

LEE COUNTY, VIRGINIA

ZONING ORDINANCE



FINAL

For Public Hearing

January 21, 2014

Zoning Ordinance  
Lee County, Virginia

Table of Contents

<u>Section</u>		<u>Page</u>	
<b>Article I. Title, Authority, Purpose, Considerations and Effective Date</b>			
1-1	Title	I-1	
1-2	Authority	I-1	
1-3	Purpose	I-1	
1-4	Considerations in establishing Ordinance	I-2	
1-5	Effective Date	I-2	
<b>Article II. Zoning Districts and Zoning District Map</b>			
2-1	Establishment of zoning districts	II-1	
2-2	Establishment of zoning districts map	II-1	
2-3	Maintenance of zoning district map	II-1	
2-4	Changes of zoning district map	II-2	
2-5	Copies of zoning district map	II-2	
2-6	Interpretation of district boundaries	II-2	
2-7	Amendment of zoning district map	II-3	
2-8	Vacation of street, alley or other public way	II-3	
2-9	Unclassified areas	II-3	
<b>Article III. General Provisions</b>			
3-1	Compliance with provisions of this Ordinance	III-1	
3-2	Interpretation of provisions	III-1	
3-3	Transition provisions	III-2	
3-4	Lots of recorded prior to Ordinance	III-2	
3-5	Location on a lot required	III-3	
3-6	More than one main building on a lot	III-3	
3-7	Public street frontage or access required	III-4	
3-8	Construction and use of accessory buildings	III-4	
3-9	Temporary buildings and construction trailers	III-5	
3-10	Administrative relief in case of steep topography	III-5	
3-11	Severability	III-5	
I			
<b>Article IV. District Regulations</b>			
4-1	A-1	Agricultural District	IV-1
4-2	R-1	Single-Family Residential District	IV-9
4-3	R-2	General Residential District	IV-12
4-4	VC	Village Community District	IV-16
4-5	B-1	Limited Business District	IV-20
4-6	B-2	General Business District	IV-24

4-7	M-1	Limited Business District	IV-29
4-8	M-2	General Business District	IV-32
4-9	RO	Resource Overlay District	IV-35
4-10	FP	Flood Plain District	IV-37

### **Article V. Supplementary Regulations**

5-1	Applicability	V-1
5-2	Off-Street Parking Regulations	V-1
5-3	Sign Regulations	V-9
5-4	Supplementary Yard Regulations	V-15
5-5	Visibility at Intersection	V-16
5-6	Supplementary Yard Regulations	V-17
5-7	Yard and Height Regulations for Accessory Buildings	V-17
5-8	Average Lot size in residential subdivisions	V-17
5-9	Manufactured Homes on Individual Lots	V-18
5-10	Manufactured Homes on lots with other dwellings	V-18
5-11	Manufactured Home Park Regulations	V-19
5-12	Recreational Vehicle Park Regulations	V-21
5-13	Outdoor Lighting	V-22
5-14	Access along U.S. 58 Corridor	V-22

### **Article VI. Nonconforming Uses and Features**

6-1	Nonconforming Uses and Features may continue	VI-1
6-2	Extension of Nonconforming Uses	VI-1
6-3	Change of Nonconforming Uses	VI-1
6-4	Replacement of Nonconforming Manufactured Homes	VI-1
6-5	Discontinuance of Nonconforming Uses	VI-1
6-6	Alterations to Buildings Devoted to Nonconforming Uses	VI-2
6-7	Alterations to Buildings having Nonconforming Features	VI-2
6-8	Damage to Buildings having Nonconforming Features or to Building Devoted to Nonconforming Uses	VI-2
6-9	Nonconforming Dwelling Uses	VI-3
6-10	Intermittent, Temporary or Illegal Uses	VI-3
6-11	Determination of Nonconforming Uses and Features	VI-3

### **Article VII. Administration and Enforcement**

7.1	Zoning Administrator: appointment and authority	VII-1
7.2	Duties of Zoning Administrator	VII-1
7.3	Zoning Permits	VII-2
7.4	Building Permits	VII-3
7.5	Certificates of use and occupancy	VII-3
7.6	Land disturbing permits	VII-3

7.7	Plans of development	VII-3
7.8	Compliance with approved plans	VII-8
7.9	Violations and Penalties	VII-8

### **Article VIII. Special Use Permits**

8-1	Purpose	VIII-1
8-2	When special use permit is required	VIII-1
8-3	Applications for special use permits	VIII-1
8-4	Required Plan	VIII-1
8-5	Posting of sign on affected property	VIII-2
8-6	Procedure for review and approval	VIII-2
8-7	Standards and considerations	VIII-4
8-8	Conditions	VIII-4
8-9	Compliance with district regulations	VIII-4
8-10	Amendments to special use permits	VIII-4
8-11	Compliance with approved plans	VIII-5
8-12	Expiration of special use permits	VIII-5
8-13	Existing uses	VIII-5
8-14	Fees	VIII-5

### **Article IX. Amendments**

9-1	Generally	IX-1
9-2	Initiation of Amendments	IX-1
9-3	Posting of signs for change of zoning	IX-2
9-4	Action by Planning Commission	IX-2
9-5	Action by Board of Supervisors	IX-2
9-6	Joint public hearing	IX-3
9-7	Filing new petition after rejection	IX-3
9-8	Fees	IX-3

### **Article X. Board of Zoning Appeals**

10-1	Membership	X-1
10-2	Officers	X-1
10-3	Support services	X-1
10-4	Rules and Forms	X-1
10-5	Meetings	X-1
10-6	Records and annual report	X-2
10-7	Powers and Duties	X-2
10-8	Appeals	X-2
10-9	Variance	X-2
10-10	Special exception	X-3

10-11	Interpretation of official zoning district map	X-3
10-12	Prohibition on rezoning of property	X-3
10-13	Appeal procedure	X-4
10-14	Application for variance special exception or Interpretation of zoning district map	X-4
10-15	Public hearings and decisions	X-4
10-16	Expiration of variance or special exception	X-5
10-17	Amendment of variance or special exception	X-5
10-18	Enforcement of decisions	X-5
10-19	Appeals from decisions of the Board	X-5
10-20	Fees	X-5

### **Article XI. Definitions**

11-1	Applicability	XI-1
11-2	General rules	XI-1
11-3	Certain words defined	XI-2

## ARTICLE I

### TITLE, AUTHORITY, PURPOSE CONSIDERATIONS AND EFFECTIVE DATE

#### **Sec. 1-1 Title.**

Throughout this document, this Ordinance shall be known and may be cited as “The Zoning Ordinance of Lee County, Virginia,” as “The Zoning Ordinance” or as “Ordinance”

#### **Sec. 1-2. Authority**

This Ordinance is established pursuant to the provisions of Article 8 of Chapter 11 of Title 15.1 of the Code of Virginia, 1950, as amended and is intended to classify the unincorporated territory of Lee County, Virginia, into zoning districts to carry out the purposes of that Article.

#### **Sec. 1-3. Purpose.**

This Ordinance is for the general purpose of promoting the health, safety and general welfare of the public and of further accomplishing the objectives of Section 15.1-427 of the Code of Virginia, 1950, as amended. To these ends, this Ordinance is designed to give reasonable consideration to each of the following purposes, where applicable:

- 1) To provide for adequate light, air, convenience of access and safety from fire, flood and other damages
- 2) To reduce or prevent congestion in the public streets;
- 3) To facilitate the creation of a convenient, attractive and harmonious community;
- 4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- 5) To protect against destruction of or encroachment upon historic areas;
- 6) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers;

- 7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- 8) To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- 9) To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- 10) To promote affordable housing; and
- 11) To protect surface water and ground water.

**Sec. 1-4. Considerations in establishing Ordinance.**

Pursuant to the requirements of Section 15.1-490 of the Code of Virginia, 1950, as amended, the regulations contained in this Ordinance and the districts established herein have been drawn and applied with consideration for the existing use and character of property, the Comprehensive Plan of the County, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the County as to land for various purposes as determined by population and economic studies and other studies carried out through the Comprehensive Plan, the transportation requirements of the County, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of floodplains, the preservation of agricultural and forest land, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.

**Sec. 1-5. Effective Date.**

This Ordinance shall become effective as of the date of its approval and adoption as provided by law, said date being **January 21, 2014**.

## ARTICLE II

### ZONING DISTRICTS AND ZONING DISTRICT MAP

#### **Sec. 2-1. Establishment of zoning districts**

In order to carry out the purposes of this Ordinance and to further the objectives of the Comprehensive Plan of the County, the following zoning districts are hereby established:

- A-1 Agricultural District
- R-1 Single-Family Residential District
- R-2 General Residential District
- R-M Single Family/Manufactured Home Residential District
- V-C Village Commercial District
- B-1 Limited Business District
- B-2 General Business District
- M-1 Limited Industrial District
- M-2 General Industrial District
- RO Resource Overlay District
- FP Flood Plain District

#### **Sec. 2-2. Establishment of zoning district map.**

The locations and the boundaries of the zoning districts established by this Ordinance, other than the Flood Plain Districts, shall be known on a map designated as “Zoning District Map of Lee County, Virginia” which, together with all notations and explanatory matter shown thereon, is hereby made a part of this Ordinance. The locations and the boundaries of the Flood Plain Districts established by this Ordinance shall be known as set forth in Article IV of this Ordinance.

#### **Sec. 2-3. Maintenance of zoning district map.**

The zoning district map shall be dated, endorsed with the signature of the County Administrator and maintained for public view in the office of the Zoning Administrator. The zoning district map shall not be removed from the office of the Zoning Administrator except by court order or for such official purposes as may be deemed necessary by the Zoning Administrator or the County Administrator. An up to date copy of the zoning district map also endorsed by the County Administrator may be maintained in the offices of the County Administrator, which copy shall be known as the official copy.

#### **Sec. 2-4. Changes on zoning district map**

It shall be unlawful for any person to make changes on the zoning district map except by authorization of the Zoning Administrator for official purposes and in accordance with the provisions of this Article.

#### **Sec. 2-5. Copies of zoning district map.**

The Zoning Administrator shall cause copies of the zoning district map to be made in such numbers, in such form and for such purposes as deemed appropriate by the Board of Supervisors. In the case of any discrepancy between the official zoning district map endorsed by the County Administrator and any copies thereof, the official zoning district map shall be the final authority as to the current zoning classification of property.

#### **Sec. 2-6. Interpretation of district boundaries.**

Whenever uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning district map, the following rules shall apply.

- 1) Where a discrepancy exists between a district boundary shown on the zoning district map and that which is described in the text of the ordinance establishing such boundary, the text of the ordinance shall govern.
- 2) Where district boundaries are shown with specific dimensions, such dimensions shall govern.
- 3) Where district boundaries appear to follow street, alley, property or corporation lines, or appear to follow the centerlines of streets, alleys, or water courses, such boundaries shall be construed as following such lines. The location of any street, alley, property line, corporate line, or water course used as a district boundary shall be the location in existence at the time of adoption of the ordinance establishing the boundary.
- 4) Where district boundaries appear parallel to, perpendicular to, or as extensions of centerlines, property lines or other features, they shall be so constructed.
- 5) Where district boundaries are not described in any ordinance and do not appear to follow any centerlines, street lines, property lines or other features, the location of such district boundaries shall be determined by measurement on the zoning district map in accordance with the scale shown thereon.
- 6) In any case when none of the foregoing rules establish the location of a district boundary, or where subsequent dispute or uncertainty exists, the location of such district boundary shall be determined by the Board of Zoning Appeals in accordance with the provisions of Article X of this Ordinance.

**Sec. 2-7. Amendment of zoning district map.**

- 1) Whenever an amendment is made to the zoning district map by ordinance adopted by the Board of Supervisors, the County Administrator shall notify the Zoning Administrator who shall see that the amendment is properly recorded on the official zoning map and all official copies thereof, together with such notation or reference as is necessary to identify the action by which the amendment was made and the date thereof. Each amendment shall be recorded as soon as practicable after the effective date of the amendment. The failure to record any amendment on the official zoning district map or official copies thereof, or any error in recording or depicting an amendment thereon, shall not affect the validity of the ordinance providing for the amendment.

**Sec. 2-8. Vacation of street, alley or other public way.**

- 1) Whenever any street, alley or other public way is vacated by official action, the zoning districts adjoining each side of such street, alley or other public way shall automatically be extended to the center of such vacation, and the area included in the vacation shall be subject to all applicable regulations of the extended districts.

**Sec. 2-9. Unclassified areas.**

- 1) Areas unclassified by the zoning district map shall be construed as being within the Agricultural District until otherwise designated by action of the Board of Supervisors pursuant to the provisions of Article IX of this Ordinance.

## ARTICLE III

### GENERAL PROVISIONS

#### Sec. 3-1. Compliance with provisions of this Ordinance

- 1) **Compliance required.** Subject to the provisions of Section 3-3 of this Article, no building, structure or land shall hereafter be erected, constructed, reconstructed, moved, expanded, converted to another use 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.
- 2) **Reduction from requirements not permitted.** No lot area, yard, open space, parking space, or other feature required by the provisions of this Ordinance shall be reduced or eliminated except in conformity with the regulations established herein. Any such reduction resulting from taking for public purpose by a governmental authority shall not be considered to be a violation of the provisions of this Ordinance. Any property so affected by such taking shall be subject to the applicable provisions of Article VI of this Ordinance pertaining to nonconforming uses and features.
- 3) **Requirements to be met for each building, structure, or use.** No part of any lot, yard, open space, parking space, or other feature required for a building, structure or use shall be considered as lot, yard, open space, parking space or other feature for any other building, structure or use, except as may be specifically permitted by the provisions of this Ordinance.

#### Sec. 3-2. Interpretation of provision

- 1) **Provisions are minimum requirements.** In their interpretation and application, the provisions of this Ordinance shall be construed to be minimum requirements.
- 2) **Conflict with other requirements.** 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 govern.
- 3) **Permitted uses.** Permitted uses listed in the district regulations shall be permitted in the respective districts, provided they comply with all applicable provisions of this Ordinance. All other uses shall be prohibited.
- 4) **Private covenants and restrictions.** The provisions 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, building or structure, provided that whenever the provisions of this

Ordinance impose greater restriction on the use of any land, building or structure than are imposed by any such condition, covenant, limitation or restriction, the provisions of this Ordinance shall govern.

### **Sec. 3-3. Transition provisions.**

- 1) **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 VI of this Ordinance pertaining to nonconforming uses and features.
- 2) **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 is commenced prior to the expiration of such permit as specified by the provisions 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 consecutive months or greater, further construction and use shall conform with the applicable provisions of this Ordinance.

### **Sec. 3-4. Lots recorded prior to Ordinance.**

Any lot of record which was lawfully established prior to the effective date of this Ordinance or subsequent amendment thereto and which 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 single-family dwelling use if such use is normally permitted in the district, provided that all other applicable provisions of this Ordinance and applicable provisions of other laws and health regulations are met.

### **Sec. 3-5. Location on a lot required.**

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot of record as defined in Article XI of this Ordinance.

### **Sec. 3-6. More than one main building on a lot.**

#### **1) Conditions under which permitted.**

More than one building containing a permitted principal use may be located on a single lot when all lot area, yard, open space, yard between building and other applicable requirements of the district in which such lot is situated are met, except that no main building containing a single-family dwelling or a two-family dwelling shall be located on a lot with any other main building unless specifically permitted by the provisions of subsection (c) of this Section or Article V of this Ordinance.

**2) Certain dwellings not considered main buildings.**

Buildings occupied for single-family dwelling purposes by domestic employees, caretakers or tenants whose principal occupation is rendering services on the premises for the benefit of persons who occupy or use the main building on the lot shall be considered accessory buildings for purposes of this Ordinance and shall be permitted to be located on the same lot as the main building, provided that other applicable requirements of this Ordinance and applicable health and building codes are met.

**3) Main buildings occupied by family members.**

In the A-1 Agricultural District, buildings occupied as single-family dwellings by members of an immediate family may be located on a single lot, provided that all of the following conditions are met.

**a) Permits required**

A zoning permit approved by the Zoning Administrator and a certificate of use and occupancy issued by the Building Official shall be required for each dwelling.

**b) Lot Area.**

The area of the lot shall be not less than twice the minimum area required in the district for a single-family dwelling. A lot, which is not served by public sewer and water systems, shall contain such greater lot area as may be necessary to meet the requirements of the Health Official.

**c) Utilities.**

The single-family dwellings shall be provided with separate utility connections.

**d) Yards and other district regulations.**

All applicable yard and off-street parking requirements shall be met, and the dwellings shall be located on the lot relative to one another and in such a manner that the lot area, lot width and all yard requirements applicable in the district would be met if the lot were to be split so as to create a separate lot for each dwellings shall be not less than the sum of the yard requirements that would be applicable to each as they were located on separate lots.

**e) Occupancy by family members.**

The dwellings shall be occupied only by members of an immediate family or by the natural or legally defined offspring or spouse of a member of an immediate family. Notice of this requirement shall be included in any contract to sell, rent or lease the property, and a new zoning permit shall be required for each dwelling upon any change in ownership of the property.

**Sec. 3-7. Public street frontage or access required.**

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot having frontage on an improved public street or, except as may be prohibited by the Subdivision Ordinance of the County, shall have access to an improved public street or recorded easement which is of sufficient width and character to provide access for service and emergency vehicles and which is approved by the Planning Commission under the provisions of Article VII or this Ordinance pertaining to plans of development or other specific provision of this Ordinance.

**Sec. 3-8. Construction and use of accessory buildings.**

**1) Permits and use of accessory buildings.**

No accessory building shall be constructed or located on a lot until a building permit has been obtained, and no permanent accessory building shall be constructed until a permit for construction of the main building has been issued. No permanent accessory building shall be used, except for temporary storage of materials related to construction on the premises, until the main building is completed and a certificate of use and occupancy is issued. Yard, height and other regulations applicable to accessory buildings shall be as set forth in the district regulations and the supplementary regulations contained in Articles IV and V of this Ordinance.

**2) Dwelling Use.**

No accessory building shall be used for dwelling purposes except by domestic employees, caretakers or tenants whose principal occupation is rendering services on the premises for the benefit of persons who occupy or use the main building on the lot.

**Sec. 3-9. Temporary buildings and construction trailers.**

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

**Sec. 3-10. Administrative relief in cases of steep topography.**

**1) Authority of Zoning Administrator**

The Zoning Administrator shall have the authority to reduce the minimum required dimensions of front, side and rear yards by not more than 50 percent when the average slope of the buildable area of the lot, as defined in Article XI of this Ordinance, exceeds one and one-half feet vertical for each ten feet horizontal.

**2) Criteria for reduction.**

Such reduction in required yards shall be permitted only when the Zoning Administrator is satisfied upon receipt of survey plats, engineering plans or other pertinent information that the above conditions are met, and that the reduction in yard dimensions is the minimum necessary to: (1) enable a reasonable and practicable buildable area on the lot for purposes permitted in the zoning district in which the lot is situated; or (2) avoid such extent of grading, rock excavation, filling or destruction of natural vegetation that would constitute a potentially unsafe or hazardous condition.

**3) Relation to Board of Zoning Appeals Authority.**

The provisions of this Section shall not be construed to abrogate or to take the place of the authority of the Board of Zoning Appeals to grant variances pursuant to applicable provisions of State law and under conditions and circumstances set forth in Article X of this Ordinance.

