescribed by written policy established by the Planning Commission. The information for a zoning map amendment application shall be consistent with the requirements for a zoning permit application in Section 8-3.3. The amendment application shall also require an oath regarding property interest of local officials as allowed in § 15.2-2287 of the *Code of Virginia*, 1950, as amended, and complete disclosure of ownership as allowed in § 15.2-2289.

9.2-3 Hearing and Notice Required.

A joint or separate public hearing of the Planning Commission and Board of Supervisors shall be held on any proposed amendment to the provisions of this Ordinance, including amendments to zoning district boundaries, subject to public notice requirements of § 15.2-2204 of the *Code of Virginia*, 1950, as amended. Nothing in this article shall require two public hearings if a joint public hearing is held.

9.2-4 Report of Planning Commission.

No action shall be taken by the Board of Supervisors upon any motion or petition to amend this ordinance until such motion or petition has been referred to the Planning Commission for a report thereon and until such report has been received from the Planning Commission.

9.2-5 Final Action by Board of Supervisors.

After receiving a report from the Planning Commission and after giving public notice and holding a public hearing, if the Board of Supervisors did not attend a joint public hearing with the Planning Commission, the Board of Supervisors may adopt or reject the proposed amendment or may make appropriate changes or corrections to the amendment, provided that no land may be zoned to a more intensive use classification, nor shall a greater area of land be rezoned than was described in the public notice, without referral to the Planning Commission and an additional public hearing after public notice as required by § 15.2-2204 of the *Code of Virginia*, 1950, as amended.

9.2-6 Continuance or Withdrawal.

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

9.2-7 Filing of New Petition After Rejection.

When any petition for a proposed change in this Ordinance has been denied by the Board of Supervisors, no subsequent petition for the same, or substantially the same change, in whole or in part, shall be filed with or accepted by the Zoning Administrator, or any proceeding therefore commenced or maintained, within twelve (12) months of the date of the action of the Board of Supervisors denying said proposed change. This provision applies both to requests for text amendments and petitions for amendments to the official Zoning Map.

Section 9.3 Conditional Zoning Amendments

9.3-1 Conditions for rezoning.

As part of a petition to rezone property and amend the official Zoning Map, a property owner may include a voluntary proffering in writing placing certain reasonable conditions and restrictions on the use and development of the subject property. Any such proffered conditions must be made prior to the public hearing before the governing body and shall adhere to the following:

- a) The rezoning itself must give rise for the need for the conditions;
- b) Such conditions shall have reasonable relation to the rezoning;

- c) The conditions shall not include a cash contribution to the locality;
- d) The conditions shall not include a requirement that the applicant create a property owners association, as specified in §15.2-2297 of the *Code of Virginia*, 1950, as amended;
- e) Such conditions shall not include mandatory dedication of real or personal property for open space, park, schools, fire departments or other public facilities not otherwise provided for in the *Code of Virginia*, 1950, as amended;
- f) Such conditions shall not include payment for or construction of off-site improvements, except those provided for in §15.2-2241 of the *Code of Virginia*, 1950, as amended;
- g) No condition shall be proffered that is unrelated to the physical development or physical operation of the property; and
- h) All such conditions shall conform to the Comprehensive Plan as defined in the *Code of Virginia*, 1950, as amended.

9.3-2 Effect of Conditions.

Upon the approval of any such rezoning or amendment to this chapter all conditions proffered and accepted by the Board of Supervisors shall be deemed part thereof and nonseverable therefrom and shall remain in force and continue in effect until amended or modified by the Board of Supervisors in accordance with *Code of Virginia*, however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. All such conditions shall be in addition to the regulations provided for by this Chapter for the zoning district.

9.3-3 Zoning Map Notation and Records.

Each conditional rezoning shall be designated on the zoning map by an appropriate symbol determined by the zoning administrator. In addition, the zoning administrator shall keep and maintain a conditional zoning index which shall be available for public inspection and which shall provide ready access to the Board of Supervisors action creating such conditions.

9.3-4 Submittal Requirements.