**Sec. 3-11. Severability**

Should any article, section, subsection, paragraph, phrase, definition, or provision of this Ordinance or any portion of the zoning district map established by this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

## ARTICLE IV

### DISTRICT REGULATIONS

#### Section 4-1. A-1 Agricultural District.

**1) Intent of district.**

Pursuant to the purposes of this Ordinance, the intent of the A-1 Agricultural District is to preserve and maintain the predominately rural character of the County by encouraging agricultural, forestry, open space, recreational and conservation activities. The district is designed to protect and conserve the natural resources of the County by encouraging a balance between low intensity development and preservation of agricultural and forest land. It is also the intent of the district to provide opportunities for residential use on large lots within a rural environment, to avoid incompatible mixtures of different types of land uses, and to enable a variety of non-commercial support uses which require large land areas and are conducive maintaining the rural environment. These uses are subject to review and approval processes to ensure compatibility. The district is intended to be applied to the bulk of the County, and especially to areas where public sewer and water services are not available and are not likely to be provided in the near future.

**2) Permitted uses and structures.**

The following uses and structures are permitted in the A-1 Agricultural District:

- a) Agricultural uses, including horticulture, general farming, truck gardens, cultivation of field crops, orchards, groves and nurseries for growing trees and other plants, and including incidental processing, storing and selling of products raised or produced on the premises, together with structures and activities necessary to support such uses;
- b) Raising and keeping of livestock (excluding chickens) on lots of not less than 2.00 acres in area, provided that no pen or structure for the keeping of livestock, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line; chickens may be raised and kept on lots of not less than 1.00 acres, provided that no pen or structure for their keeping, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line.
- c) Forestry, tree farming, wildlife preserves and conservation areas, including portable temporary sawmills for cutting trees grown on the premises.
- d) Single-family dwellings;
- e) Manufactured homes located on individual lots and meeting all of the requirements applicable to single-family dwellings in this district; (See section 5-9 for additional requirements.)

- f) Churches and other places of worship, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- g) Family cemeteries complying with State Law 57-26;
- h) Dog kennels operated for noncommercial purposes, either as principal uses or as accessory uses to other permitted uses, provided that no outdoor pen or run shall be located within 40 feet of any front, side or rear lot line;
- i) Drilling and operation of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and accessory structures and activities, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State Agency;
- j) Home occupations as defined in Article XI of this Ordinance;
- k) Home business as defined in Article XI of this Ordinance;
- l) Lodging units within owner-occupied single-family dwellings, when such lodging units are occupied by a total of not more than two persons and are not rented for periods of less than one week;
- m) Signs as permitted by Section 5-3 of this Ordinance;
- n) Accessory uses and structures
- o) Radio broadcasting stations, towers serving the station and communication towers for cellular use provided the tower placement conforms with Section 5-6 "Supplementary Height Regulations" and the following conditions:
  - i) "Any tower application will be reviewed by the County to determine the feasibility of co-location of County's emergency communications equipment. Any such co-location would be performed in such a manner as not to interfere with applicant's use of the tower for its primary purpose and the tower owner would be requested to provide the co-location function free of charge to the County as a community service. In exchange for co-location of County's equipment, the County would waive all zoning application fees associated with the tower application. Emergency communications equipment includes, but is not limited to, antennas, radios and other ground equipment to be located on a tower or within a control building. The cost of installing County's equipment on the tower would be borne by the County.

- ii) The tower owner may also be requested to provide data including, but not limited to, a map depicting and describing all tower sites and antenna installations controlled by the applicant within the county or within 10 miles of the county boundary line. The tower owner shall provide such data within 90 days of issuance of a zoning permit and annually each year thereafter.
- iii) Information required on the county zoning application will include the operating frequencies, microwave link locations and type of current broadcast system technology.”

- p) Duplex Apartments
- q) Triplex Apartments
- r) Higher education institutions as defined in Article XI of this Ordinance
- s) Accessory uses and structures

**3) Special Uses.**

The following uses and structures are permitted in the A-1 Single Family Residential District, provided that a special use permit shall be obtained as set forth in Article VIII of this Ordinance:

- a) Automobile salvage yards and/or automobile graveyards as defined in Article XI of this ordinance
- b) Manufactured Home Parks subject to the requirements set forth in Article V of this Ordinance;
- c) Establishments engaged in light automotive repair and maintenance excluding engine and drive train replacement or auto body work and having no more than three bays contingent upon satisfaction of County and State Agencies including the Health Department and the Department of Environmental Quality.
- d) Residential Care Institutions. Institutions designed for the benevolent long term care of minors and the elderly provided that a design plan as provided in Section VIII of this Ordinance shall be submitted to the Zoning Administrator for review and recommendation to the Planning Commission. The design scheme of the plan shall be drawn to scale and shall show:
  - i) Units containing eight or less residents shall show an open space perimeter of at least six thousand square feet and shall show the location of such necessities as the Health Department may require.

- ii) Units serving nine to sixteen residents shall have an open space perimeter of at least ten thousand square feet and shall show the location of such necessities as the Health Department may require.
- iii) Units serving seventeen to twenty-eight residents shall have an open space perimeter of at least twelve thousand square feet and shall show the location of such necessities as the Health Department may require.
- iv) Yard requirements. The following yards shall be required for the complex perimeter in addition to individual unit open space requirements:
  - (1) Front Yard. There shall be a front yard of no less than 30 feet.
  - (2) Side Yards. Side yards of not less than 10 feet shall be provided.
  - (3) Rear Yard. A rear yard of not less than 30 feet shall be provided.
- v) Streets and Roadways: All streets and roadways shall be paved with a dust free, all weather hard surface material such as asphalt, asphalt and gravel seal coat, concrete unit paves or similar materials. The width of private streets shall not be less than twelve feet per travel lane. In any case where parking is situated along a private street, such additional width shall be necessary to accommodate required parking space dimensions and to maintain a usable street width of not less than 20 feet.
- vi) Storm Drainage. Storm drainage facilities shall be provided within the interior of the campus in accordance with a storm drainage plan submitted with the special use application and approved in conjunction therewith. No units may be located within fifty feet of an identified floodway or floodplain area.
- vii) Traffic Control. Signs shall be installed at intersections of roadways on the campus. Marked pedestrian crossings shall be located at strategic points as necessary.
- viii) Parking. One parking space shall be provided for each employee employed and on duty at the facility plus 1.5 spaces for every eight children to be in residence there.
- ix) Delineation of spaces. Each building space shall be clearly defined with permanent markers located at each corner and placed even with the ground and identified and coordinated with the design included in the design plan.

- e) Self-storage and mini-warehouse facilities

- f) Storage and distribution of propane gas provided that the storage facilities shall not be located within 100 feet of any property line.
- g) Retail Auction Facility as defined in Article XI of this ordinance;
- h) Convenience Store as defined in Article XI of this ordinance;
- i) Construction and Operation of Windmills to generate electricity
- j) Administrative Offices as defined in Article XI of this ordinance;
- k) Restaurants as defined in Article XI of this ordinance;
- l) Retail stores and shops as defined in Article XI of this ordinance;
- m) Electric Distribution Sub-Stations
- n) Nursing homes located on lots of not less than two acres in area and 180 feet in width
- o) Child care centers licensed by the State, provided that outdoor play areas shall not be located within required front or side yards and shall be enclosed with continuous fencing not less than four feet in height;
- p) Public schools and private schools having substantially the same curriculum as public schools
- q) Parks, recreational facilities, community centers, clinics, libraries and museums owned or operated by a private individual, corporation, governmental agency, neighborhood organization or other non-profit Organization and other uses required for the performance of adjoining residential areas;
- r) Fairgrounds,
- s) Rights-of-way, easements and appurtenances for public transportation and oil and gas lines, but not including railroad yards, freight or passenger depots, electric generating plants or similar facilities; provided that Wastewater treatment plants and water treatment plants approved by the appropriate health authorities and Water storage tanks provided that tanks with a rated storage capacity of greater than 30,000 gallons or more than 35 feet in height;
- t) Refuse collection and recycling collection centers for use by the general public, when such centers are owned and operated by Lee County or other public agency;
- u) Fire stations and rescue squad facilities;

- v) Commercial cemeteries and burial plots;
- w) Stables operated for private or commercial purposes on lots of not less than two acres in area, provided that no pen or structure for the keeping of horses shall be located within 40 feet on any front, side or rear lot line;
- x) Dog kennels operated for commercial purposes, either as principal uses or as accessory uses to other permitted uses, provided that no outdoor pen or run shall be located within 40 feet of any front, side or rear lot line;
- y) Hunting or fishing clubs or lodges operated for nonprofit purposes and limited to use by members and their guests;
- z) Rifle and pistol shooting ranges operated for nonprofit purposes and limited to use by members and their guests, provided that outdoor ranges shall be located, arranged and operated and shall be provided with such safety measures as deemed necessary by the Board of Supervisors to avoid safety hazards and noise disturbances to occupants of nearby properties and to the general public;
- aa) Public and private golf courses and county clubs, including accessory facilities for the sale and serving of food and beverages and the sale of golfing equipment and supplies;
- bb) Recreational vehicle parks subject to the provisions of Sec. 5-12 of this Ordinance;
- cc) Bed and Breakfast facilities as defined in Article XI;
- dd) Automobile, truck, trailer and/or recreational vehicle sales, rental, service, and repair businesses, but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.
- ee) Manufactured home sales, rental, service and repair businesses but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.
- ff) Construction equipment and/or farm implement sales, rental, service, and repair businesses, but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.

- gg) Crematory or Crematorium as defined in Article XI of this Ordinance -- Facility shall be allowed with the following restrictions:
- i) Minimum setbacks shall be 100 feet from all property lines
  - ii) Facility shall be located within an enclosed building
  - iii) Facility operator must obtain all required DEQ and/or EPA permits
  - iv) External storage of fuels shall comply with all federal, state and/or local regulations for pollution prevention
  - v) All outdoor fuel storage containers shall be secured within a fence or solid walls
  - vi) Facility shall be used solely for the cremation of human corpses and shall not be used for disposition of medical waste or other waste products

hh) Funeral homes as defined in Article XI of this ordinance.

4) **Lot area and width requirements.**

The following lot area and lot width requirements shall be applicable in the A-1 Agricultural District. (See Section 5-8 for average lot sizes in residential subdivisions.)

a) Single-family dwellings:

- i) Single-Family dwellings where no public water supply or public sewage collection system is present, single-family dwellings shall be located on lots if not less than 0.75 acres and not less than 150 feet in width.
- ii) Single-Family dwellings supplied by public water and/or public sewage shall be located on lots of less than 20,000 square feet in area and not less than 100 feet in width.

b) Duplex Apartments

- i) Duplex apartments where no public water supply or public sewage collection system is present shall be located on lots not less than 1.50 acres per duplex.
- ii) Duplex apartments supplied by public water and/or public sewer shall be located on lots not less than 1.00 acres per duplex.

c) Triplex Apartments

- i) Triplex apartments where no public water supply or public sewage collection system is present shall be located on lots not less than 2.25 acres per triplex.

- ii) Triplex apartments supplied by public water and/or public sewer shall be located on lots not less than 1.50 acres per duplex.
  - d) Other uses. There shall be no minimum required lot area or lot width for uses other than single-family dwellings and duplex apartments unless specified in subsection (b) of this Section, provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this Ordinance, including requirements of the Health Official in cases where public sewer or public water systems are not available, and including such requirements as may be imposed in conjunction with the approval of a special use permit or plan of development.
- 5) **Usable open space for nursing homes.**  
Usable open space in the amount of not less than two square feet for each one square foot of floor area contained in all buildings shall be provided on each lot devoted to nursing home use. For the purposes of this requirement, usable open space and floor area shall be as defined in Article XI of this Ordinance.

## **Sec. 4-2. R-1 Single-Family Residential District.**

### **1) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the R-1 Single-Family Residential District is to provide for areas of medium density single-family residential development. The district is intended for application where public sewer and water systems may or may not be available, and provides for varying lot sizes depending on availability of such services. The district is designed to preserve the character of existing medium density residential areas, to encourage new residential development in accordance with modern subdivision standards, to protect single-family residential areas from encroachment by potentially incompatible commercial land uses and higher density residential development, and to avoid undue burden on public services. The district is also intended to accommodate certain non-residential uses which are necessary to provide for the educational, recreational, and cultural and public service needs of residential areas.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the R-1 Single-Family Residential District:

- a) Single-Family Dwellings;
- b) Churches and other places of worship, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- c) Propagation and cultivation of crops, flowers, trees and shrubs which are not offered for sale on the premises;
- d) Raising and keeping of livestock (excluding chickens) on lots of not less than 2.00 acres in area, provided that no pen or structure for the keeping of livestock, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line; chickens may be raised and kept on lots of not less than 1.00 acres, provided that no pen or structure for their keeping, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line.
- e) Rights-of-way, easements and appurtenances for public utilities, public transportation and oil and gas lines, but not including railroad yards, freight or passengers depots, electric generation plants or similar facilities; provided that Wastewater treatment plants and water treatment plants approved by the appropriate health authorities shall be permitted subject to a special uses permit as set forth in Article VII of this Ordinance;
- f) Home occupations as defined in Article XI of this Ordinance;

- g) Lodging units within owner-occupied single-family dwellings, when such lodging units are occupied by a total of not more than two persons and are not rented for periods of less than one week;
- h) Signs as permitted by Section 5-3 of this Ordinance;
- i) Accessory uses and structures

3) **Special Uses.**

The following uses and structures are permitted in the R-1 Single Family Residential District provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Child care center as defined in Article XI of this ordinance;
- b) Public schools and private schools having substantially the same curriculum as public schools;
- c) Parks, recreational facilities, community centers, libraries and museums owned or operated by a governmental agency, neighborhood organization or other non-profit organization, and other uses required for this performance of governmental functions and intended primarily to provide services to adjoining residential areas;
- d) Drilling and operations of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and accessory structures and activities, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State agency; minimum lot size of 1.00 acres required; no drilling or related activities may take place within 40 feet of any property line;
- e) Group homes as defined in Article XI.

4) **Lot area and width requirements.**

The following lot area and lot width requirements shall be applicable in the R-1 Single-Family Residential District. (See Section 5-8 for average lot sizes in residential subdivisions.)

- a) Single-family dwellings:
  - i) Single-family dwellings served by public sewer and public water systems shall be located on lots of not less than **10,000** square feet in area and not less than **90** feet in width.

- ii) Single-family dwellings served either by public sewer or public water systems, but not both, shall be located on lots of not less than **20,000** square feet in area and not less than **100** feet in width, provided that greater lot area or width may be required where deemed necessary by the Health Official for the provision of on-site sewage disposal or water supply;
  - iii) Single-family dwellings not served by either public sewer or public water systems shall be located on lots of not less than **30,000** square feet in area and not less than **150** feet in width, provided that greater lot area or width may be required where deemed necessary by the Health Official for the provision of on-site sewerage disposal or water supply;
  - b) Other uses. There shall be no minimum required lot area or lot width for uses other than single-family dwellings, provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this Ordinance, including requirements of the Health Official in cases where public sewer or public water systems are not available, and including such requirements as may be imposed in conjunction with the approval of a special use permit or plan of development;
- 5) **Yard requirements.**  
The following yards shall be required in the R-1 Single Family Residential District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary regulations.)
- a) **Front yard.** There shall be a front yard of not less than **30 feet**.
  - b) **Side yards.** Side yards of not less than **10 feet** shall be provided.
  - c) **Rear yard.** There shall be a rear yard of not less than **30 feet**.
- 6) **Height limit.**  
No building or structure in the R-1 Single Family Residential District shall exceed a height of **35 feet**. (See Article V for supplementary regulations.)

### **Sec. 4-3. R-M Single-Family/Manufactured Home Residential District.**

#### **7) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the R-M Single-Family/Manufactured Home Residential District is to provide for areas of medium density single-family residential development. The district is intended for application where public sewer and water systems may or may not be available, and provides for varying lot sizes depending on availability of such services. The district is designed to preserve the character of existing medium density residential areas, to encourage new residential development in accordance with modern subdivision standards, to protect single-family residential areas from encroachment by potentially incompatible commercial land uses and higher density residential development, and to avoid undue burden on public services. The district is also intended to accommodate certain non-residential uses which are necessary to provide for the educational, recreational, and cultural and public service needs of residential areas. This district is similar to the R-1 Single Family Residential District but intended for areas with a mixture of both site built and manufactured homes.

#### **8) Permitted uses and structures.**

The following uses and structures are permitted in the R-1 Single-Family Residential District:

- a) Single-Family Dwellings;
- b) Any individual manufactured home on an individual lot and meeting all the requirements applicable to single family dwellings in this district (See Section 5-9 for additional requirements);
- c) Churches and other places of worship, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- d) Propagation and cultivation of crops, flowers, trees and shrubs which are not offered for sale on the premises;
- e) Raising and keeping of livestock (excluding chickens) on lots of not less than 2.00 acres in area, provided that no pen or structure for the keeping of livestock, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line; chickens may be raised and kept on lots of not less than 1.00 acres, provided that no pen or structure for their keeping, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line.
- f) Rights-of-way, easements and appurtenances for public utilities, public transportation and oil and gas lines, but not including railroad yards, freight or passengers depots, electric generation plants or similar facilities; provided that

Wastewater treatment plants and water treatment plants approved by the appropriate health authorities shall be permitted subject to a special uses permit as set forth in Article VII of this Ordinance;

- g) Home occupations as defined in Article XI of this Ordinance;
- h) Lodging units within owner-occupied single-family dwellings, when such lodging units are occupied by a total of not more than two persons and are not rented for periods of less than one week;
- i) Signs as permitted by Section 5-3 of this Ordinance;
- j) Accessory uses and structures

9) **Special Uses.**

The following uses and structures are permitted in the R-1 Single Family Residential District provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Child care center as defined in Article XI of this ordinance;
- b) Public schools and private schools having substantially the same curriculum as public schools;
- c) Parks, recreational facilities, community centers, libraries and museums owned or operated by a governmental agency, neighborhood organization or other non-profit organization, and other uses required for this performance of governmental functions and intended primarily to provide services to adjoining residential areas;
- d) Drilling and operations of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and accessory structures and activities, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State agency; minimum lot size of 1.00 acres required; no drilling or related activities may take place within 40 feet of any property line;
- e) Group homes as defined in Article XI of this Ordinance.

10) **Lot area and width requirements.**

The following lot area and lot width requirements shall be applicable in the R-1 Single-Family Residential District. (See Section 5-8 for average lot sizes in residential subdivisions.)

- a) Single-family dwellings:
  - i) Single-family dwellings (including manufactured homes) served by public sewer and public water systems shall be located on lots of not less than **10,000** square feet in area and not less than **90** feet in width.
  - ii) Single-family dwellings (including manufactured homes) served either by public sewer or public water systems, but not both, shall be located on lots of not less than **20,000** square feet in area and not less than **100** feet in width, provided that greater lot area or width may be required where deemed necessary by the Health Official for the provision of on-site sewage disposal or water supply;
  - iii) Single-family dwellings (including manufactured homes) not served by either public sewer or public water systems shall be located on lots of not less than **30,000** square feet in area and not less than **150** feet in width, provided that greater lot area or width may be required where deemed necessary by the Health Official for the provision of on-site sewerage disposal or water supply;
- b) Other uses. There shall be no minimum required lot area or lot width for uses other than single-family dwellings and manufactured homes, provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this Ordinance, including requirements of the Health Official in cases where public sewer or public water systems are not available, and including such requirements as may be imposed in conjunction with the approval of a special use permit or plan of development;

**11) Yard requirements.**

The following yards shall be required in the R-1 Single Family Residential District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary regulations.)