Each application for rezoning that proposes conditions to be applied to the written request shall be accompanied by the following items beyond those required by conventional rezoning requests:

- a) A statement detailing the nature and location of any proffered conditions and those proposed circumstances that prompted the proffering of such conditions;

b) A signed statement by both the applicant and owner in the following form:

I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.

9.3-5 Enforcement and Guarantees.

The Zoning Administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to the rezoning or amendment to the official Zoning Map including:

- a) Ordering in writing the remedy of any noncompliance with such conditions;
- b) Bringing legal action to ensure compliance with such conditions including injunction, abatement or other appropriate action or proceeding; and
- c) Requiring a guarantee in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the guarantee, in like amount and so conditioned, which guarantee may be reduced and /or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

Section 9.4 Right of Appeal

Every action contesting a decision of the Board of Supervisors for adopting or failing to adopt a proposed amendment to the Zoning Ordinance shall be filed within thirty (30) days of the decision with the Wythe County Circuit Court, as provided in § 15.2-2285(f) of the *Code of Virginia*, 1950, as amended. However, nothing in this section shall be construed to create any new right to contest the action of a local governing body.

ARTICLE X Definitions

Accessory building or structure - A building used for purposes customarily incidental to and clearly subordinate to the principal use of the lot on which it is located.

Accessory use - A use of land or use of a building for purposes customarily incidental to and clearly subordinate to the principal use of the lot on which it is located.

Agricultural equipment sales and service - Any establishment with the primary purpose of selling, cleaning, or repairing farm machinery.

Agriculture - Any use of the land involving any of the following: tilling of soil, cultivation of crops, keeping and raising of livestock, animal and fowl, groves and nurseries for growing trees and other plants, horticulture, floriculture, viticulture, aquaculture, apiculture and forestry; and including incidental processing, storing and selling of products raised and produced on the premises, and including all structures, machinery and activities necessary to support such uses. Excludes commercial greenhouse, commercial slaughterhouse, commercial stables, and fruit packing operations, which are defined separately. Also excludes intensive hog and poultry operations, also defined separately.

Animal clinic - An establishment where animals such as dogs, cats, other small pets, and livestock are provided medical or surgical treatment. Includes the terms animal and veterinary hospital. Excludes outside kennels.

Animal shelter - A facility for the care of injured or abandoned animals, either domestic or wild.

Antique or craft shop - A place offering antiques or crafts items. An antique for the purposes of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

Asphalt plant - An establishment engaged in manufacturing or mixing of paving materials derived from asphalt mixtures or tar. This includes temporary or portable facilities.

Auto body shop - A business in which damaged automobiles are repaired or painted for a fee.

Automobile graveyard - Any area outside of a completely enclosed building used for the storage, keeping, or parking of three (3) or more inoperable motor vehicles as hereinafter defined. Farm use vehicles are excluded.

Automotive sales and service - Any establishment with primary purpose of selling, cleaning, servicing, or repairing motor vehicles, excluding auto body shop.

Bank - See "financial institution".

Bed and breakfast inn - One or more rooms located within a single-family dwelling that is actually used as such, which rooms are used secondarily for the temporary accommodation of transients in return for compensation.

Building - A combination of any materials, whether portable or fixed, having a roof or other cover to form a structure for the use or occupancy by persons or property.

Call center and/or data processing facility - An establishment in which office space is used for in-bound and out-bound telephone calls and/or computer data records related to sales or customer service information for private business or government operations.

Campground - A commercial operation open to the public and located on a tract of land set up for temporary occupancy, including accommodations such as cabins, tents, and recreational vehicles, and used primarily for recreation. Includes church camps.

Carnival - See "outdoor gathering".

Cemetery - Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

Childcare center - Any facility operated for the purpose of providing care, protection and guidance to a group of more than five (5) children separated from their parents or guardians during a portion of the day, and meeting the licensing requirements for childcare centers in the *Code of Virginia*, 1950, as amended. The term shall not include family day home that is considered a home occupation in this ordinance.

Circus - See "outdoor gathering".

Commercial feed mixing - A commercial establishment that mixes feed for livestock, horses and other animals. Excludes feed mixing activities used in agricultural operations.

Commercial greenhouse - A commercial establishment where a glassed or transparent enclosure is used for the cultivation of plants for on-site retail sales to the general public. Definition includes greenhouses associated with active farm operations (see definition for agriculture).