- a) **Front yard.** There shall be a front yard of not less than **30 feet**.
- b) **Side yards.** Side yards of not less than **10 feet** shall be provided.
- c) **Rear yard.** There shall be a rear yard of not less than **30 feet**.

**12) Height limit.**

No building or structure in the R-1 Single Family Residential District shall exceed a height of **35 feet**. (See Article V for supplementary regulations.)

#### **Sec. 4-4. R-2 General Residential District.**

**1) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the R-2 General Residential District is to provide areas for relatively high density residential development with a variety of housing types to promote affordable housing within a suitable residential environment. The district is intended primarily for application in areas where public sewer and water systems are available, but provides for certain lower density development in areas not so served. The district is also designed to accommodate specific non-residential uses which are necessary to provide for the educational, recreational, cultural and public service needs of residential communities. It is the intent of the district to avoid a mix of potentially incompatible land uses by prohibiting uses of a commercial nature. The lot size, open space, yard and other requirements of the district are designed to avoid overcrowding of land, to promote compatible relationships among the various permitted housing types, and to avoid undue burden on public services.

**2) Permitted uses and structures.**

The following uses and structures are permitted in the R-2 General Residential District:

- a) Any use or structure permitted in the R-1 Single-Family Residential District as set forth in Section 4-2 of this Article;
- b) Any individual manufactured home on an individual lot and meeting all the requirements applicable to single family dwellings in this district (See Section 5-9 for additional requirements);
- c) Single-Family attached dwellings, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- d) Two-family dwellings;
- e) Multi-family dwellings of three or more units, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- f) Lodging houses, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- g) Signs as permitted by Section 5-3 of this Ordinance;
- h) Accessory uses and structures.

**3) Special uses.**

The following special uses and structures are permitted in the R-2 General Residential District provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Nursing homes as defined in Article XI of this ordinance;
- b) Manufactured home parks subject to the requirements set forth in Article V of the Ordinance;
- c) Bed and Breakfast facilities as defined in Article XI of this ordinance.

**4) Public sewer and water requirements.**

All permitted uses in the R-2 General Residential district shall be served by public sewer and public water systems, except single-family dwellings and two-family dwellings located on lots meeting the requirements of the Health Official, and other permitted uses for which sewerage disposal and water supply are not required by applicable health or Building Code requirements. Individual connections for sewer and water shall be provided for each single-family attached dwelling unit.

**5) Lot area and width requirements.**

The following lot area and lot width requirements shall be applicable in the R-2 General Residential District. (See Section 5-8 for average lot sizes in residential subdivisions.)

- a) Single-family dwellings:
  - i) Single-family dwelling served by both public sewer and public water systems shall be located on lots of not less than **6000 square feet in area** and not less than **60 feet in width**.
  - ii) Single-family dwellings which are not served by both public sewer and public water systems shall be located on lots of such area and width as necessary to meet requirements of the Health Official, but in no case less than **6000 square feet in area** or less than **60 feet in width**.
- b) Two-family dwellings:
  - i) Two-family dwellings served by both public sewer and public water systems shall be located on lots of not less than **10,000 square feet in area** and not less than **60 feet in width**.
  - ii) Two-family dwellings which are not served by both public sewer and public water systems shall be located on lots of such area and width as necessary to meet requirements of the Health Official, but in no case less than **10,000 square feet in area** or less than **60 feet in width**.

- c) Single-family attached dwellings. Single-family attached dwellings shall be located on lots of not less than **1800 square feet in area**, provided that the total area of the development site, as defined in Article XI of this Ordinance, shall be not less than **6000 square feet for the first dwelling until within the development site**, plus **4000 square feet for each additional dwelling unit**. Single-family attached dwellings shall be located on lots of not less than **18 feet in width**, provided that the end lots of each row of attached units shall be not less than **28 feet in width**.
- d) Multi-family dwellings of three or more units. Multi-family dwellings shall be located on lots of not less than **6000 square feet in area for the first dwelling unit**, plus **4000 square feet in area for each additional dwelling unit**. The minimum lot width shall be **100 feet**.
- e) Nursing homes and lodging houses. Nursing homes and lodging houses shall be located on lots of not less than **10,000 square feet in area** and not less than **100 feet in width**.

**6) Usable open space requirements.**

Usable open space in the amount of not less than two square feet for each one square foot in floor area contained in all buildings shall be provided on each lot devoted to multi-family dwellings, lodging houses and nursing homes. For the purpose of this requirement, usable open space and floor area shall be as defined in Article XI of this Ordinance.

**7) Yard requirements.**

The following yards shall be required in the R-2 General Residential District. (See Section 3-10 for provisions for the relief in cases of steep topography and Article V for supplementary yard regulations.)

- a) Front yard. There shall be a front yard of not less than **30 feet**.
- b) Side yards. The following side yards shall be required.
- c) Side yards of not less than **10 feet** shall be provided on lots devoted to single-family dwellings.
- d) A side yard of not less than **10 feet** shall be provided at each end of a row of single-family attached dwellings.
- e) Side yards of not less than **10 feet** shall be provided on lots devoted to all other permitted uses.
- f) Rear yard. There shall be a rear yard of not less than 30 feet.

g) Yards between main buildings. When two or more buildings devoted to permitted principal uses are located on the same lot, yards of not less than 50 feet shall be provided between such buildings, except that where neither of the opposing walls of two buildings contain windows, the yard between the buildings shall be not less than **20 feet**.

8) **Additional requirements for attached dwellings.**

In addition to the requirements set forth elsewhere in this Section, the following shall be applicable to single-family attached developments in the R-2 General Residential District.

a) Covenants. Agreements and covenants approved as to form by the County Attorney shall provide for the perpetuation and maintenance of all areas and facilities within a development site to be held in common ownership by property owners within the site.

b) Maximum units in a row. Not more than six dwellings shall be attached in a series or continuous row. No multifamily dwellings shall contain more than 6 total units.

c) Frontage and access. Each dwelling unit shall be located on a lot having frontage or access as required by Section 3-7 of this Ordinance. Easements or areas in common shall be provided at such locations and shall be of such width as necessary to enable access by service and emergency personnel to all lots within the development site.

9) **Height limit.**

No building or structure in the R-2 General Residential District shall exceed a height of **45 feet**. (See Article V for supplementary height regulations.)

## **Sec. 4-5. Village Commercial District.**

### **1) Intent of District.**

Pursuant to the purpose of this Ordinance, the intent of the Village Commercial District is to promote future development around existing communities or areas of mixed land use and to enable compatible in-fill development or encourage compact development that provides rural residents with convenient access to community services and shopping and creates a sense of community identity. The district is intended to be a relatively small, well defined area with a low to moderate density mixture of residential, low intensity commercial and community service uses such as churches and recreational facilities. It is intended to encourage development of attractive and functional communities through minimal and flexible regulations. The district is also intended to promote the County's goal of encouraging compact development at convenient locations and discouraging strip development. To ensure compatibility with residents, the district requires that most non-residential uses be subject to special use permit or to plan of development approval by the Planning Commission.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the (VC) Village Commercial District:

- a) Raising and keeping of livestock (excluding chickens) on lots of not less than 2.00 acres in area, provided that no pen or structure for the keeping of livestock, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line; chickens may be raised and kept on lots of not less than 1.00 acres, provided that no pen or structure for their keeping, other than grazing areas, shall be located within 40 feet of any front, side or rear lot line.
- b) Single-family dwelling;
- c) Two-family dwelling;
- d) Churches and other places of worship, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- e) Rights-of-way, easements and appurtenances for public utilities, public transportation and oil and gas lines, but not including railroad yards, freight or passenger depots, electric generating plants or similar facilities; provided that Wastewater treatment plants and water treatment plants approved by the appropriate health authorities and Water storage tanks provided that tanks with a rated storage capacity of greater than 30,000 gallons or more than 35 feet in height shall be permitted subject to a special use permit as set forth in Article VIII of this Ordinance;

- f) Home occupations and home businesses as defined in Article XI of this Ordinance;
- g) Lodging units within owner-occupied single-family dwellings, when such lodging units are occupied by total of not more than two persons and are not rented for periods of less than one week;
- h) Fire stations and rescue squad facilities, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- i) Signs as permitted by Section 5-3 of this Ordinance identifying uses permitted by this subsection;
- j) Uses and structures accessory to principal uses and structures permitted by this subsection;
- k) Higher educational institution as defined in Article XI of this Ordinance;
- l) Medical and dental offices and clinics not exceeding 3000 square feet.

3) **Special Uses.**

The following uses and structures are permitted in the VC Village Commercial District, provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Auto service stations and auto service centers as defined in Article XI of this Ordinance;
- b) Banks, savings and loan offices and similar financial services offices;
- c) Child care centers licensed by the State, provided that outdoor play areas shall not be located within required front or side yards and shall be enclosed with continuous fencing not less than four feet in height;
- d) Convenience stores operated in conjunction with self-service gasoline stations, provide that the total floor area shall not exceed 3000 square feet;
- e) Fraternal organizations;
- f) Funeral homes as defined in Article XI of this ordinance;
- g) Laundromats;
- h) Nursing homes as defined in Article XI of this ordinance;

- i) Offices, including professional, administrative and business offices of any size and medical and dental offices and clinics exceeding 3000 square feet;
- j) Parks, recreational facilities, community centers, libraries, and museums owned and operated by a governmental agency, neighborhood organization or other non-profit organization, and other uses required for the performance of governmental functions and intended primarily to provide services to adjoining residential areas;
- k) Personal service businesses, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, shoe repair shops, tailor and dressmaking shops, watch and jewelry repair shops, travel agencies, and similar uses;
- l) Post offices and pick-up stations for package mailing services;
- m) Public schools and private schools having substantially the same curriculum as public schools;
- n) Restaurants not exceeding 5000 square feet of floor area;
- o) Retail stores and shops as defined in Article XI of this Ordinance, provided that no such use shall exceed 5000 square feet of floor area;
- p) Retirement homes as defined in Article XI of this ordinance;
- q) Service businesses, including establishments which rent, service or repair radios, televisions, video equipment and movies, home or business electronic equipment, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and similar household or business items;
- r) Signs as permitted by Section 5-3 of this Ordinance identifying uses permitted by this subsection;
- s) Tourist homes and bed and breakfast facilities;
- t) Uses and structures accessory to principal uses and structures permitted by this subsection;
- u) Manufactured Home Sales;
- v) Manufactured housing for use as a single-family dwelling;
- w) Multi-Family Dwellings. Multi-Family dwellings shall be located on lots of not less than 10,000 sq. ft. in area for the first dwelling unit, plus 6,700 sq. ft. for

each additional dwelling unit. The minimum lot width shall be 140 ft. provided that no more than six units may be built per acre;

- x) Automobile Sales;
- y) Alcohol and Drug Treatment Center as defined in Article XI of this ordinance (Any such facility cannot use methadone in its treatment program);
- z) Refuse collection and recycling collection centers operated by the County.

4) **Lot Size Requirements.**

Permitted uses, other than two-family dwellings, shall be located on lots of not less than one-half acre in area and not less than 100 feet in width. Two-family dwellings shall be located on lots of not less than one acre in area and 180 feet in width.

Greater lot area or width may be required in any case where deemed necessary by the Health Official for the provision of on-site sewerage disposal or water supply.

5) **Yard requirements.**

The following yards shall be required in the VC Village Commercial District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary yard regulations.)

- a) Front yard. There shall be a front yard of not less than 30 feet.
- b) Side yards. Side yards of not less than 10 feet shall be provided.
- c) Rear yard. There shall be a rear yard of not less than 30 feet.

6) **Height limit.**

No building or structure in the VC Village Commercial District shall exceed a height of **35 feet**. (See Article V for supplementary height regulations.)

## **Sec. 4-6. B-1 Limited Business District.**

### **1) Intent of district.**

Pursuant to the purpose of this Ordinance, the intent of the B-1 Limited Business District is to accommodate and encourage low-intensity retail, personal service and office uses which are compatible with adjacent and nearby rural areas and residential uses, and which provide for neighborhoods and do not generate large volumes of traffic or heavy trucks. The district is intended to encourage small concentrations of business uses, to provide a transition between residential areas and heavier business uses, and to be applied to relatively small geographical areas where adjacent vacant properties may be appropriate for further limited business development.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the B-1 Limited Business District:

- a) Automobile service station, auto service center and self-service gasoline stations, including convenience stores in connection therewith; provided that a plan of development approved by the Planning Commission shall be required as set for the in Article VII of this Ordinance;
- b) Bakeries where products are sold principally at retail on the premises;
- c) Banks, savings and loan offices and similar financial service offices, provided that where drive-up teller facilities are included with such use, a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- d) Child Care centers licensed by the State, provided that outdoor play areas shall not be located within required front and side yards and shall be enclosed with continuous fencing not less than four feet in height;
- e) Churches and other places of worship;
- f) Drilling and operation of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and necessary structures and activities, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State agency;
- g) Dry cleaning and laundering establishments;
- h) Dwelling units incidental to and contained within the same building as other uses permitted in this district, provided the total floor area of dwelling units shall

- not exceed the amount of floor area in the building devoted to other permitted uses;
- i) Entertainment uses, amusements centers and recreational facilities located within completely enclosed buildings, but not including any such use which is specifically permitted in the B-2 District;
  - j) Fire stations and rescue squad facilities, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
  - k) Funeral homes, as defined in Article XI of this ordinance;
  - l) Garden centers, plant nurseries and greenhouses;
  - m) Grocery stores, supermarkets and specialty food and beverage stores;
  - n) Laundromats;
  - o) Libraries, museums, schools, adult education centers, child development centers, community centers, parks and recreational facilities; when such uses are owned or operated by a governmental agency or a non-profit organization; and provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
  - p) Office supply, business service, custom printing and photocopy establishments;
  - q) Offices, including professional, administrative and business offices and medical and dental offices and clinics;
  - r) Parking areas serving uses permitted in this district;
  - s) Personal service businesses, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios and shoe repair shops, tailor and dressmaking shops, watch and jewelry repair shops, travel agencies and similar uses;
  - t) Post offices and pick-up stations for package mailing services;
  - u) Restaurants and similar food service and catering establishments, but not including establishments providing live entertainment on the premises or establishments where food or beverages are intended to be consumed in vehicles on the premises. Where food or beverages are available by drive-up window service, related facilities including menu boards, speaker stands, vehicle waiting areas and window service areas shall not be located within 100 feet of any property located within an A-1, R-1 or R-2 District, and a plan of development

approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;

- v) Retail stores and shops as defined in Article XI of this Ordinance;
- w) Rights-of-way, easements and appurtenances for public utilities, public transportation and oil and gas lines, but not including railroads yards, freight or passenger depots, electric generating plants or similar facilities; provided that wastewater treatment plants approved by the appropriate health authorities and Water storage tanks provided that tanks with a rated storage capacity of greater than 30,000 gallons or more than 35 feet in height shall be permitted subject to a special use permit as set forth in Article VII of this Ordinance;
- x) Service business, including establishments which rent, service or repair radios, television, video equipment and movies, home or business electronic equipment, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and similar household or business items;
- y) Shopping centers containing uses permitted in this district, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VIII of this Ordinance;
- z) Signs as permitted by Section 5-3 of this Ordinance;
- aa) Tourist homes and bed and breakfast facilities;
- bb) Accessory uses and structures
- cc) Automobile/car sales lot (new or used cars)
- dd) Crematory or Crematorium as defined in Article XI of this Ordinance – Facility shall be allowed with the following restrictions:
  - i) Minimum setbacks shall be 100 feet from all property lines
  - ii) Facility shall be located within an enclosed building
  - iii) Facility operator must obtain all required DEQ and/or EPA permits
  - iv) External storage of fuels shall comply with all federal, state and/or local regulations for pollution prevention
  - v) All outdoor fuel storage containers shall be secured within a fence or solid walls
  - vi) Facility shall be used solely for the cremation of human corpses and shall not be used for disposition of medical waste or other waste products

**3) Special uses.**

The following special uses and structures are permitted in the B-1 Limited Business District provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Hotels and motels;
- b) Refuse collection and recycling collection centers for use by the general public, when such centers are owned and operated by Lee County or other public agency,

**4) Lot area and width requirements.**

There shall be no minimum lot area or lot width requirements in the B-1 Limited Business District, except that uses which are not served by public sewer and public water systems shall be provided with such minimum lot area as deemed necessary by the Health Official for on-site sewerage disposal or water supply.

**5) Yard requirements.**

The following yards shall be required in the B-1 Limited Business District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary yard regulations.)

**a) Front yard.**

There shall be a front yard of not less than **25 feet**.

**b) Side yards.**

No side yards shall be required, provided that where a side lot line abuts property located in an A-1, R-1, or R-2 District there shall be a side yard of not less than **25 feet**.

**c) Rear yard.**

No rear yard shall be required, provided that where a rear lot line abuts property Located in an A-1, R-1, or R-2 District there shall be a rear yard of not less than **50 feet**.

**6) Screening requirements.**

Where a side or rear lot abuts property located in an A-1, R-1 or R-2 District, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but not within ten feet of any street right-of-way line.

**7) Height limit.**

No building or structure in the B-1 Limited Business District shall exceed a height of **35 feet**. (See Article V for supplementary height regulations.)