Commercial outdoor entertainment - Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas and motor vehicle racing facilities.

Communication tower - A principal structure that is primarily intended to support communication equipment for telephone, radio, and similar communication purposes. The term does not include towers used by amateur radio operators not licensed by the Federal Communications Commission (FCC).

Community center - A facility operated by nonprofit entities or agencies for fraternal, social, cultural, and/or recreational programs generally open to the public and designed to serve significant segments of the local community.

Construction sales and service - Any establishment involved in the sale of building materials including hardware, plumbing, and lumber supplies, or the sale of building construction services for the erection or repair of structures.

Convenience store or general country store - Any retail store, with a ground floor area of 5,000 square feet or less, offering for sale primarily bread, milk, cheese, fresh meats and vegetables, fruits, canned and bottled drinks, tobacco products, candy, papers and magazines, and general hardware items. Gasoline may be offered for sale, but only as a secondary activity.

Country inn - See "lodge".

Craft shop - See "antique or craft shop".

Cultural services - A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

Dormitory housing - A dwelling unit, or part thereof, in which lodging is provided by the owner or operator for employees to reside on the premises. Each dwelling unit shall be allowed to house a maximum of fourteen boarders.

Duplex - See dwelling, two-family.

Dwelling, accessory - A second dwelling unit attached or detached on a premise occupied by a single-family residence such as a garage apartment; or a dwelling unit on a premise occupied by a commercial establishment when the commercial building is the primary use. The accessory dwelling unit shall not exceed 1,000 square feet in size. A manufactured home is not an accessory dwelling unit.

Dwelling, multi-family - A building that contains three (3) or more dwelling units. Also known as apartment building.

Dwelling, single-family - A building that is completely separated from any other main building and which contains only one dwelling unit. As per Section 15.2-2291 of the State Code, single family dwelling includes family day homes and group homes as herein defined. This definition excludes manufactured homes.

Dwelling, two-family - The use of an individual lot for two (2) dwelling units which share at least one (1) common wall, each occupied by one (1) family.

Dwelling unit - A room or group of rooms within a building and constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing kitchen, sleeping and sanitary facilities.

Educational facilities - A public, private or parochial school offering instruction at the preschool, elementary, junior and/or senior high school levels or in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia. This definition includes institutions that offer continued education where an individual can receive a degree.

Electric generating or booster facilities - A major public utility structure with associated equipment that generates electrical power or assists in the transmission of power, including power substations and high voltage electric towers. Does not include public utility lines for local distribution.

Family - One or more persons related by blood, marriage, or adoption, including foster children, or not more than five unrelated persons occupying a single dwelling unit. The term does not include a fraternity, sorority, club, or group of persons occupying a hotel, motel, boardinghouse, or institution of any kind.

Family day home - A child day program offered in the residence of the provider or the home of any of the children in care for one through twelve children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

Financial institution - Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments and automatic teller machines (ATMs).

Fire department - See "safety services".

Flea market - A place where any person or group of vendors, whether professional or nonprofessional, offer for sale, trade or barter any goods regardless of whether they are new, used antique, or homemade; and regardless of whether they are offered for sale in open air buildings or temporary structures. The term "flea market" does not include the offering for sale of goods by the owner thereof at owner's residence at what are commonly referred to as "garage sales" or "yard sales," provided that such sales do not occur more frequently than once every sixty (60) days. The term "flea market" also shall not include any business or occupation, which has a valid business license or special use permit which pertains to the sale, trade or barter of goods.

Fruit and/or vegetable packing plant - A building used for the preparation and process of fruits and vegetables for shipment or storage and sales.

Funeral home - Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

Game farm - A farm that produces fowl or game animals for sale.

General country store - See definition under "convenience store".

Golf course - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

Group home - A residential facility in which not more than eight (8) mentally ill, mentally retarded, or other developmentally disabled persons reside, with one or more resident counselors or other staff persons, who live together as a single housekeeping unit and in a long-term family-like environment with the primary goal of enabling the resident to live as independently as possible.

Health/fitness club - An indoor facility that includes uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna or pro shop. The meaning includes, but is not limited to, gymnasiums, private clubs, and weight control establishments.

Home occupation - An occupation, profession, activity, or use that is clearly an incidental and secondary use of a dwelling unit and that meets the following requirements:

- a) No person other than members of the family living on the premises shall be engaged in such occupation;
- b) A home occupation may be conducted in any accessory building located on the same lot if clearly incidental and subordinate to the dwelling unit;

- c) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met by using off-street parking spaces.
- d) A home occupation shall not allow any change in the outside appearance of the building in which the home occupation activity takes place. The only exception is for the erection of a business sign with a maximum sign area of two (2) square feet.

Home occupation does not include the repair, rebuilding, maintenance, sales or storage of motor vehicles, or similar activities.

Hospital - A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

Hotel/Motel - A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week or month. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities.

Hunting club - A parcel of land owned or leased by an organized club or other entity and used primarily for the purpose of hunting or pursuing game birds or game animals for which a hunting license is required by the Commonwealth.

Incineration facility - A permitted facility to reduce the volume of solid wastes, extracting in some cases energy in the form of steam, heat, or electricity, and disposing the remaining ash in solid waste land filling facility.

Industry - Manufacturing or other enterprises which engage in the processing, compounding, assembly, packaging, treatment or fabrication of materials and products from processed or previously manufactured materials. The goods are usually for sale to wholesalers or used for other manufacturing processes.

Inoperable motor vehicle - Any motor vehicle (1) that is not in operating condition; or (2) that for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle; or, (3) except as relates to farm vehicles, does not have affixed a valid inspection decal and valid license plates.

Intensive hog operation - A concentrated swine feeding operation as defined by the U.S. Environmental Protection Agency.

Intensive poultry operation - A concentrated poultry feeding operation as defined by the U.S. Environmental Protection Agency.

Junkyard - The use of any area of land for the storage, keeping, or abandonment of discarded materials, including scrap metals, building materials, machinery, household appliances, furnishings, fixtures, or motor vehicles or parts thereof. The term "junkyard" includes automobile and mobile home graveyards, but does not include landfills or garbage dumps.

Kenel - A commercial establishment prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats, or other small animals for sale or for grooming services.

Laboratory - A facility for scientific laboratory research in technology-intensive fields or a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials.

Landfill - A landfill accepting nonhazardous debris, trash or waste, which is covered with clean fill after each day's operation, and which meets all standards of, and is licensed by, the Virginia State Department of Health.

Library - See "cultural services".

Livestock market - An establishment allowing the commercial sale of livestock, all types.

Lodge or country inns - A facility offering overnight accommodations as a destination point for visitors and providing additional services such as a restaurant, meeting rooms and recreational facilities. These are distinct from Bed & Breakfast inn.

Lot - A parcel of land occupied or intended for occupancy by buildings, or uses permitted by the provisions of this Ordinance, together with such area, yards and other open spaces as are required by this Ordinance. The term "lot" includes the terms "tract" and "parcel" and may consist of a single lot of record, a combination of contiguous lots of record, or a unit of land described by metes and bounds.

Lot area - The total horizontal area included within the rear, side, and front lot lines, including off-street automobile parking areas and other accessory uses, but excluding any streets or highways where dedicated to public use and any portions of a lot that are under water, except where the total area of a body of water is within the lot.

Lot frontage - The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way line. All sides of a lot which abut a street or right-of-way shall be considered frontage.

Lot width - The average horizontal distance between side lot lines.

Lot of Record - A lot that has been legally subdivided in accordance with County law and recorded in the Clerk's Office of the Circuit Court with a surveyed plat, a written metes and bounds description, or an existing description of record.

Manufactured home - Any structure complying with the federal manufactured housing construction and safety standards, which is transportable in one or more sections; is eight body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is 320 or more square feet when erected onsite; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical system contained in the structure.

Manufactured home park - An area or tract of land designed, constructed, and equipped to accommodate two (2) or more manufactured homes as defined in the Wythe County Manufactured Home Ordinance, No. 2002-5.

Manufactured home/modular housing sales - Establishments primarily engaged in the display, retail sale, rental, and minor repair of new and used manufactured homes, modular homes, parts, and equipment.