**8)**

a)

b)

## **Sec. 4-7. B-2 General Business District.**

### **1) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the B-2 General Business District is to accommodate a wide range of retail, wholesale, service and office uses which cater to the traveling public or serve all or large portions of the County. The district is intended to be applied along principal highways and to areas having direct access thereto in order to provide safe and efficient access for commercial and private vehicles while avoiding traffic on minor roads or through residential areas. The district is designed to afford flexibility in permitted uses and in the utilization of individual sites in order to promote business opportunities, economic development and provision of services for the community and surrounding area. The district contains yard, screening and other provisions intended to encourage compatible development and to ease the transition between business areas and adjacent rural and residential areas.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the B-2 General Business District:

- a) Automobile service stations, auto service centers and self-serve gasoline stations, including convenience stores in connection therewith;
- b) Automobile, truck, trailer and/or recreational vehicle sales, rental, service, and repair businesses, but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.
- c) Manufactured home sales, rental, service and repair businesses but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.
- d) Construction equipment and/or farm implement sales, rental, service, and repair businesses, but not including junkyard or automobile graveyards, and provided that no repair of vehicles shall be conducted outside of completely enclosed buildings and in view from any adjacent property or public street.
- e) Automobile or truck washing facilities, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance for any such facility with more than one wash bay;
- f) Bakeries where products are sold principally at retail on the premises;
- g) Banks, savings and loan offices and similar financial service offices, provided that where drive-up teller facilities are included with such use, a plan of

development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;

- h) Building material and supplies sales;
- i) Churches and other places of worship;
- j) Contractors' offices, shops and display rooms;
- k) Drilling and operation of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and accessory structures and activities, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State Agency;
- l) Dry cleaning and laundering establishments;
- m) Dwelling units incidental to and contained within the same buildings as other uses permitted in this district, provided the total floor area of dwelling units shall not exceed the amount of floor area in the building devoted to other permitted uses;
- n) Entertainment, amusement and recreational facilities located within completely enclosed buildings and including bowling alleys, amusement centers, lodge and club meeting places, theaters, dance and night clubs, auditoriums, assembly halls and similar uses (any such facility may not offer adult-themed entertainment including such as performers or dancers regularly appearing in a state of nudity not permitted outside the walls of such establishment);;
- o) Fire stations and rescue squad facilities;
- p) Funeral homes;
- q) Garden centers, plant nurseries and greenhouses;
- r) Grocery stores, supermarkets and specialty food and beverage stores;
- s) Hospitals as defined in Article XI of this ordinance, provided a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- t) Hotels and motels as defined in Article XI of this ordinance;
- u) Laundromats

- v) Libraries, museums, schools, adult education centers, child development centers, community centers, parks and recreational facilities; when such uses are owned and operated by a governmental agency or non-profit organization; and provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance;
- w) Machine shops not utilizing drop hammers or punch presses and employing not more than five persons on the premises;
- x) Mechanical, electrical, plumbing and heating supplies sales;
- y) Office supply, business service, custom printing, publishing and photocopy establishments;
- z) Offices, including professional, administrative and business offices and medical and dental offices and clinics;
- aa) Parking areas;
- bb) Personal service businesses, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, shoe repair shops, tailor and dressmaking shops, watch and jewelry repair shops, travel agencies and similar uses;
- cc) Post offices, packaging mailing services and packing distribution centers;
- dd) Restaurants and similar food service and catering establishments. Where food or beverages are available by drive-up window service, related facilities including menu boards, speaker stands, vehicle waiting areas and window service areas shall not be located within 100 feet of any property located within an A-1, R-1 or R-2 District, and a plan of development approved by the Planning Commission shall be required as set forth in Article XII of this Ordinance;
- ee) Retail stores and shops as defined in Article XI of this Ordinance;
- ff) Rights-of-way, easements and appurtenances for public utilities, public transportation and oil and gas lines, but not including railroad yards, freight or passenger depots, electric generating plants or similar facilities; provided that Wastewater treatment plants and water treatment plants approved by the appropriate health authorities and Water storage tanks provided that tanks with a rated storage capacity of greater than 30,000 gallons or more than 35 feet in height shall be permitted subject to a special use permit as set forth in Article VIII of this Ordinance;
- gg) Self-storage and mini-warehouse facilities;

- hh) Service businesses, including establishments, which rent, service or repair radios, televisions, video equipment and movies, home or business electronic equipment, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and similar household or business items;
- ii) Shopping centers containing uses permitted in this district, provided that a plan of development approved by the Planning Commission shall be required as set forth in Article VI of this Ordinance;
- jj) Signs as permitted by Section 5-3 of this Ordinance
- kk) Tourist homes and bed and breakfast facilities;
- ll) Veterinary clinics, animal hospitals and animal shelters, but not including outdoor kennels or runs;
- mm) Vocational, business and professional schools;
- nn) Wholesale and distribution businesses, including warehouse and storage facilities incidental thereto;

3) **Special uses:**

The following uses and structures are permitted in the VC Village Commercial District, provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Bulk Container facility to sell gasoline, diesel and/or kerosene;
- b) Outdoor commercial recreation and amusement facilities, including miniature golf courses, golf driving ranges, boating facilities, fishing, horseback riding, camping, and other similar facilities, but not including any use specifically listed as permitted in the M-2 District;
- c) Recreational vehicle parks;
- d) Refuse collection and recycling collection centers for the use by the general public, when such centers are owned and operated by Lee County or other public agency;
- e) Crematory or Crematorium as defined in Article XI of this Ordinance – Facility shall be allowed, subject to issuance of a Special Use Permit with the following restrictions:
  - i) Minimum setbacks shall be 100 feet from all property lines
  - ii) Facility shall be located within an enclosed building

- iii) Facility operator must obtain all required DEQ and/or EPA permits
  - iv) External storage of fuels shall comply with all federal, state and/or local regulations for pollution prevention
  - v) All outdoor fuel storage containers shall be secured within a fence or solid walls
  - vi) Facility shall be used solely for the cremation of human corpses and shall not be used for disposition of medical waste or other waste products.
- 4) **Lot area and width requirements.**  
There shall be no minimum lot area or lot width requirements in the B-2 General Business District, except that uses which are not served by public sewer and public water systems shall be provided with such minimum lot area as deemed necessary by the Health Official for on-site sewerage disposal or water supply.
- 5) **Yard requirements.**  
The following yards shall be required in the B-2 General Business District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary yard regulations.)
- a) **Front yard.** There shall be a front yard of not less than **25 feet**.
  - b) **Side yards.** No side yards shall be required, provided that where a side lot line abuts property located in an A-1, R-1 or R-2 District there shall be a side yard of not less than **50 feet**.
  - c) **Rear yard.** No rear yard shall be required, provided that where a rear lot line abuts property located in an A-1, R-1 or R-2 District there shall be a rear yard of not less than **50 feet**.
  - d) **Use of certain yard areas.** Required side yards abutting property in A-1, R-1 or R-2 District shall not be devoted to any of the following uses or activities, nor shall any of the following uses or activities take place within ten feet of any street right-of-way line;
    - i) Outdoor storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles;
    - ii) Outdoor display or sales areas for vehicles or other products.
    - iii) Truck or rail loading or unloading areas.
- 6) **Screening requirements**  
Where a side or rear lot line abuts property located in an A-1, R-1 or R-2 District, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet height provided along such lot line, but not within ten feet of any right-of-way line.

7) **Height limit.**

No building or structure in the B-2 General Business District shall exceed a height of **50 feet**. (See Article V for supplementary height regulations.)

## **Sec. 4-8. M-1 Limited Industrial District.**

### **1) Intent of district.**

Pursuant to the purpose of this Ordinance, the intent of the M-1 Limited Industrial District is to provide appropriate locations for light industrial and manufacturing uses and for related service and support uses. It is intended that uses in the district involve minimal hazards and do not create significant amounts of smoke, noise, odor, dust or other nuisance, and provide employment opportunities and economic development potential. The district is intended to be located along or near primary highways to facilitate access and avoid industrial traffic impacts on minor roads and residential areas. The regulations in the district are designed to promote compatibility with neighboring uses and to avoid adverse impacts on existing and future industrial development so as to maximize industrial development opportunities in the County.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the M-1 Limited Industrial District:

- a) Any use or structure permitted in the B-2 General Business District as set forth in Section 4-6 of this Ordinance, provided that:
  - i) A plan of development approved by the Planning Commission shall not be required for restaurants and banks and savings and loan offices with drive-up service facilities or for automobile and truck washing facilities;
  - ii) Dwelling units shall not be permitted, except when provided for purposes of housing a guard, caretaker or watchman employed in connection with the principal use of the property;
- b) Cabinet, upholstery, furniture and woodworking shops;
- c) Contractors' equipment storage yards and rental of contractors' equipment;
- d) Ice manufacturing;
- e) Kennels, operated independent of other uses or in conjunction with veterinary clinics, animal shelters or animal hospitals, provided that outdoor pens and runs shall be subject to the provisions of subsection (e) of this Section;
- f) Machine shops with drop hammers or punch presses not exceeding 40-ton rated capacity, and metal fabricating, blacksmith and welding shops;
- g) Manufacturing and assembling of electronic equipment and parts, electrical appliances, musical instruments, toys, novelties, medical equipment and similar products;

- h) Manufacturing, compounding, assembling, treatment, or packaging of products derived from the following materials, when such material are refined or initially processed or prepared elsewhere: bone, canvas, cloth, cork, feathers, felt, fiberglass, fiber, fur, glass, hair, horn, leather, metals, paper, plastic, rubber, shells, stone, straw, textiles, tobacco and wood;
  - i) Manufacturing, compounding, processing or packaging of food products, cosmetics, dairy products, pharmaceutical products, perfumes, soaps, toiletries and similar products;
  - j) Manufacturing of pottery and ceramic products utilizing only clay, Monument works and stone cutting;
  - k) Propagation, cultivation and sales or crops, flowers, trees and shrubs;
  - l) Signs as permitted by Section 5-3 of this Ordinance;
  - m) Tire recapping and retreading shops, provided that outside storage of more than 100 used tires shall not be permitted on any site;
  - n) Truck terminals. No outdoor storage of materials, truck or trailer equipment or parts or truck cargo shall be permitted. Areas utilized for the parking of trucks and permitted storage shall be surfaced with either asphalt, concrete or similar hard road surfacing materials. Nothing contained herein shall be deemed to authorize or permit the storage of hazardous materials, substances or wastes including but not limited to the following: radioactive material, poison, flammable gas, nonflammable gas, flammable liquid, oxidizer, flammable solid, corrosive material, explosives, blasting agents, etiologic agents, organic pesticides and regulated materials of classes A, B, C, D and E as defined by the United State Department of Transportation;
  - o) Warehouse and storage facilities;
  - p) Concrete manufacturing facilities;
  - q) Higher educational institutions as defined in Article XI of this Ordinance;
  - r) Accessory uses and structures to any previously listed use;
- 3) **Special uses:**  
The following uses and structures are permitted in the VC Village Commercial District, provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Airports and landing strips, including runways, taxiways, apron, aircraft storage and tie-down areas, hangars and other structures and facilities necessary for the operation, maintenance and administration thereof;
  - b) Fairgrounds and circus and carnival facilities,
  - c) Penal institutions and detention facilities;
  - d) Petroleum, fuel oil or propane storage in bulk for purposes of distribution, provided that storage facilities shall not be located within 100 feet of any property line;
  - e) Laboratories and research facilities. Research or study of biological or chemical weapons is expressly prohibited.
- 4) **Lot area and width requirements.**  
There shall be no minimum lot area or lot width requirements in the M-1 Limited Industrial District, except that uses which are not served by public sewer and public water systems shall be provided with such minimum lot area as deemed necessary by the Health Official for the provisions of on-site sewerage disposal or water supply.
- 5) **Yard Requirements.**  
The following yards shall be required in the M-1 Limited Industrial District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary yard regulations.)
- a) **Front yard.** There shall be a front yard of **not less than 100 feet**.
  - b) **Side yards.** Side yards of **not less than 100 feet** shall be required, provided that where a side lot line abuts property located in an A-1, R-1 or R-2 District there shall be a side yard of **not less than 50 feet**.
  - c) **Rear yard.** A rear yard of **not less than 100 feet** shall be required.
- 6) **Use of certain yard areas.**  
Required side yards abutting property in an A-1, R-1 or R-2 District shall not be devoted to any of the following uses or activities, nor shall any of the following uses or activities take place within ten feet of any street right-of-way line:
- a) Storage. Outdoor storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles;
  - b) Display. Outdoor display or sales areas for vehicles or other products;
  - c) Loading. Truck or rail loading or unloading areas.

7) **Screening requirements.**

Where a side or rear lot line abuts property located in an A-1, R-1 or R-2 District, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but within ten feet of any street right-of-way line.

8) **Height limit.**

No building or structure in the M-1 Limited Industrial District shall exceed a height of 50 feet, provided that additional height shall be permitted when all portions of buildings or structures in excess of 50 feet in height are situated no closer to any front, side or rear property line than a distance equal to one foot or each one foot of total height of the building or structure. (See Article V for supplementary height regulations.)

## **Sec. 4-9. M-2 General Industrial District.**

### **1) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the M-2 General Industrial District is to provide locations for general industrial and manufacturing uses which may result in greater amounts of smoke, noise, odor or dust than typically associated with uses permitted in the M-1 District. The M-2 District is intended to accommodate those uses which, although not generally appropriate which although not generally appropriate in other districts or in close proximity to residential, business or other industrial areas, provide desirable employment opportunities, enhance economic development potential, enlarge the tax base and provide needed services or products. The yard, screening, special use permit and other requirements of the district are designed to promote compatibility of development and to provide protection for other uses and for the community as a whole.

### **2) Permitted uses and structures.**

The following uses and structures are permitted in the M-2 General Industrial District:

- a) Any use or structure permitted in the M-1 Limited Industrial District as set forth in Section 4-7 of this Ordinance;
- b) Asphalt mixing plants;
- c) Boiler shops;
- d) Machine shops with drop hammer or punch presses exceeding 40-tons rated capacity;
- e) Mineral extraction and processing, including underground mining, surface mining, extraction and removal of coal, stone, gravel, sand and similar mineral or raw materials, and including structures and activities accessory thereto; provided that all mining activities are conducted in accordance with applicable regulations of the State Department of Mines, Minerals and Energy and pursuant to permits or licenses issued by said Department, where applicable.
- f) Pulp processing and paper manufacturing;
- g) Railroad yards and depots;
- h) Sawmills, planing mills and veneer mills;
- i) Signs as permitted by Section 5-3 of this Ordinance;

- j) Wood processing and wood preserving plants including the pressure treating of lumber provided such facilities are not located within 1000 feet of a public water supply well or spring;
  - k) Higher educational institutions as defined in Article XI of this Ordinance;
  - l) Accessory uses and structures to previously listed permissible uses in this district;
- 3) **Special Uses.**

The following uses and structures are permitted in the M-2 General Industrial District, provided that a special use permit shall be required as set forth in Article VIII of this Ordinance:

- a) Electricity generating plants;
- b) Junkyard and automobile graveyards when completely enclosed with fencing and when located, arranged or screened so that materials stored therein are not visible from public streets or adjacent properties;
- c) Manufacturing, processing or storage of brick, , lime, gypsum, fertilizer or acids, provided that any use involving the manufacturing, processing or storage in bulk of acids, chemicals, explosives, fireworks, matches, petroleum products, fuel oil, propane, fertilizer, or similar items;
- d) Meat, poultry or fish processing or packaging; stockyards and livestock auction markets; slaughtering operations; fat, grease, or tallow refining or rendering; tanning, curling or storage of raw hides or skins;
- a) Materials Recovery Facility. A solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials but not to include the process of pyrolysis. Pursuant to the following conditions:
  - All sorting of materials must take place within an enclosed structure.
  - Applicant must meet all applicable DEQ and EPA requirements.
  - No material will be buried ,landfilled or permanently stored on the property or anywhere within the borders of Lee County.
  - There shall be no open burning on the property.
  - Any structure or active area shall be set back a minimum of 100 feet from the street and any adjoining parcels.
  - A waste water treatment plan for the facility must be approved by the Lee County Public Service Authority or its successor/assignee/designee.

The following are excluded from the allowable use:

- Salvage yard for the recovery of used motor parts.

e) Sanitary landfills owned and operated by Lee County or by a regional waste authority in which Lee County is a participating member; pursuant to the Lee County Solid Waste Management Ordinance;

4) **Lot area and width requirements.**

There shall be no minimum lot area or lot width requirements in the M-2 General Industrial District, except that uses which are not served by public sewer and public water systems shall be provided with such minimum lot area as deemed necessary by the Health Official for the provision of on-site sewerage disposal or water supply.

5) **Yard requirements.**

The following yards shall be required in the M-2 General Industrial District. (See Section 3-10 for provisions for relief in cases of steep topography and Article V for supplementary yard regulations.)

a) **Front yard.** There shall be a front yard of **not less than 100 feet.**

b) **Side yards.** Side yards of **not less than 100 feet** shall be required

c) **Rear yard.** A rear yard of **not less than 100 feet** shall be required.

6) **Use of certain yard areas.**

Required side yards abutting property in an A-1, R-1 or R-2 District shall not be devoted to any of the following uses or activities take place within ten feet of any street right-of-way line.

7) **Screening requirements.**

Where a side or rear lot line abuts property located in an A-1, R-1 or R-2 District, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such a lot line, but not within ten feet of any street right-of-way line.

8) **Height Limit.**

No building or structure in the M-2 General Industrial District shall exceed a height of **50 feet**, provided that additional height shall be permitted when all portions of buildings or structures in excess of **50 feet** in height are situated no closer to any front, side or rear property line than a distance equal to one foot for each on foot total heights of the building or structure. (See Article V for supplementary height regulations.)

## **Sec. 4-10. RO Resource Overlay District.**

### **1) Intent of District.**

Pursuant to the purposes of this Ordinance, the intent of the RO Resource Overlay District is to encourage the appropriate use of mineral resources in the county and to promote compatibility of mining and drilling activities with other land uses and with the land use objectives of the county. The district is intended to recognize the importance of mineral resources and of mining and drilling activities to the economy and well-being of the county by enabling greater flexibility in the land use regulations applicable to such activities than afforded through a more traditional zoning approach. It is intended that the RO District be superimposed over the normal zoning district classifications so as to encompass the predominant areas of the county where coal, oil or natural gas resources exist and where application of other zoning classifications permitting such activities would be inappropriate due to existing or anticipated land uses in such areas. In recognition of the comprehensive State regulations and approval processes which apply to the coal mining and oil and gas drilling industries, the RO District is designed to exercise the minimum degree of regulation necessary to enable coordination with applicable State review and permitting processes and to promote compatibility of mining, drilling and relate activities with other land uses.

### **2) Application of District.**

The RO Resource Overlay District shall be applied and amended in the same manner and in accordance with the same procedures as set forth in Articles II and IX of this Ordinance for other districts. The RO District shall be in addition to, and shall be applied so as to overlay, overlap and be superimposed on other zoning districts established by this Ordinance and shown on the official zoning district map. Any property lying within the RO District shall also lie in one or more of the other zoning districts established by this Ordinance, which districts shall be known as underlying districts. The RO District shall be designed on the official zoning district map by a special symbol, patter or shading depicting its boundaries.

### **3) Relation to underlying district regulations.**

The permitted uses and structures and other regulations of the underlying districts shall apply to all properties lying within the boundaries of the RO District, and the uses and structures specified in subsection (d) of this Section shall be permitted in addition thereto.

### **4) Permitted uses and structures.**

The following uses and structures are permitted in the RO Resource Overlay District:

- a) All uses and structures permitted in the underlying districts, subject to all of the regulations applicable to such uses in the underlying districts;
- b) Drilling and operation of oil, natural gas and methane gas wells, including well heads, gathering and transmission lines and structures and activities accessory

thereto, provided that all drilling and related activities and structures conform with applicable regulations of the Commonwealth of Virginia and are established and operated pursuant to well work permits and such other permits and approvals as may be required by the Virginia Oil and Gas Inspector or other State agency. A special use permit shall be required as set forth in Article VIII of this Ordinance where the underlying district is R-1, R-2 or VC.

- c) Mineral extraction and processing, including underground mining, surface mining, extraction and removal of coal, stone, gravel, sand and similar minerals or raw materials, and including structures and activities accessory thereto; provided that all mining activities are conducted in accordance with applicable regulations of the State Department of Mines, Minerals and Energy and pursuant to permits or licenses issued by said Department, where applicable. A special use permit shall be required as set forth in Article VII of this Ordinance for all surface and above ground activities and structures where the underlying district is R-1, R-2 or VC. A plan of development approved by the Planning Commission shall be required as set forth in Article VII of this Ordinance for all surface and above ground activities and structures where the underlying district is A-1, B-1, B-2 or M-1.

#### **Sec. 4-11. FP Flood Plain Districts.**

1) **Intent of districts.**

The intent of FP Flood Plain Districts is to accomplish the purposes of the Lee County Flood Protection Ordinance as set forth in such Ordinance as adopted by the Lee County Board of Supervisors on April 10, 1987 and as thereafter amended.

2) **Application of districts.**

The FP Flood Plain Districts shall be in addition to, shall be construed to overlay, overlap and be superimposed on other zoning districts established by this Ordinance and shown on the official zoning district map. Any property lying within a Flood Plain District shall also lie within and be subject to the regulations of one or more of the other zoning districts established by this Ordinance, which districts shall be known as underlying districts.

3) **District regulations and boundaries.**

The regulations applicable within FP Flood Plain Districts shall be as set forth in the Lee County Flood Protection Ordinance adopted by the Lee County Board of Supervisors on April 10, 1987 and as thereafter amended. The boundaries of such districts shall be as shown on the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency dated November 29, 1985 and as thereafter amended. The Regulations and other provisions of said Flood Protection Ordinance and the Flood Boundary and Floodway Map are hereby incorporated by reference and made a part of this Ordinance as though fully set forth herein.

## ARTICLE V

### SUPPLEMENTARY REGULATIONS

#### **Sec. 5-1. Applicability.**

The regulations and other provisions set forth in this Article are additions or exceptions to, and qualify, supplement or modify, as the case may be, the regulations and requirements set forth in the district regulations contained in Article IV of this Ordinance.

#### **Sec. 5-2. Off-street parking requirements.**

##### **1) Number of spaces required for particular uses.**

The minimum number of off-street parking spaces required for particular uses located in any district shall be as set forth in the following schedule. The minimum number of off-street parking spaces required for a use not specifically listed shall be as required for the most similar use listed as determined by the Zoning Administrator.

<b>Use</b>	<b>Number of spaces</b>
Single-family detached or two-family dwelling; manufactured home on an individual lot; other dwelling unit not specifically listed	1 per dwelling unit
Single-family attached dwelling	2 per dwelling unit
Multi-family dwelling	2 per dwelling unit
Multi-family dwelling when at least 80% of all occupants and at least one occupant per unit are 55 years or more of age	1 per dwelling unit
Lodging house; tourist home; bed and breakfast; hotel; motel; lodging unit in single-family dwelling	1 per lodging unit
Manufactured home park	As set forth in Section 5-11
Nursing home; group home	1 per 4 beds
Hospital	1 per 2 beds, plus 1 per 2 employees
Child care center	1 per 10 children enrolled, plus 2 per 3 employees
Church	1 per 8 seats in main auditorium or sanctuary
School: public or private	2 per classroom or 1 per 5 seats in main auditorium, whichever is greater
Business, professional or vocational school	1 per 2 persons enrolled
Library; museum; art gallery	1 per 200 sq. ft. of public space
Theater; auditorium; assembly hall;	1 per 4 seats

spectator sports facility or similar use with fixed seating	
Indoor recreation facility, including swimming meeting place without fixed seating	1 per 150 sq. ft. of usable recreation area
Outdoor facility for active recreation purposes, not otherwise listed	1 per 150 sq. ft. of improved area for active recreation
Indoor or outdoor court game facility	1 per 2 players court capacity
Bowling alley	4 per lane
Golf course	3 per hole
Miniature golf course	2 per hole
Office; travel agency	1 per 300 sq. ft. of floor area
Medical or dental office or clinic, veterinary clinic	4 per doctor, plus 2 per 3 employees
Bank; savings and loan office	1 per 200 sq. ft. or floor area, plus waiting space for 5 vehicles per drive-up teller station
Funeral home	1 per 4 seating capacity in chapel or funeral service rooms, plus 2 per 3 employees
Restaurant, including fast food	1 per 100 sq. ft. of floor area, plus waiting space for 5 vehicles per drive-up window
Grocery, food or beverage store; amusement center; billiard parlor; video game arcade	1 per 150 sq. ft. of floor area
Retail store or shop not otherwise specified; Laundromat; dance studio; health spa or fitness center; video store	1 per 200 sq. ft. of floor area
Retail clothing, jewelry, home accessories, electronics, office supply, hardware, yard or garden supply, or auto accessory store, photography studio; laundering or dry cleaning business; show repair, tailor, or dressmaking shop; watch or jewelry repair; electronics or household items repair; similar service business not otherwise listed	1 per 400 sq. ft. of floor area
Retail furniture, appliance or building materials and supplies store; auto sales showroom	1 per 600 sq. ft. of floor area
Wholesale or distribution business; contractor's shop and display rooms	1 per 800 sq. ft. of floor area, plus 1 per vehicle used in connection with the use and normally kept on the premises
Barber shop; beauty salon	3 per hair cutting station

Auto service center; service station; auto or truck repair	5, plus 3 per service bay
Higher educational institution	1 parking space per 4 students enrolled plus 1 per employee
Self-service or automatic auto wash	5, plus 3 per service bay
Shopping center	4.0 per 1000 sq. ft of floor area
Manufacturing, processing, fabricating; research or laboratory facility; bottling plant; warehouse or storage facility; truck terminal	2 per 3 employees, plus 1 per vehicle uses in connection with the use and normally kept on the premises

2) **Calculation of required number of spaces.**

For purposes of determining the number of off-street parking spaces required for a particular use, calculations shall be made in accordance with the following rules.

- a) **Floor area.** Floor area shall include the gross area of the floor space devoted to the use, including space used for incidental purposes related thereto, and shall be measured along exterior faces or enclosing walls or partitions or, in the case of attached buildings or abutting spaces within the same building devoted to different uses, shall be measured along the center lines of common walls or partitions. Basement or attic areas devoted exclusively to mechanical equipment or storage shall not be included in calculation of floor area.
- b) **Employees.** Number of employees shall be construed as the maximum number of persons employed on any working shift.
- c) **Rounding to nearest whole value.** When computation of required number of spaces based on floor area, dwelling units, lodging units. Employees, or seating capacity results in a fractional number, the required number of spaces shall be the nearest whole number.
- d) **More than one principal use.** When a building or premises is devoted to more than one principal use, the total number of spaces required shall be the sum of the spaces required for each principal use.

3) **Enclosed or covered spaces.**

Required off-street parking spaces may be provided within garages, carports or enclosed building space when the requirements of this Article pertaining to dimensions and accessibility of spaces are met.

4) **Nonconforming number of spaces.**

Whenever any change is to be made in a building or use for which the existing number of off-street parking spaces is nonconforming, and when the number of spaces required after the change by application of the provisions of subsection (a) of this Section is greater than the number of spaces required before the change, then not less than number of spaces required to satisfy that increase shall be provided in addition to the number of spaces actually provided prior to the change in the building or use.

- 5) The purpose of this provision is to preserve any nonconforming right that may exist prior to a change in a building or use when that change results in an increase in required parking, but to require such additional parking as may be necessitated by the change.

6) **Location of required parking spaces.**

Required off-street parking spaces shall be located on the same lot or development site as the use for which they are required, provided that parking spaces required for uses other than dwelling uses, lodging houses, tourist homes, group homes, child care centers and motels may be located off the premises when all of the following conditions are met.

- a) **Compliance with regulations.** The parking area within which such parking spaces are provided shall comply with the use regulations and all other requirements of the district in which it is located.
- b) **Distance from used served. The majority of** such parking spaces shall be located within 300 feet, by normal pedestrian route, of a principal entrance to the building devoted to the use they are intended to serve.
- c) **Shared parking.** Not more than 50 percent of the parking spaces required for churches, schools, theatres, auditoriums, stadiums, lodge halls, dance halls, clubs, and restaurants may be provided by and shared with parking spaces provided for offices, banks, retail and service uses, and other commercial or industrial uses which are not open, used or operated during any of the same hours or the day or night.
- d) **Ownership and control.** The property on which such off-site parking spaces are located shall be under the same ownership and control as the property on which the use to be served is located, or under the same ownership and control as such use. At any time the use of the property for parking purposes is to be discontinued, the Zoning Administrator shall be given at least 30 days' notice thereof in writing, and unless the parking spaces are no long required by the provisions of this Ordinance, such spaces shall be provided elsewhere in compliance with the Ordinance.

7) **Parking space dimensions.**

The minimum dimensions of required off-street parking spaces and the method of measuring such shall be as follows.

8) **Width and length of spaces.**

Required off-street parking spaces shall not be less than nine feet in width and 18 feet in length, except that spaces arranged parallel or nearly parallel to their means of access shall be not less than eight feet width and 22 feet in length. Parking spaces required being accessible to handicapped persons by the provisions of the Virginia Uniform Statewide Building Code or other applicable law shall comply with the requirements of such provisions.

9) **Measurement.**

The width and length of a parking space shall be measured perpendicular to one another so as to form a rectangle with dimensions as required herein.

10) **Access to parking spaces.**

Each required off-street parking space shall be provided with a driveway or common access aisle directly serving such space and of sufficient dimensions to enable vehicles to maneuver into and out of such space without encroaching into another parking space or extending beyond the designated driveway or access aisle area.

11) **Obstruction of public way.**

No area devoted to parking or access thereto shall be designed, operated or maintained so as to cause any public street, alley or sidewalk area to be obstructed by vehicles entering, leaving or maneuvering within obstruction, maneuvering space shall be provided within the parking area.

12) **Improvement of parking areas.**

Parking areas shall be improved in accordance with the following provisions.

- a) Paving of certain parking areas. All newly created parking areas containing five or more parking spaces and all entrances thereto and exists there from shall be paved with an all-weather surface material approved by the Zoning Administrator. Parking spaces shall be delineated by markings on the pavement surface. (See Section 7-3 (d) for situations where delay in required paving may be permitted.
  - i) These paving requirements shall not apply to parking areas serving churches and other public and semi-public uses which, in the judgment of the Zoning Administrator, involve intermittent, infrequent or non-daily parking uses, provided that sufficient improvements are made to ensure that the parking area is usable and that proper access and drainage are provided.
- b) Edges of parking areas. Wheel stops, curbs, walls, fences, shrubbery or other means shall be provided along the edges of parking areas where necessary to prevent parked vehicles from encroaching onto adjacent properties or into public rights-of-way, required yards or public walkways within or adjacent to the site.
- c) Allowance for vehicle overhang area. Up to 30 inches of the required length of off-street parking spaces may be provided as vehicle overhang area and need not be paved, provided that wheel stops are installed. Such overhang area shall be clear of any obstruction to vehicles utilizing the parking space and shall not encroach into any other parking space or required access aisle or onto any public right-of-way, adjacent property, pedestrian walkway or required yard area within which parking is not permitted. Such overhang area shall be considered as park of the parking space for purposes of calculating usable open space when required for any use by the provisions of this Ordinance.

13) **Parking in yards adjacent to streets.**

Off-street parking areas as defined in Article XI of this Ordinance shall be prohibited within certain yard areas adjacent to streets as set forth herein.

- a) **In Residential Districts.** In R-1 and R-2 Districts, no parking area, other than that which serves a single-family dwelling, shall be located within any required front yard or required street side yard.
- b) **In other districts.** In districts other than R-1 and R-2 Districts, no parking area shall be located within ten feet of any street right-of-way line.
- c) **Driveways permitted.** These provisions shall not be construed to prohibit driveways from the street when such driveways are approved by the appropriate authority.

14) **Screening and landscaping requirements.** Screening of certain parking areas and landscaping of yards adjacent to parking areas shall be provided in accordance with the following provisions.

- a) **Screening.** Parking areas containing five or more parking spaces and located in any district shall be screened from abutting properties located in an A-1, R-1 or R-2 District. Screening shall consist of opaque fences, walls or evergreen vegetative materials of not less than three and one-half feet in height erected and maintained along the property line or the edge of the parking area. A parking area need not be screened from another parking area containing five or more spaces and located on an adjacent property.
- b) **Landscaping of yard areas.** In any district, yard areas located between parking areas and adjacent streets, and yard areas located between required screening and adjacent property lines or streets shall be of suitable grade and shall be improved and landscaped with grass or other plant materials or ground cover in a manner that will prevent erosion, the spread of dust and the collection of surface water or drainage thereof onto adjacent property.

### **Sec. 5-3. Sign regulations.**

1) **Applicability.**

The sign regulations contained in this Section shall apply generally to signs in all districts, and no sign shall be erected, constructed, installed or attached except in conformity with all of the provisions set forth in this Section for the particular sign in the district in which it is located. Unless otherwise specified herein, all signs shall be located on the premises of the use or activity to which they pertain. (For definitions of certain types of signs and the method of measuring the area of signs, see Article XI of this Ordinance.)

2) **Permitted signs in A-1, R-1 and R-2 Districts.**

The following signs shall be permitted and the following sign restrictions shall be applicable in the A-1, R-1 and R-2 Districts other than Church signs which are exempt from the Zoning Ordinance.

- a) Signs identifying non-residential uses. Signs not exceeding in the aggregate 24 square feet in area identifying a school, park, playground, library, museum or other permitted non-residential use. Such signs shall be attached flat against a main building or may include not more than one freestanding sign. In the case of a freestanding sign which is mounted directly on the ground, as opposed to pole-mounted, and additional area not exceeding 24 square feet shall be permitted when devoted to architectural elements which serve as support, border or base for such sign and which are not a part of the message portion of the sign:
- b) No freestanding sign shall exceed a height of eight feet;
- c) No freestanding sign shall be located within ten feet of any street line, other property line or driveway intersecting with a street;
- d) Signs identifying subdivisions and manufactured home parks. One freestanding sign identifying a residential subdivision or a manufactured home park shall be permitted at each street entrance to a subdivision or manufactured home park. Such sign shall be subject to the requirements for freestanding signs set forth in paragraph (b) (1) of this Section;
- e) Signs identifying certain dwelling uses. Signs not exceeding in the aggregate 24 square feet in area identifying a multi-family development, single-family attached development site, nursing home or lodging house. Such signals shall be attached flat against main building or may include not more than one freestanding sign. Freestanding signs shall be subject to the requirements set forth in paragraph (b) (1) of this Section, except that the maximum permitted area of a freestanding sign shall include the message portion of the sign and all architectural elements which serve as support, border or base for such sign;

- f) Temporary sale, rental or lease signs. One or more temporary signs not exceeding in the aggregate six square feet in area pertaining to the sale, rental, or lease of the premises on which they are located, provided that such signs shall not be illuminated, shall not be located within five feet of any street line, other property line or driveway intersection with a street, and shall be removed when the sale, rental or lease of the premises is consummated;
- g) Temporary construction signs. One or more temporary signs not exceeding in the aggregate 32 square feet in area identifying the use to be made of a building under construction on the property on which such signs are located or identifying a contractor, subcontractor, architect, lending institution or other party involved with such construction. Such signs shall not be illuminated, shall not be located within ten feet of any street line, other property line or driveway intersection with a street, and shall be removed upon completion or abandonment of the construction activity to which they pertain.

3) **Permitted signs in VC and B-1 Districts.**

The following signs shall be permitted and the following sign restrictions shall be applicable in the VC Village Commercial and B-1 Limited Business Districts. In addition to the following, billboard signs shall be permitted in the VC Village Commercial District, subject to the requirements set forth in subsection (d) (2) of this Section.

- a) Any sign permitted in the A-1, R-1 and R-2 Districts as set forth in subsection 2 above;
- b) Wall signs. Signs attached flat against or painted on a wall or other vertical surface of a main building or accessory building, provided that such signs shall not extend beyond the extremities of the surface of the building to which they are attached.
- c) Signs attached to the lower plane of a mansard or gambrel roof of a building shall be permitted as wall signs for the purpose of this provision, provided that such signs shall be attached flat to the roof surface or shall be parallel to the building wall above which they are located, and shall in no case extend above the ridgeline or beyond the extremities of the roof surface to which they are attached;
- d) Signs projecting from buildings. Signs attached to and projecting from the face of a wall of a main building, provided that such signs shall not extend more than six feet from the face of the building, shall not extend above the height of the wall to which they are attached and shall be provided with an under-clearance of not less than eight feet;
- e) Signs suspended from covered ways. Signs suspended from a covered vehicle driveway, covered walkway or covered entranceway to a building, when such signs are provided with an under-clearance of not less than eight feet;

- f) Freestanding signs. One freestanding sign along each street frontage of 100 feet or more in length, when the main building on the lot is set back 25 feet or more from the street line along such frontage, provided that;
  - i) Where more than one freestanding sign is permitted on a lot having multiple street frontages, the distance between freestanding signs on the same lot shall be not less than 100 feet;
  - ii) No freestanding sign shall exceed 50 square feet in area or 20 feet in height, except that on a shopping center site, one freestanding sign not exceeding 100 square feet in area shall be permitted along each street frontage when no other freestanding signs are located on the site;
  - iii) No freestanding sign shall be located within 50 feet on any lot in an A-1, R-1 or R-2 District, or within ten feet of any street line, other property line or driveway intersection with a street;
- g) Maximum permitted sign area on a lot. The aggregate area of all signs located on a lot, other than a lot devoted to a shopping center, shall not exceed one square foot for each lineal foot of lot frontage on a public street. In the case of lots having more than one frontage on a public street, the maximum permitted sign area shall be determined by the frontage having the greatest dimension. In the case of shopping center, the maximum area of signs attached to any portion of a building devoted to a particular tenant shall not exceed one square foot for each lineal foot of building frontage devoted to such tenant. In no case shall these provisions be construed to restrict any lot or any tenant in a shopping center to less than 50 square feet of total sign area.

4) **Permitted signs in B-2, M-1 and M-2 Districts.**

The following signs shall be permitted and the following sign restrictions shall be applicable in the B-2, M-1 and M-2 Districts:

- a) Signs permitted in VC and B-1 Districts. Any sign permitted in the VC and B-1 Districts as set forth in subsection 3 of this Section and subject to all of the regulations applicable in the VC and B-1 Districts, except that:
  - i) No freestanding sign shall exceed 100 square feet in area or 35 feet in height, provided that on a shopping center site, one freestanding sign not exceeding 300 square feet in area shall be permitted when no other freestanding signs are located on the site;
  - ii) The aggregate area of all signs located on a lot shall not exceed two square feet for each lineal foot of lot frontage on a public street, and in the case of a shopping center, the maximum area of signs attached to any portion of a

building devoted to a particular tenant shall not exceed two square feet for each lineal foot of building frontage devoted to such tenant.

- b) **Billboard signs.** Billboard signs as defined in Article XI of this Ordinance, provided that the following requirements shall be met:
  - i) No building sign shall exceed 300 square feet in area;
  - ii) There shall be no more than one billboard sign attached to or painted on a sign structure, except that two billboard signs may be attached back-to-back on a single structure or in a “V” shape with an interior angle not to exceed 30 degrees, which arrangement shall be considered a double-faced sign for purposes of calculating permitted sign area as defined in Article XI of this Ordinance. Billboard signs shall not be situated side-by-side or stacked on above another on any single or multiple structure;
  - iii) No billboard sign shall exceed a height of 35 feet above the level of the adjacent roadway;
  - iv) No billboard sign shall be located within 500 feet of another billboard sign situated along the same side of a street or highway, as measured parallel to the edge of the roadway;
  - v) No billboard sign shall be located within 25 feet of any street line or within 100 feet of any intersection of street lines (defined as VDOT Right of Way), boundary of any A-1, R-1 or R-2 District or any existing dwelling use.