Medical Clinic - See "Hospital".

Mini-warehouse - A building consisting of individual, small, self-contained units that are leased or owned for the storage of property or goods.

Mining, quarrying and mineral processing - The extraction of minerals including: solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and floatation; and other preparation customarily done at the mine site or as part of a mining activity.

Mobile home graveyard - Any site or tract of land used for the storage, keeping, or parking of two (2) or more used mobile homes which are in an uninhabitable condition and do not comply with Federal Manufactured Housing Construction and Safety Standards.

Museum - See "cultural services".

Music festival (temporary) - See "outdoor gathering".

Nonconforming feature - A characteristic of a building or structure that was legally existing at the effective date of this Ordinance or subsequent amendment thereto, but does not conform to the use regulations for the district in which it is located, either at the effective date of this Ordinance or any subsequent amendment thereto.

Nonconforming use - A principal or accessory use of land or of a building, which use was legally existing at the effective date of this ordinance or subsequent amendment thereto, but which does not conform to the use regulations for the district in which it is located, either at the effective date of this Ordinance or any subsequent amendment thereto.

Off-street parking space - A space for the parking of motor vehicles at least eight (8) feet wide and twenty (20) feet long, with a minimum net area of 160 square feet, excluding the area for egress, ingress and maneuvering of vehicles.

Outdoor gathering - Any temporary organized gathering expected to attract 500 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be temporary music festivals, tent meetings, circuses, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held in public parks or on public school property shall not be included within this use type.

Owner - The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Personal service business - Any establishment involved in the transaction of services, as opposed to goods, and which caters to the personal needs of individuals. The term includes, but is not limited to, the following types of businesses: beauty or barber shop, dry cleaning stations serving individuals and households, fitness center, shoe repair shop, grooming of pets, seamstresses, tailors, florists, Laundromats, dance studio, photography shop, tanning shop, home computer services, or travel agency.

Pet shelter - An enclosure for confinement and/or housing of a pet(s). (Example, dog house, rabbit cage, etc.)

Post office - Postal services directly available to the consumer operated by the United States Postal Service.

Principal residence - A single family dwelling or manufactured home. This definition does not include dormitory housing.

Print shop - A retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

Printing establishment - A manufacturing facility in which large-volume printing of books, magazines, and other like materials are processed for shipment.

Professional office - An office in which business is conducted by the following professions: medical-related professionals, including physicians, dentists, eye care specialists; lawyers, architects, engineers, surveyors, insurance agents, real estate agents, and other similar professions. Term includes medical and dental clinic.

Public parks and recreational areas - Publicly owned and operated parks, picnic areas, playgrounds, indoor or outdoor athletic recreation, performing arts, or social facilities, games preserves and open spaces.

Public sewer system - A sewage disposal system owned or operated by the County, a public service authority or a municipality, or a sewage disposal system that results in point discharge and that is owned and operated by an entity holding all licenses or permits required by applicable agencies of the Commonwealth.

Public utility - Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and/or maintenance of public utilities, including water and sewage facilities. Also includes facilities for cable television and telephone. Excludes telecommunication towers and electric generating or booster facilities.

Public water system - A water system owned or operated by the County, a public service authority or a municipality, or a water system serving three or more families that is owned and operated by an entity holding all licenses and permits required by the applicable agencies of the Commonwealth.

Recreation facilities - Facilities typically privately owned and operated for personal and/or family recreational uses, including golf course, game rooms, summer camps, and other similar uses.

Recreational dwelling - A single-family dwelling used only on a part-time basis as a second home.

Recreational vehicles sales (major) - Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

Recreational vehicle - A motor vehicle, as a camper or mobile home, used for traveling and recreational activities.

Recreational vehicle park - Any lot of land on which one or more recreational vehicle sites are located, established, and maintained for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes. Does not include recreational vehicle sales lots.

Religious assembly - A use located in a permanent building and providing regular organized religious worship and related incidental activities.

Rescue squad - See "safety services".

Restaurant, fast food, drive-in - An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter and a drive-up or drive through service facility, or which offers curb service.