5) **Other permitted signs.**

In addition to permitted signs specified elsewhere in this Section, the following signs shall be permitted and the following sign restrictions shall be applicable.

- a) **On-premise directional signs.** On-premise directional signs as defined in Article XI of this Ordinance shall be permitted in any district. Such signs shall be exempt from regulations pertaining to freestanding signs and shall not be included in calculations determining the aggregate area of permitted signs, provided that no freestanding directional sign shall be located within five feet of any street line.
- b) **Off-premise directional signs for public and semi-public uses.** Signs shall be permitted in any district indicating the location of or providing directions to: public places owned or operated by governmental agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural science beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public; provided that the following requirements shall be met:
  - i) Such signs shall not be illuminated;

- ii) No such sign shall exceed 12 square feet in area, 12 feet in overall height and four feet in width;
  - iii) Such signs shall not be located within ten feet of any street line, other property line or driveway intersection with a street;
  - iv) Such signs shall comply with such additional requirements as may be applicable under rules and regulations adopted by the Commonwealth Transportation Board; and
  - v) Where such sign is to be erected on private property under different ownership than the site of the use to which it pertains, an affidavit signed by the owner of the property and consenting to the location shall accompany the application for a zoning permit.
- c) Off-premise directional signs for business and other uses. Signs indicating the location of or providing directions to a permitted use, other than a public or semi-public use identified in subsection (e)(2) of this Section, shall be permitted in any district except R-1 and R-2 Districts, provided that the following requirements shall be met:
- i) A use identified by such sign shall be located on property which does not have frontage on the same street as the property on which the sign is located;
  - ii) Such sign shall be located not more than 500 feet from the property on which the use to which it pertains is located;
  - iii) Such sign shall not be located within 300 feet of another such sign situated along the same side of a street;
  - iv) Not more than one such sign pertaining to the same use and facing the same direction of travel shall be located along a single route;
  - v) No such sign which is visible from the main-traveled way of any designated federal-aid primary highway shall be located in an A-1 Agricultural District; and
  - vi) The requirements set forth in subsection (e)(2), paragraphs (a) through (e) of this Section shall be applicable, except that a sign indicating the location of or providing directions to two or more uses shall not exceed 24 square feet in area and eight feet in width.
- d) Temporary promotional signs. Temporary promotional signs as defined in Article XI of this Ordinance and installed for the purpose of merchandising or announcing a sale, promotion or activity and not exceeding eight square feet in

area shall be permitted in any district and shall not be included in calculations determining the aggregate area of permitted signs. Temporary promotional signs which exceed eight square feet in area or do not otherwise conform to the definition thereof shall be construed as permanent signs and shall be subject to all sign regulations and restrictions applicable in the district in which they are located.

e) Temporary campaign signs. Temporary campaign signs shall be permitted in any district, provided that such signs shall not remain on the premises for longer than 60 days and shall be removed within 14 days after the election to which they pertain.

f) Portable signs. Portable signs as defined in Article XI of this Ordinance shall be permitted only in the Business and Industrial districts. Such signs shall be subject to all regulations applicable to permanently installed freestanding signs in the district in which they are located. No portable sign shall be illuminated except in conformance with applicable electrical codes.

6) **Animated signs prohibited.**

Animated signs as defined in Article XI of this Ordinance shall only be allowed through issuance of a Special Use Permit.

7) **Illumination of signs.**

Illumination of signs shall be subject to the restrictions applicable to outdoor lighting set forth in Section 5-13 of this Article, and no bulb, lamp or other source of illumination shall be directly exposed to any street, driveway or adjacent property.

8) **Signs identifying nonconforming uses.**

One sign identifying a nonconforming use located in an A-1, R-1 or R-2 District shall be permitted, provided that such sign shall be attached flat against the building occupied by such use and shall not exceed 24 square feet in area. Signs identifying nonconforming uses located in districts other than A-1, R-1 and R-2 Districts shall conform to the sign regulations applicable in the district in which the use is located.

9) **Nonconforming signs.**

The following restrictions shall be applicable to nonconforming signs as defined in Article XI of this Ordinance.

a) Maintenance and alteration. Except as otherwise provided in this subsection, a nonconforming sign may remain and may be maintained and repaired, provided that such sign shall not be moved, replaced, structurally altered, or modified as to size, shape or height except in conformity with the provisions of this Section. The face of a nonconforming sign or the copy thereon may be changed when all other provisions of this Section are met.

- b) Removal of obsolete signs. Any sign which identifies or pertains to a use which has vacated the premises on which such sign is located or any freestanding sign structure which no longer contains any message shall be removed from the premises within 90 days from the date on which the use to which it pertains last occupied the premises.
- c) Signs nonconforming due to lighting or animation. Any sign which is nonconforming due to lighting or animation shall be eliminated or made to conform with the regulations pertaining to lighting or animation within 90 days from the effective date of this Ordinance.

**10) Location and placement of signs.**

All signs shall be subject to the following restrictions.

**11) Traffic hazards.**

No sign shall be located in such a manner as to obstruct clear visibility or cause hazards for vehicular or pedestrian traffic.

**12) Restrictions on placement.**

No sign shall be placed, attached or painted on any fence, cliff, tree, utility pole, radio, television or similar tower or any post, pole, support or presentation erected by or required by a governmental agency and intended for traffic control, direction or regulation.

**13) Encroachment into public right-of-way.**

No sign or portion of a sign shall be placed or erected so as to encroach within or over a public right-of-way, unless specifically permitted by the provisions of the Virginia Uniform Statewide Building Code or authorized in accordance with policy established by the County.

**14) Permits required for permanent signs.**

No permanent sign shall hereafter be erected or installed unless a zoning permit for such has been approved by the Zoning Administrator after determination that such sign conforms with all applicable provisions of this Ordinance. In the case of signs for which permits are required by the Virginia Uniform Statewide Building Code, approval by the Building Official shall also be required.

## **Sec. 5-4. Supplementary yard regulations.**

### **1) Exceptions to yard requirements.**

Subject to the limitations set forth in Section 5-5 of this Ordinance regarding visibility at intersections, the following may be located within required yards.

- a) **Fences and walls.** Fences and walls not exceeding four feet in height, or such greater height as may be required by this Ordinance for screening purposes, may be located within required front and street side yards. Fences and walls not exceeding six feet in height may be located within required side and rear yards. Fences and walls other than those specified above shall be construed as structures for purposes of this Ordinance, and shall be subject to all yard requirements.

### **2) Permitted projections into required yards.**

The following projections shall be permitted into required yards.

- a) **Certain architectural features.** Sills, belt courses, eaves, normal roof overhangs, chimneys, pilasters and similar architectural features of a building may project into required yards.
- b) **Uncovered porches, step, etc.** Uncovered porches, steps, landings, patios, decks and other similar building features may project into required yards, provided such features do not exceed a height of 30 inches above the adjacent natural ground level at the point nearest the property line, and provided that no such projection shall extend closer than five feet from any lot line. Covered building projections, and projections greater than 30 inches in height shall be subject to all yard regulations.

### **3) Yards on corner lots and through lots.**

The following requirements shall be applicable to corner lots and through lots.

- a) **Front and street side yards on corner lots.** On a corner lot in any district in which a front yard is required, a front yard shall be provided along at least one street frontage, and a street side yard of not less than one-half the front yard requirements shall be provided along all other street frontages, provided that:
  - i) There shall be a front yard along any street frontage opposite the principal entrance to a dwelling unit;
  - ii) There shall be a front yard along the frontage on any street along which a front yard is required for an adjacent lot. The depth of such front yard shall not be less than the minimum required front yard on the adjacent lot or the actual front yard provided on the adjacent lot, whichever is less.

- iii) For the purposes of this provision, an adjacent lot shall be deemed to be a lot which abuts or lies directly across an alley from the lot in question and which has frontage along the same street as the lot in question.
- b) **Front yards on through lots.** On through lots, there shall be a front yard as required in the district along each street frontage.
- c) **Other yards.** Where more than one front yard is required on a corner lot or through lot, yards other than those along street frontages shall be considered side yards, and no rear yard shall be required.
- 4) **Yards along streets less than 50 feet in width.** The required front yards and street side yards set forth in the district regulations and elsewhere in this Ordinance are applicable adjacent to public streets having a right-of-way of less than 50 feet in width shall be increased by 25 feet from that which is stated in the district regulations or elsewhere in this Ordinance, and shall be measured from the centerline of the street right-of-way, instead of from the right-of-way line.
- 5) **Yards for swimming pools and tennis courts.** Swimming pools, pool deck areas, tennis courts and similar active recreation areas shall not be located within required front and side yards. A swimming pool, pool deck area, tennis court or similar active recreation area situated within 50 feet of any adjacent property in and A-1, R-1 or R-2 District shall be screened for view from such property by solid fencing or evergreen vegetative material not less than six feet in height.
- 6) **Pipe Stem Lots.** There will be allowed one pipe stem lot per twelve lots, located in a subdivision and will allow a maximum of four pipe stem lots per subdivision to divide property where the lot area and setbacks are met, but lot width is not in compliance. The minimum width of the pipe stem access shall be 18 feet.

## Sec. 5.5. Swimming Pools, Spas and Hot Tubs

- 1) The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one-and two-family dwelling.
- 2) **Definitions.**  
For the purposes of these requirements, the terms used shall be defined as follows:
- 3) **In-ground pools.**  
In-ground pools shall be designed and constructed in conformance with NSPI-5 as listed in Section D107.
- 4) **Aboveground and on-ground pools.**  
Aboveground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section D107
- 5) **Permanently installed spas and hot tubs.**  
Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section D107.
- 6) **Portable spas and hot tubs.**  
Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in D107.
- 7) **Barrier Requirements**

**Application.** The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. The design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

- a) **Outdoor swimming pool.** An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:
  - i) The top of the barrier shall be at least 48 inches (1219mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

- ii) Openings in the barrier shall not allow passage of a 4-inch diameter (102 mm) sphere.
- iii) Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- iv) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 <sup>3</sup>/<sub>4</sub> inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 <sup>3</sup>/<sub>4</sub> inches (44 mm) in width.
- v) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 <sup>3</sup>/<sub>4</sub> inches (44mm) in width.
- vi) Maximum mesh size for chain link fences shall be a 1 <sup>1</sup>/<sub>4</sub> inch (32mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1 <sup>3</sup>/<sub>4</sub> inch (44mm)
- vii) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1 <sup>3</sup>/<sub>4</sub> inches (44mm)
- viii) Access gates shall comply with the requirements of Section D105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:
  - (1) The release mechanism shall be located on the pool side of the gate at least 3 inches (76mm) below the top of the gate, and
  - (2) The gate and barrier shall have no opening greater than <sup>1</sup>/<sub>2</sub> inch (12.7mm) within 18 inches (457mm) of the release mechanism.

- (3) Where a wall of a dwelling serves as a part of the barrier one of the following conditions shall be met:
    - ix) Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met.
      - (1) The pool shall be equipped with a powered safety cover in compliance with ASTM ES 13-89; or
      - (2) All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such a touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372mm) above the threshold of the door; or
      - (3) Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so as long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.
    - x) Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:
      - (1) The ladder or steps shall be capable of being secured, locked or removed to prevent access or
      - (2) The ladder or steps shall be surrounded by a barrier which meets the requirements of Section D105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102mm) sphere.
  - b) **Indoor swimming pool.** All walls surrounding an indoor swimming pool shall comply with Section D105.2, Item 9.
  - c) **Prohibited locations.** Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.
- 8) **Barrier exceptions.** A portable spa with a safety cover which complies with ASTM ES 13, as listed in Section D107, shall be exempt from the provisions of this

appendix. Swimming pools, hot tubs and nonportable spas with safety covers shall not be exempt from the provisions of this appendix.

8) **ABBREVIATIONS**

- a) **ANSI-** American National Standards Institute  
(1) 11 West 42<sup>nd</sup> Street, New York, NY 10036
- b) **ASTM-** American Society for Testing and Materials  
(1) 1916 Race Street, Philadelphia, PA 19103
- c) **NSPI-** National Spa and Pool Institute  
(1) 2111 Eisenhower Avenue, Alexandria, VA 22314

9) **STANDARDS**

- a) **ANSI/SNPI**
  - i) ANSI/NSPI-3-1992 Standard for Permanently Installed  
1. Residential Spas.....D104.1
  - ii) ANSI/NSPI-4-1992 Standard for Aboveground/Onground  
1. Residential Swimming Pools.....D103.2
  - iii) ANSI/NSPI-6-1992 Standard for Residential Portable Spas...D104.2
- b) **ASTM**
  - i) ES 13-89 Emergency Standard Performance
    - (a) Specification for Safety Covers
    - (b) And Labeling Requirements for all
    - (c) Covers for Swimming Pools, Spas
    - (d) And Hot Tubs.....D105.2, D105.5
- c) **NSPI**
  - i) NSPI-5-1987 Standard for Residential Swimming Pools.....D103.1

### **Sec. 5-6. Visibility at intersections.**

On a corner lot in any district, nothing that would materially obstruct the vision of operators of motor vehicles shall be erected, placed, planted, or allowed to grow between the heights of 30 inches and eight feet above the grade of the intersection of the centerlines of the adjacent intersecting streets within the following described area:

A triangular shaped area on the ground bounded on two sides by the street lines abutting the lot, and bounded on the third side by a line joining points on said street lines 25 feet from the point of their intersection.

The purpose of this provision is to prohibit the planting of shrubbery or low trees or the construction of solid fences, walls or other structures that would block the visibility of oncoming vehicles to motorist at a street intersection. This provision shall not be applicable to public utility poles, official street signs, fire hydrants and other appurtenances installed by a governmental agency for public safety purposes, or to tree trunks which do not materially impair visibility.

### **Sec. 5-7. Supplementary height regulations.**

#### **1) Exceptions to height regulations.**

The height regulations set forth in this Ordinance shall not apply to church spires, belfries, cupolas, antennae attached to building, water towers, ventilators, chimneys, flues or similar appurtenances or mechanical structures attached to a building and not intended for human occupancy and containing no signs or other advertising matter. Cellular communication towers up to 350 feet in height are also exempt from the height requirements.

#### **2) Additional height for certain structures.**

The height of permitted public buildings, churches, broadcast and communications towers (excluding cellular communication towers of not more than 350 feet in height), grain elevators and structures accessory to permitted farming, mining or well drilling operations may exceed the maximum height limit applicable in the district in which they are located, provided that all required yards are increased a minimum of one foot for each one foot of building or structure height in excess of the height limit applicable in the district, and provided further that all other applicable codes and regulations are met.

### **Sec. 5-8. Yard and height regulations for accessory buildings.**

Except as provided below, no accessory building shall be located within any required yard.

- a) **Rear yards.** An accessory building not exceeding 12 feet in height may be located within a required rear yard, but not within five feet of any lot line.

- b) **Side yards.** An accessory building not exceeding 12 feet in height may be located within a required side yard, other than a required street side yard, but not within five feet of any lot line. An accessory building attached to an accessory building on the adjoining lot shall not be subject to the side yard requirement.
- c) **Height.** Except as permitted by the provisions of Section 5-6 of this Ordinance, no accessory building shall exceed the height of the main building located on the lot, nor shall any accessory building exceed the maximum permitted height in the district in which is located.

**Sec. 5-9. Average lot size in residential subdivisions.**

In any residential subdivision hereafter approved and recorded, the area or the width or the area or the width of individual lots may be reduced by not more than 20 percent of the minimum lot area or lot width required in the district in which such subdivision is located, provided that the average lot area and lot width of all lots within the subdivision shall be not less than the minimum required in the district, and provided further that no lot which is not served by public sewer and water systems shall be reduced to an area less than that which is approved by the Health Official. For the purpose of this provision, a subdivision shall be deemed to include only those lots within a subdivision or section thereof which are approved under the County Subdivision Ordinance and are recorded simultaneously by a single plat. There shall be no front lot width requirement for cul-de-sac lots if lot size and setbacks are in compliance.

**Sec. 5-10. Manufactured homes on individual lots.**

In any district where permitted by the provisions of this Ordinance, manufactured homes located on individual lots shall conform with all regulations applicable to single-family dwellings in the district in which they are located, and shall be provided with permanent foundations meeting the requirements of the Uniform Statewide Building Code. Where an approved permanent foundation does not consist of a foundation wall around the full perimeter of the manufactured home, skirting shall be provided so as to conceal from view the frame, axles, wheels, crawl space and all utility connections. Skirting shall be constructed of weather resistant material and shall meet the requirements of the Virginia Uniform Statewide Building Code.

## **Sec. 5-10. Manufactured homes on lots with other dwellings.**

A manufactured home may be located on a lot together with a single-family dwelling when a zoning permit for such manufactured home is approved by the Zoning Administrator and a Certificate of Use and Occupancy is issued by the Building Official, and when all of the following conditions are met.

- 1) **Permanent foundation: skirting.** The manufactured home shall be provided with a permanent foundation meeting the requirements of the Virginia Uniform Statewide Building Code. Where an approved permanent foundation does not consist of a foundation wall around the full perimeter of the manufactured home, skirting shall be provided so as to conceal from view the frame, axles, wheels, crawl space and all utility connections. Skirting shall be constructed of weather resistant material and shall meet the requirements of the Virginia Uniform Statewide Building Code.
- 2) **Lot area.** The area of the lot shall be not less than twice the minimum area required in the district for a single-family dwelling. A lot which is not served by public sewer and water systems shall contain such greater lot area as necessary to meet requirements of the Health Official.
- 3) **Utilities.** The single-family dwelling and the manufactured home shall be provided with separate utility connections.
- 4) **Yards and other district regulations.** All applicable yard and off-street parking requirement shall be met, and the single-family dwelling and manufactured home shall be located on the lot relative to one another and in such a manner that the lot area, lot width and all yard requirements applicable in the district would be met if the lot were to be split so as to create a separate lot for each. The minimum distance between single-family dwelling and the manufacture home shall be not less than the sum of the yard requirements that would be applicable to each as if they were located on separate lots.
- 5) **Occupancy by family members.** The manufactured home shall be occupied by members of the immediate family or by the natural or legally defined offspring or spouse of a member of the immediate family of an occupant of the single-family dwelling on the lot or by one tenant or caretaker of said property. Notice of this requirement shall be included in any contract to sell, rent or lease the property, and new zoning permits shall be required for both the manufactured home and the single-family dwelling upon any change in ownership of the property.

For the purposes of this provision, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, grandchild, grandparent or parent of an occupant of the single-family dwelling.

## **Sec. 5-12. Manufactured home park regulations.**

### **1) Applicability.**

The regulations and requirements contained in this Section shall be applicable to all manufactured home parks hereafter established and to any expansion of an existing manufactured home park. The specific means of complying with the regulations and requirements of this Section shall be shown on plans and described in materials accompanying each special use permit application for a manufactured home park. (For definitions of Manufactured Home Park and manufactured home space, see Article XI of this Ordinance.)

### **2) Street frontage.**

Each manufactured home space within a manufactured home park shall have frontage on and direct access to a public or private street improved in accordance with applicable standards.

### **3) Area and density.**

The following area and density requirements shall be applicable to manufactured home parks.

a) **Minimum area.** Manufactured home parks shall contain not less than two acres in area.

b) **Maximum density.** The maximum density within a manufactured home park shall be located within ten feet of any boundary of a manufactured home space.

### **4) Yard and separation.**

The following yard and separation shall be applicable to all manufactured home parks.

a) **Yards in general.** No manufactured home or other building or structure within a manufactured home park shall be located within ten feet of any boundary of a manufactured home space.

b) **Yards adjacent to streets.** No manufactured home, accessory structure or other building or structure within a manufactured home park shall be located within 25 feet of any public street right-of-way or private roadway.

### **5) Separation between manufactured homes.**

No manufactured home shall be located within 30 feet of any other manufactured home.

### **6) Off-street parking.**

The following requirements for off-street parking spaces and for improvement of parking areas shall be applicable to manufactured home parks.

- a) **Manufactured home spaces.** Every manufactured home space shall be provided with not less than two off-street spaces located within the boundaries of the manufactured home space or within a common parking area or on a private roadway of suitable dimensions situated immediately adjacent to the manufactured home space.
  - b) **Common facilities.** Off-street parking spaces shall be provided to serve all uses and structures within manufactured home parks, including community center, recreation, administrative, maintenance and laundry facilities. The number of spaces provided for such facilities shall be not less than one-half the number that would be required for similar facilities available for use by the general public and as set forth in Section 5-2(a) of this Article.
- 7) **General improvement standards.** All manufactured home parks shall be developed and maintained in accordance with the following standards.

All manufactured home parks shall be developed and maintained in accordance with the following standards.

- i) **Sewer and water systems.** Every manufactured home park shall be served by public sewer and water systems which shall be connected to each manufactured home unit and each building or structure containing plumbing facilities. Where public sewer and water systems cannot reasonably be made available to a manufactured home park, private systems serving the park approved by the Health Official may be utilized.
- ii) **Storm drainage.** Storm drainage facilities shall be provided within each manufactured home park in accordance with a storm drainage plan submitted with the special use application and approved in conjunction therewith.
- iii) **Traffic control.** Signs shall be installed within each manufactured home park for purposes of traffic control and safety. In addition thereto, at each entrance to a manufactured home park from a public street, a sign shall be posted stating “private drive: no thru traffic.”
- iv) **Refuse facilities.** Refuse containers of adequate capacity to meet the needs of all manufactured home units and common facilities shall be provided for the deposit and collection of refuse within each manufactured home park. Containers serving individual manufactured home units and containers serving common facilities within the manufactured home park shall be so located or screened as to not be visible from public or private streets or adjacent properties.
- v) **Delineation of spaces.** Each manufactured home space shall be clearly defined with permanent markers at each corner and shall be identified with the space number as shown on the approved plans.

- vi) Skirting. Skirting shall be provided around the base of each manufactured home so as to conceal from view the frame, axles, wheels, crawl space and all utility connections. Skirting shall be constructed of weather resistant material and shall meet the requirements of the Virginia Uniform Statewide Building Code.
  
- vii) Installation of manufactured home. No manufactured home shall be installed within a manufactured home park until all required improvements have been completed and the Zoning Administrator has conducted an inspection and certified that all applicable requirements of this Ordinance and the approved special use permit are met for the manufactured home park or for that portion of the manufactured home park to be occupied.
  
- viii) All manufactured homes shall be installed in accordance with applicable requirements of the Virginia Uniform Statewide Building Code. A zoning permit shall be required for each manufactured home prior to installation thereof, and certificates of use and occupancy for individual manufactured homes shall be required as set forth in the Virginia Uniform Statewide Building Code.

## **Sec. 5-13. Recreational vehicle park regulations.**

### **1) Applicability.**

The regulations and requirements contained in this Section shall be applicable to all recreational vehicle parks hereafter established and to any expansion of an existing recreation vehicle park. The specific means of complying with the regulations and requirements of this Section shall be shown on plans and described in material accompanying each special use permit application for a recreational vehicle park. (For definition of recreational vehicle park see Article XI of this Ordinance.)

### **2) Area and density.**

Recreational vehicle parks shall contain not less than two acres in area. The maximum density within a recreational vehicle park shall not exceed 20 spaces per gross acre.

### **3) Recreational vehicle space.**

Individual recreational vehicle spaces shall be not less than 1000 square feet in area and shall have dimensions of not less than 20 feet by 50 feet. Each space shall have frontage on a private roadway improved in accordance with applicable standards.

### **4) Yard, separation and buffer requirements.**

The following yard, separation and buffer requirements shall be applicable to recreational vehicle parks.

**a) Yards.** Individual recreational vehicle spaces shall be located not less than 50 feet from public street rights-of-way and exterior boundaries of the park.

**b) Separation.** No recreational vehicle shall be located within ten feet of another recreational vehicle or any roadway or structure within the park.

**c) Buffer.** A natural or landscaped buffer area of not less than 50 feet in width shall be provided adjacent to all exterior boundaries of a recreational vehicle park. Such buffer area shall not be occupied by any recreational vehicle space, building, structure, parking area, improved area for active recreation purposes, or roadway other than an approved means of access to an abutting public street. Along exterior boundaries abutting properties other than public streets, such buffer area shall include continuous opaque fencing or evergreen vegetative material not less than six feet in height with no openings to adjoining privately owned properties.

### **5) Improvements and general requirements.**

The following improvement requirements and other general requirements shall be applicable to recreational vehicle parks.

**a) Street frontage.** Every recreational vehicle park shall have frontage on and access to an improved public street.

- b) **Roadway improvements.** All roadways within a recreational vehicle park shall be provided with dust-free-weather surface and shall not be less than 20 feet in width.
  - c) **Utilities.** Every recreational vehicle park shall be served by sewer and water facilities and storm drainage facilities installed in accordance with utility and storm drainage plans submitted with the special use application and approved in conjunction therewith.
  - d) **Refuse facilities.** Refuse containers of adequate capacity to meet the needs of all recreational vehicle spaces and common facilities shall be provided for the deposit and collection of refuse, and shall be so located or screened as not to be visible from public streets or adjoining properties.
- 6) **Compliance with applicable State laws.** Recreational vehicle parks shall be developed and maintained in accordance with the requirements of the Virginia Uniform Statewide Building Code and other applicable State laws.

**Sec. 5-14. Outdoor lighting.**

Outdoor lighting, when provided as accessory to any use or to illuminate any sign or similar device, shall be located, directed or shielded so as not to shine directly on nearby properties or to create a traffic hazard as a result of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles.

**Sec. 5-15. Access along U.S. 58 corridor.**

In order to protect U.S. Route 58 with respect to its capacity to carry traffic with minimal disruption and safety hazards, it is the intent of Lee County to minimize the number of intersections, driveways and other direct access to U.S Route 58 for adjacent property. Intersections, driveways and other direct vehicular access to U.S. Route 58 from adjacent property, other than access lawfully existing at the effective date of this Ordinance, shall be prohibited except where access is necessary to serve adjacent property and is not available by way of existing roadways or driveways and cannot reasonably be provided by other means.

In any case where direct vehicular access is to be provided to U.S. Route 58, it shall be in accordance with policies and standards of the Virginia Department of Transportation and shall be subject to the approval of that Department. All new means of direct vehicular access to U.S. Route 58 shall require a plan of development approved by the Planning commission as set forth in Article VII of this Ordinance or, in the case of a street proposed as part of a subdivision, shall require approved in accordance with the provisions of the County Subdivision Ordinance.

## ARTICLE VI

### NONCONFORMING USES AND FEATURES

#### **Sec. 6-1. Nonconforming uses and features may continue.**

Subject to the limitations and restrictions set forth in this Article, nonconforming uses and nonconforming features of uses and buildings may be continued. The terms “nonconforming use” and “nonconforming feature” shall have such meaning as defined in Article XI of this Ordinance.

#### **Sec. 6-2. Extension of nonconforming uses.**

No nonconforming use with the exception of a replacement single family dwelling use or an addition to a single family dwelling use shall be extended, enlarged or moved so as to occupy a different or greater area of land or buildings that was occupied by and actively devoted to such use at the time it became nonconforming, provided that the setback from the property lines shall not be less than five feet and provided that a nonconforming use may be extended throughout such portion of land or such part of a building which was lawfully and manifestly arranged, designed and intended for such use at the time it became nonconforming.

#### **Sec. 6-3. Change of nonconforming use.**

A nonconforming use of land or a nonconforming use of a building may be changed to another use which is of the same or more restricted classification under the terms of this Ordinance or may be changed to any use which conforms with the use regulations of this Ordinance. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to the original nonconforming use or to any less restricted use.

#### **Sec. 6-4. Replacement of nonconforming manufactured homes.**

Removal and replacement of a manufactured home which constitutes a nonconforming use on an individual lot or within a manufactured home park, or removal of any manufactured or mobile home unit which does not conform with current Federal Manufactured Housing Construction and Safety Standards and replacement of such unit with a manufactured home which conforms with said standards, shall be permitted so long as replacement takes place within 730 days of removal. Said replacement includes increasing the size or footprint of the home (such as replacing a singlewide manufactured home with a doublewide manufactured home).

**Sec. 6-5. 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 24 consecutive months, whether or not equipment or fixtures intended for such use are removed, and subsequent use shall conform with the use regulations of the district in which the property is located, said nonconforming use shall not be allowed.

**Sec. 6-6. Alterations to buildings devoted to nonconforming uses.**

No building or portion of a building devoted to a nonconforming use shall be enlarged, extended, structurally altered, reconstructed or moved, unless such building or portion of a building is thereafter devoted to a use which conforms with the use regulations of the Ordinance without approval of the Board of Zoning Appeals. Nothing in this Article shall be construed to prohibit normal repair, maintenance or nonstructural alteration of a building devoted to a nonconforming use or the alteration, strengthening or restoring of a building to safe condition as may be required by law.

**Sec. 6-7. Alterations 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 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.

**Sec. 6-8. Damage to buildings having nonconforming features or to buildings devoted to nonconforming uses.**

**1) Damage not exceeding 60 percent of value.**

Any building having a nonconforming feature or building devoted to a nonconforming use which is damaged by fire, explosion, act of God or the public enemy to an extent of 60 percent or less of its most recent assessed taxable value may be restored, repaired, reconstructed and used as before the damage, provided that such restoration, repair or reconstruction shall not increase the degree or extent of any nonconforming feature that existed prior to the damage and shall not increase the area devoted to any nonconforming use. Such restoration, repair or reconstruction shall be completed within 24 months of the date of damage as evidenced by issuance of a certificate of use and occupancy.

**2) Damage exceeding 60 percent of value.**

Whenever a building having a nonconforming feature or a building devoted to a nonconforming use is damaged by any cause whatsoever to an extent greater than 60 percent of its most recent assessed taxable value, such building shall not be restored, repaired, reconstructed or used except in conformance with all of the applicable

provisions of this Ordinance, unless authorized by the Board of Zoning Appeals as set forth in subsection (3) of this Section.

**3) Special exception.**

Subject to the conditions set forth below, the Board of Zoning Appeals shall have the authority to grant a special exception under the provisions of Article X of this Ordinance for the restoration, repair, reconstruction or reuse of a building damaged by fire, explosion, act of God or the public enemy to an extent greater than 60 percent of its most recent assessed taxable value.

- a) The Board may only authorize such restoration, repair, reconstruction or reuse to an extent that does not constitute any greater deviation from the provisions of this Ordinance than existed prior to the damage.
- b) Before granting any such special exception, the Board shall receive testimony and make a finding that restoration, repair or reconstruction of the building will not unreasonably impair light and air to adjoining property, will not impair established property values in the immediate area and will not otherwise be detrimental to the health, safety and general welfare of the public.
- c) In the case of restoration, repair, reconstruction or reuses of a building devoted to a nonconforming use, the Board shall, in addition to the foregoing criteria, make a finding that the continued operation of such nonconforming use is in the public interest and is reasonably necessary for the welfare and convenience of the general public.

**Sec. 6-9. Nonconforming dwelling uses.**

Any dwelling use which is located in a Business or Industrial District and which becomes a nonconforming use under the provisions of this Ordinance may be maintained, improved, structurally altered, enlarged or moved, or may be reconstructed if damaged by fire, explosion, act of God or the public enemy unless approved by the Board of Zoning Appeals. In no case shall the amount of floor area devoted to the dwelling use at the time of its inclusion in a Business or Industrial District be increased by greater than ten percent; nor shall the number of dwelling units located on the property be increased; nor shall the lot area, lot width, lot depth or yard dimensions be reduced to less than that which would be required for such dwelling use in the R-2 General Residential District.

**Sec. 6-10. Intermittent, temporary or illegal use.**

Intermittent, temporary or illegal use of land or buildings shall not be construed to establish the existence of a nonconforming use for the purposes of this Article.

**Sec. 6-11. Determination 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. An appeal from any decision of the Zoning Administrator regarding such determination may be taken to the Board of Zoning Appeals by any person aggrieved by such decision pursuant to the provisions of Article X of this Ordinance.

## **ARTICLE VII**

### **ADMINISTRATOR AND ENFORCEMENT**

#### **Sec. 7.1. Zoning Administrator: Appointment and authority.**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator, who shall be appointed by and shall serve at the pleasure of the Board of Supervisors, and who may hold other appointed office in the County. 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.

#### **Sec. 7.2. Duties of Zoning Administrator.**

1) **Interpretation.**

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

2) **Review and approval of zoning permits.**

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

3) **Review and approval of plans of development.**

The Zoning Administrator shall review all applications for plans of development as required by the provisions of this Ordinance, and shall approve or disapprove such plans of development based on compliance on noncompliance with the provisions of this Ordinance or, in the case of plans of development required by the provisions of Section 7-7 of this Ordinance to be approved by the Planning Commission, the Zoning Administrator shall provide a recommendation to the Commission.

4) **Correction of violations.**

The Zoning Administrator shall use his or her best endeavors to prevent violations of the provisions of this Ordinance and to detect and secure the correction of violations. The Zoning Administrator shall order in writing remedy of conditions found to be in violation, including the discontinuance of illegal uses of land and building, the removal or bringing into compliance of illegal building, structures, additions and alterations, and the discontinuance of illegal work being done. The Zoning Administrator shall provide to the County Attorney a copy of every such order, and the County Attorney shall have the authority to initiate such legal action to ensure compliance with and prevent violations of this Ordinance as may be authorized by the laws of the Commonwealth.

5) **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.

6) **Records.**

The Zoning Administrator shall maintain records of all official actions taken with respect to the administration and enforcement of this Ordinance, and shall retain copies of all zoning permit applications, plans and related information as a permanent record.

**Sec. 7-3. Zoning permits.**

1) **Zoning permit required.**

No building shall be constructed, erected, enlarged, structurally altered, moved, or converted to accommodate a different use, nor shall any permanent sign be erected or installed, nor shall any use of land or buildings be established, changed to a different use or expanded to occupy a greater area of land until a zoning permit for such building, sign or use has been approved by the Zoning Administrator.

2) **Application for zoning permit.**

Applications for zoning permits shall be submitted to the Zoning Administrator by the owner of the property involved or, with the written consent of the owner, by an agent of the owner or tenant of the property. Applications shall be submitted on forms provided for such purpose by the Zoning Administrator, and shall include all information necessary for the Zoning Administrator to determine compliance or noncompliance with the applicable provisions of this Ordinance.

3) **Plan of development to accompany application.**

Zoning permit applications shall be accompanied by plans of development as required by the provisions of Section 7-7 of this Article.

4) **Provisional approval of zoning permit.**

To the extent that such action does not conflict with the provisions of this Virginia Uniform Statewide Building Code, the Zoning Administrator may grant provisional approval of a zoning permit or provisional approval in conjunction with a certificate of use and occupancy under the following conditions.

- a) Provisional approval may be granted only where lack of compliance with the provisions of this Ordinance is of a temporary nature and involves only site related improvements such as landscaping, vegetative screening or paving which cannot reasonably be completed due to seasonal or weather conditions. In such instance, the Zoning Administrator shall be satisfied that the premises involved are physically suitable for use and occupancy in terms of access, availability of required parking and drainage.

- b) Such provisional approval shall be in writing and shall state the nature of the incomplete work and the time period within which the work is to be completed, which in no case shall exceed nine months, provided that one extension of up to 60 days may be granted by the Zoning Administrator for good cause shown. Provisional approval shall expire at the end of such period, and if the work is not completed, a violation of the terms of this Ordinance shall be deemed to exist.
- c) The Zoning Administrator may require a bond with surety, or such other guarantee as approved by the County Attorney, adequate to ensure completion of the improvements.

**5) Expiration of zoning permit.**

A zoning permit shall be valid for a period of one year from the date of approval by the Zoning Administrator and shall become null and void if, within such period, no building permit or certificate of use and occupancy pursuant thereto has been issued by the Building Official. In a case where no building permit or certificate of use and occupancy is required by applicable law, a zoning permit shall become null and void if, within one year from the date of its approval, the use, activity or feature authorized by such zoning permit has not been established.

**6) Fees.**

A filing fee in such amount as may be established by general rule by the Board of Supervisors shall accompany each application for a zoning permit.

**Sec. 7-4. Building permits.**

No building permit required by the provisions of the Virginia Uniform Statewide Building Code shall be issued by the Building Official until a zoning permit as required by Section 7-3 of this Article has been approved by the Zoning Administrator and the Building Official has been provided with a copy thereof.

**Sec. 7-5. Certificates of Use and Occupancy.**

No certificate of use and occupancy required by the provisions of the Virginia Uniform Statewide Building Code shall be issued by the Building Official until a zoning permit as required by Section 7-3 of this Article has been approved by the Zoning Administrator and the Building Official has been provided with a copy thereof. In a case where a zoning permit has been approved by the Zoning Administrator in conjunction with a building permit for a building or portion thereof, an additional zoning permit shall not be required, provided that the certificate of use and occupancy shall not be issued until it has been determined by the Zoning Administrator that the construction and use are in conformance with the previously approved zoning permit and all applicable provisions of this Ordinance.

## **Sec. 7-6. Land disturbing permits.**

No land disturbing permit as required by the provisions of the County Erosion and Sediment Control Ordinance shall be issued by the Building Official until the Zoning Administrator has reviewed the application for such permit and certified that the proposed land disturbing activity will not result in any violation of the provisions of this Ordinance.

## **Sec. 7-7. Plan of development.**

### **1) Purpose.**

The purpose of requirements for submission and approval of a plan of development to provide sufficient plans and information and to enable adequate opportunity for review of such to ensure compliance with the regulations contained in this Ordinance. Plans of development are required to be approved either by the Zoning Administrator or by the Planning Commission as specified in subsections 3 and 4 of this Section, and depending on the complexity of the regulations applicable to the proposed development and the potential impacts of the development on the site, adjacent properties and public streets.

### **2) When required.**

Approval of a plan of development shall be required prior to or at the time of approval of every zoning permit involving any of the following:

- a) Construction of a new building or placement of a manufactured home on a lot;
- b) Enlargement of an existing building or moving an existing building;
- c) Modification of the location or arrangement of any parking area, driveway or vehicular circulation system on a lot, other than a lot devoted exclusively to one single-family dwelling or one manufactured home;

### **3) A plan of development shall not be required for interior modifications or structural alterations to an existing building or for a change in use of an existing building, when no enlargement of the building and no modifications to the parking area, driveway or vehicular circulation system on the site are to be made.**

### **4) Approval by the Zoning Administrator.**

Except when approval by the Planning Commission is specifically required by subsection (d) of this Section, plans of development shall be subject to approval by the Zoning Administrator. The Zoning Administrator shall review each plan of development for compliance with the applicable provisions of this Ordinance and shall approve, approve with modifications or conditions, or disapprove the plan of development within 30 days of receipt of all required plans and information.