Restaurant - An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers

Rest home - Place containing beds for two or more patients, established to render domiciliary care for chronic or convalescent patients, but not including child care homes or facilities for the cure of feeble-minded, mental, epileptic, alcoholic patients, or drug addicts.

Retail stores and shops - Buildings for the display and retail sale of merchandise (excluding coal, wood and lumber yards), such as the following examples: drug stores, news stands, food stores, candy shops, department or discount stores, dry goods, and notions stores, antique stores, gift shops, hardware stores, household appliances stores, furniture stores, florist, optician, music, radio or computer stores, tailor shops, bakery shops, and craft shops.

Riding stable, commercial - An establishment where horses are kept for commercial use, including boarding, showing, and for hire or sale.

Right-of-way - The area of private street or road that provides access over or across particularly described property for a specific purpose or purposes, or the right-of-way owned by the Commonwealth or an agency or political subdivision of the Commonwealth on which public roads may be constructed or maintained.

Roadside market - A structure or area of land used for more than a three-day period for the sale of locally produced agricultural or horticultural products, antiques, and/or locally made craft items. Term does not include sales of farm products located on farm premises which comes under the term "agriculture."

Safety services - Facilities for the conduct of safety and emergency services for the primary benefit of the public, whether publicly or privately owned and operated, including police and fire protection services and emergency medical and ambulance services.

Sawmill, stationary - Any milling machine, and associated structures, used for changing raw timber into lumber products on an ongoing basis and processing timber brought from off premises

Sawmill, temporary - Any milling machine used for changing raw timber into lumber products on a temporary basis and processing only timber from the immediate premises.

Service business - An establishment providing domestic and business-related services, including but not limited to, the service, repair, and rental of home and office equipment such as radios, televisions, video equipment, computers, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and other similar equipment; and other home and office services such as package delivery services, telecommunications service, building repair and maintenance services, including janitorial, pest control, and carpet cleaning service. Can also include laundry and dry cleaning services.

Setback - The minimum distance by which any building or structure must be separated from a lot line.

Shooting Range (indoor/outdoor) - The use of a structure or land for archery and/or the discharging of firearms for the purposes of target practice, temporary competitions, skeet and trap shooting, or mock war games. Excluded from this use type shall be general hunting, and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Slaughterhouse, commercial - Animal slaughterhouse that exceeds 2,000 square feet of enclosed workspace, excluding holding pens.

Slaughterhouse, private - Animal slaughterhouse measuring 2,000 square feet or less of enclosed workspace, excluding holding pens.

Special use - A use that is not permitted by right in a particular district, but is permitted if granted by a special use permit. Defined as a "special exception" by the *Code of Virginia*, 1950, as amended, and can also be termed a "conditional use".

Storage warehouse - A structure and business used for the purpose of storing manufactured goods, tooling, equipment, or raw goods for processing, distribution, or sale under contract, for more than thirty (30) days at a time.

Solid waste/recycling convenience station - A permitted facility to receive solid wastes for disposal in a landfilling operation or for storing or compacting for reshipment to another facility.

Street - A publicly maintained right-of-way that affords a primary means of access to abutting property.

Structure - Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

Subdivision - As defined in the Subdivision Ordinance.

Tent gathering - See "outdoor gathering".

Theater - A facility used to accommodate public assembly, inside or outside, for entertainment purposes. Typical uses include motion picture theaters, concert or music halls, auditoriums, convention facilities, and incidental sales and exhibition facilities.

Townhouses - Dwelling units as defined by the Subdivision Ordinance.

Transportation terminal - A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including bus terminals, railroad stations, and public transit facilities.

Truck Stop - A facility typically providing fuel for trucks. In addition, facility may provide mechanical service for trucks and food and comfort for drivers.

Truck terminal - A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. post office.

Variance - A reasonable deviation from provisions regulating the size of a lot, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. Does not include a change in use which change shall be accomplished by a rezoning or a conditional zoning.

Wildlife refuge - An area set aside to provide habitat for the conservation, protection and propagation of wild plants and animals.

Winery - The manufacturing, bottling, and sale of products grown and harvested from a vineyard or orchard. *Commercial uses such as gift shops and restaurants associated with the winery shall be allowed by special use permit only.*