5) **Approval by the Planning Commission.**

Plans of development subject to approval by the Planning Commission and the procedure for review and approval of such shall be as set forth in this subsection.

a) **When Commission approval required.** A plan of development approved by the Planning Commission shall be required when any of the following circumstances exist:

i) When the district regulations or supplementary regulations set forth in Articles VI and V of this Ordinance specifically require Planning Commission approval of a plan of development.

ii) When access to a site is to be provided by means other than an improved public street.

b) **Report from Zoning Administrator.** The Zoning Administrator shall forward each such plan of development, together with the accompanying zoning permit application, to the Planning Commission within 30 days of receipt of all required plans and information, along with a report indicating the manner in which the plan of development complies or does not comply with the provisions of this Ordinance and a recommendation for action to be taken by the Commission.

c) **Planning Commission consideration.** The Planning Commission shall consider the plan of development as its first meeting following submission by the Zoning Administrator. The Commission shall take final action at such meeting or at its next following meeting, unless the applicant requests additional time to consider or prepare revised plans.

d) **Form of Planning Commission action.** The Planning Commission shall have the authority to approve, approve with conditions, or disapprove the plan of development, provided that all decisions of the Planning Commission shall be pursuant to and consistent with the applicable provisions of this Ordinance.

e) **Approval or rejection of zoning permit.** The Planning Commission shall communicate its action to the Zoning Administrator, who shall approve or reject the zoning permit in accordance with the Commission's action.

6) **Compliance with district regulations.**

All plans of development shall comply with the district regulations, supplementary regulations and all other requirements of this Ordinance. Neither the Zoning Administrator nor the Planning Commission shall have any authority to waive such requirements unless specific authority to do so is set forth in this Ordinance.

7) **Preliminary approvals.**

The Zoning Administrator or the Planning Commission, depending on their respective jurisdiction in such matter as set forth in subsections (c) and (d) of this Section, may grant preliminary approval of a plan of development. Such preliminary

approval shall be of an informal nature for purposes of providing advice and guidance to the applicant, and shall not be binding on future formal actions. Applicants shall be encouraged to seek such preliminary approval or other advice and guidance prior to preparing plans of development for formal consideration. Such preliminary approval shall be conditioned on final approval in accordance with the procedures specified in this Article, and shall not be the basis of the issuance of any permits or authorization to commence development of any building or site.

8) **Plan submission requirements.**

Plans of development shall be submitted in such numbers as required by policy of the Planning Commission, and shall include plans, drawn to scale, with the information indicated below, provided that the Zoning Administrator or the Planning Commission may require such additional plans and information as deemed necessary to determine compliance or noncompliance with specific development standards and requirements of this Ordinance. With prior approval by the Zoning Administrator, scaled drawings or particular information may be omitted from required plans when, due to the nature and limited scope of a project, such information is not necessary for building permit purposes and, in the opinion of the Zoning Administrator, is not necessary for thorough review and evaluation of the plan of development or for purposes of maintaining a record of plan approval.

- a) Site plans or plot plans of the subject property shall be submitted showing: the boundaries of the property; the uses, locations and dimensions of existing and proposed building; the dimensions of required yards; means of access to the site; and the arrangement of on-site vehicular circulation and parking.
- b) **Plans of development requiring Planning Commission approval.** The following shall be submitted: a site plan or landscape plan showing open spaces, landscaping features, buffers, fences, and means of screening, recreation facilities, pedestrian walkways, and the locations of signs; plans showing existing and proposed easements, utilities and drainage facilities, water bodies, wetlands and other natural features on the site, including major tree masses and steep slopes; typical elevation drawings of proposed buildings and signs; and general floor plan drawings showing building ingress and egress and the general arrangement and function of spaces within all buildings.
- c) **Plans of development for mining activities.** In the case of mining activities and related structures for which permits are required to be issued by the State Department of Mines, Minerals and Energy, the applicant for such permit shall notify the Zoning Administrator a copy of the receipt for filing the State required permit application materials with the Clerk of the Circuit Court. Such notification shall be deemed to constitute submission of the plan of development application as required by this Ordinance.

After receiving notification, it shall be the responsibility of the Zoning Administrator to review the pertinent elements of the permit application

material to determine compliance or noncompliance with the provisions of this Ordinance. The Zoning Administrator may request, and in which case the applicant shall provide, copies of such elements of the State permit application as deemed necessary by the Zoning Administrator for review and record keeping purposes, or for subsequent forwarding to the Planning commission in any case where Commission approval is required.

d) The Zoning Administrator, or the Planning Commission in a case where a plan of development is required to be approved by the Commission, shall have authority to disapprove or require modifications to a plan of development only if the intended use is not consistent with the applicable provisions of this Ordinance.

9) **Plans of development for oil and gas drilling activities.** In the case of oil and gas drilling activities and related structures for which permits are required to be issued by and State regulatory agency, the applicant shall notify the Zoning Administrator of a pending permit application by submitting to the Zoning Administrator a copy of the permit application which is submitted to the State. Submission to the Zoning Administrator shall include locational maps showing gathering and transmission lines in addition to the materials required under the State permit application. Such notification of the Zoning Administrator shall be deemed to constitute submission of the plan of development application as required by the provisions of this Ordinance.

After receiving notifications, it shall be the responsibility of the Zoning Administrator to review the pertinent elements of the permit application material to determine compliance or noncompliance with the provisions of this Ordinance. The Zoning Administrator, or the Planning commission in a case where a plan of development is required to be approved by the Commission, shall have authority to disapprove or require modifications to a plan of development only if the intended use is not consistent with the applicable provisions of this Ordinance.

10) **Development standards.**

The following development standards and improvement requirements shall apply to all development and improvement shall apply to all development except single-family dwellings, two-family dwellings and manufactured homes situated on individual lots, and shall be specified, where applicable, on all plans of development.

a) **Street construction.** All public street and highway construction standards and geometric design standards shall be in accordance with the requirements of the Virginia Department of Transportation.

b) **Driveway widths.** On-site vehicular travel lanes and driveways shall have widths of not less than 20 feet for two-way traffic and 16 feet for one-way traffic. Driveways providing access to required parking spaces shall be of such width as necessary to conform with the requirements of this Ordinance pertaining to off-street parking, provided that driveways which provide direct access to

perpendicular parking spaces on both sides thereof shall be not less than 24 feet in width.

- c) **Vehicle circulation.** Driveways and areas for the parking and circulation of vehicles shall be arranged and designed so as to provide for safe and convenient access and circulation on the site and with respect to abutting streets and adjacent properties. The number of driveways from public streets shall be the minimum necessary to provide adequate access and circulation, and whenever possible common driveways serving abutting sites shall be provided. Means of access to the site and circulation on the site shall be suitable to accommodate fire-fighting apparatus and other emergency vehicles.
- d) **Vehicle waiting spaces.** Sites devoted to commercial uses such as fast food restaurants, banks, auto washes and similar uses which provide drive-up or drive-through facilities for customers, shall be designed and arranged to meet the requirements of this Ordinance pertaining to off-street parking and waiting space for vehicles. Such waiting spaces shall be located and arranged so as to avoid the blocking of required parking spaces or access thereto and so as to not cause obstruction of vehicular circulation on the site or of traffic on the adjoining public streets. The Planning Commission shall have the authority to require greater waiting space for vehicles than set forth in Article V of this Ordinance when, in its judgement, the particular circumstances of the use, the location of the site or traffic conditions on abutting streets warrant.
- e) **Loading area.** Space for the loading and unloading of trucks and other vehicles shall be provided on sites developed for commercial and industrial uses.

Such loading areas shall be so located on the site and shall be of dimensions as not to occupy or obstruct access to any required parking spaces or to obstruct any public street or roadway or any fire lane or emergency access route during the loading or unloading of vehicles. When necessary to meet these criteria, designated loading areas and adequate maneuvering space shall be provided on the site.

- f) **Pedestrian walkways.** Sideways or pedestrian walkways shall be provided so as to enable safe and convenient pedestrian access between buildings located on the site, between buildings and their parking areas and between buildings and public sidewalks.
- g) **Natural features.** The natural landscape and topography of the site shall be preserved to the extent possible by minimizing grading and retaining mature trees and significant vegetative features. Appropriate ground cover, trees and other vegetation shall be planted and maintained to prevent excessive storm water runoff, erosion, siltation, and dust, and to enhance the general appearance of the site.

h) **Building arrangements.** Buildings shall be arranged on the site so as to respect the established development pattern in the immediate area, so that the fronts of buildings containing dwelling units do not face into the rears or the service areas of other buildings and so that the rears of service areas of buildings are not oriented toward public streets, unless screening is provided.

**11) Amendment to plan of development.**

Any amendment of substance to an approved plan of development shall be processed, reviewed and acted upon in the same manner as an original plan of development. Minor modifications to the site details of an approved plan of development may be authorized by the Zoning Administrator when such modifications do not: significantly alter the boundaries of the property conflict with any specific requirement of this Ordinance or specific condition imposed on the approval plan of development by the Planning Commission; decrease the width or depth of any yard, setback or buffer area; significantly alter points of access to the property or the internal arrangement of site plan elements; or have an appreciative effect on surrounding properties.

**12) Expiration of plan development.**

An approved plan of development shall become null and void if no application for a building permit to construct the improvements authorized by the plan of development has been submitted within one year of the date of approval.

**13) Appeals.**

Any person aggrieved by any decision of the Zoning Administrator or the Planning Commission regarding a plan of development may appeal such decision to the Board of Zoning Appeals in accordance with the provision of Article X of this Ordinance.

**Sec. 7-8. Compliance with approved plans.**

Zoning permits and plans of development required by the provisions of this Article are approved on the basis of specific applications and plans and shall authorize only the construction, arrangement and use set forth by such approved applications and plans. Any construction, arrangement or use not in compliance with that which is specifically authorized by approved applicants and plans shall be deemed a violation of this Ordinance.

**Sec. 7-9. Violations and penalties.**

Any violation of the provisions of this Ordinance shall be a Class I misdemeanor punishable upon conviction by a fine of not less than \$10.00 nor more than \$1,000.00, or such other penalty as may be authorized by the laws of the Commonwealth.

## ARTICLE VIII

### SPECIAL USE PERMITS

#### **Sec. 8-1. Purpose.**

The purpose of the special use permit procedure is to provide a means for the Board of Supervisors to authorize, after review and subject to appropriate conditions, certain specified uses which, although generally appropriate in the district in which they are permitted by this ordinance, have a potentially greater impact on neighboring properties than those uses which are permitted by right in the district. The special use permit procedure set forth in this Article is intended to provide the opportunity for the Planning Commission and the Board of Supervisors to review each proposed special use and its potential impacts on surrounding properties and land uses, with special regard for the particular circumstances of each case. It is also intended to provide an opportunity for the Planning Commission to recommend and for the Board of Supervisors to impose such condition with the intent of the particular district and the purposes of this Ordinance.

#### **Sec. 8-2. When special use permit is required.**

A use indicated as permitted as a special use by any of the district regulations set forth in this Ordinance shall be authorized only upon approval of a special use permit by the Board of Supervisors. No zoning permit, building permit or certificate of use and occupancy for a special use or for a building devoted to a special use shall be issued unless a special use permit for such use has been approved in accordance with the provisions of this Article.

#### **Sec. 8-3. Applications for special use permits.**

Applications for special use permits shall be submitted to the Zoning Administrator on forms provided for such purpose. Applications may be filed by the owner of the property or, with the written consent of the owner, the contract purchaser of the property or any agent of the owner. Applications shall be accompanied by such plans, information and fees as required by the Article.

#### **Sec. 8-4. Required plans.**

**Content of plans.** Every special use permit application shall be accompanied by plans, drawn to scale, in such numbers as determined by written policy of the Planning Commission, and including the following information:

- 1) A location map showing the subject property and adjacent streets and roads, water bodies, subdivisions, political boundaries, zoning boundaries, and the uses of adjacent properties and names of the owners;

- 2) A site plan of the subject property showing its boundaries, existing and proposed buildings and uses, yards, open spaces, pedestrian walkways, landscaping, screening and buffering, fences, signs, access to the site, and on-site parking and vehicular circulation;
- 3) Easements, water bodies, floodplains, wetlands and other natural features, including major trees and wooded areas, and steep slopes;
- 4) Existing and proposed streets, utilities and drainage facilities;
- 5) Elevation drawings and general floor plans of all proposed building and existing buildings to be retained, except where the exterior appearance and general floor plan of existing buildings are to be unchanged.

**Additional information.** In addition to the above, the Zoning Administrator may require such other information as deemed necessary to determine compliance with the provisions of this Ordinance and to evaluate potential impacts of the proposed special use.

- 6) **Waiver of plan elements.** The Zoning Administrator may waive such plan elements as deemed unnecessary to determine compliance with the provisions of this Ordinance, to evaluate the potential impacts on surrounding properties and to establish an adequate record of the application
- 7) **Plans for oil and gas drilling.** In the case of a special use permit application for oil or gas drilling or related activity for which a permit is required by applicable State law, the application for the special use permit shall include copies of such information and such elements of the application material required for permits by the pertinent State regulatory agency as deemed necessary by the Planning Commission for the purposes of enforcing the provisions of this Ordinance. Upon direction from the Planning Commission, the Zoning Administrator may waive any of the special use permit plan requirements set forth elsewhere in this Section, when plans and information contained in the State permit application materials provide the information necessary for review and action on the special use permit application.

#### **Sec. 8-5. Posting of signs on affected property.**

The Zoning Administrator shall, within five working days of the filing of an application for a special use permit, post at least one sign on the property involved. Such sign shall be placed so as to be visible from the principal street abutting the property and shall indicate that a zoning action is pending, along with a statement that the Zoning Administrator may be contacted for further information. If such sign has been properly posted by the Zoning Administrator as required herein and is subsequently vandalized or destroyed, or is removed without the consent of the Zoning Administrator, such fact shall not affect the jurisdiction of the Planning Commission or the Board of Supervisors to hear and take action on the special use.

## **Sec. 8-6. Procedure for review and approval.**

- 1) **Review by zoning Administrator.** Within 60 days of receipt of a special use permit application and after review of such application, the Zoning Administrator shall forward to the Planning Commission the application, plans and related materials. The Zoning Administrator shall also submit to the Planning Commission, at such time as requested by the Commission, a report indicating the manner in which the proposed special use complies or does not comply with the applicable provisions of the Ordinance and any recommendations the Zoning Administrator may have regarding approval, disapproval or conditions to be attached to the proposed use or plans.
- 2) **Action by Planning Commission.** The Planning Commission shall review each special use permit application and provide a recommendation to the Board of Supervisors in accordance with the following provisions.
  - a) **Public notice and hearing.** After receiving a special use permit application from the Zoning Administrator, the Planning Commission shall give notice as required by the provisions of Section 15.1-431 of the Code of Virginia, 1950, as amended, and shall hold a public hearing on the application.
  - b) **Recommendation.** After reviewing the application for compliance with the provisions of this Ordinance and conducting a public hearing, the Planning Commission shall make a recommendation to the Board of Supervisors. The Commission may recommend approval or disapproval, or that additional requirements or conditions be attached in accordance with Section 8-8 of this Article. The Commission shall take action and forward its recommendation to the Board of Supervisors within 60 days after the Commission's public hearing, unless the applicant requests additional time to consider or to prepare revised plans.
  - c) **Form of action.** The Commission's action shall be in the form of a motion which shall state the reasons for its action and shall be set forth in writing and preserved among its records. In any case where the Commission is unable to adopt a motion recommending approval, approval with conditions or disapproval of a special use permit, the Commission shall forward a report to the Board of Supervisors stating such and summarizing its deliberations.
- 3) **Action by Board of Supervisors.** The Board of Supervisors shall take action on each special use permit application in accordance with the following provisions.
  - a) **Public notice and hearing.** After receiving the recommendation of the Planning Commission, the Board of Supervisors shall give notice as required by the provisions of Section 15.1-431 of the Code of Virginia, 1950, as amended and shall hold a public hearing on the application.

b) **Final action.** The Board of Supervisors may approve or disapprove the special use permit application, may accept or modify the conditions recommended by the Planning Commission, or may attach additional conditions consistent with the provisions of Section 8-8 of this Article. The Board may also refer the application back to the Planning Commission for further consideration or advice, and in which case shall specify a time period within which the Commission shall report. The action of the Board of Supervisors shall be by resolution, which shall include the reasons for its action and shall be set forth in writing and preserved among its records.

#### **Sec. 8-7. Standards and considerations.**

- 1) **Standards for approval.** A special use permit shall be approved only when the Board of Supervisors is satisfied that the use and the operation thereof will not be in conflict with the objectives of the Comprehensive Plan; will not adversely affect adjoining and surrounding property; will not unreasonably impair light and air, convenience of access or safety from fire, flood and other dangers; will not create or unreasonably increase congestion on adjacent streets; will not overburden utilities, public facilities or public services; will not adversely affect groundwater, surface water or wetlands resources; will conform with applicable requirements pertaining to erosion and sediment control; and will not otherwise be contrary to the stated intent and purpose of this Ordinance.
- 2) **Factors to be considered.** In evaluating and acting on special use permit applications, the Planning Commission and the Board of Supervisors shall consider, among other factors: the adequacy of utilities, access, and necessary public facilities and services; off-street parking and vehicular circulation; the arrangement of and relationship among elements of the site plan; the extent to which natural vegetation and topographic features are to be retained; and the adequacy of separation, landscaping, buffers, yards and other features to protect adjacent properties from potential adverse effects of the special use.

#### **Sec. 8-8. Conditions.**

The Planning Commission may recommend and the Board of Supervisors may impose such reasonable requirements and conditions as deemed necessary to meet the standards set forth in this Article and to accomplish the intent and purpose of this Ordinance. The Planning Commission may recommend and the Board of Supervisors may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied. In the case of a use, activity or facility for which a permit or approval is required by a State agency, the Planning Commission may recommend and the Board of Supervisors may condition its approval of a special use permit on issuance of such permit or granting of such approval by the State agency.

### **Sec. 8-9. Compliance with district regulations.**

Except to the extent that greater requirements may be imposed by the Board of Supervisors pursuant to the provisions of this Article, a special use shall comply with the regulations and standards generally applicable within the district in which the use is located and with such specific conditions for the particular use as may be set forth in the district regulations or elsewhere in this Ordinance.

### **Sec. 8-10. Amendments to special use permits.**

Any amendment or change of substance to an approved special use permit shall be subject to the same procedures and standards as for a new application. Minor modifications to approved site plans or building details may be authorized by the Zoning Administrator when such modifications do not significantly alter the boundaries of the property; conflict with specific requirements of this Ordinance or conditions of the approved special use permit; decrease the width or depth of any yard, setback or buffer area; significantly alter points of access to the property or the internal arrangement of site plan elements or have an appreciable effect on surrounding properties.

### **Sec. 8-11. Compliance with approved plans.**

- 1) **Violations.** Failure to comply with approved plans or conditions of a special use permit shall constitute a violation of the provisions of this Ordinance and may be cause for revocation of the special use permit by the Board of Supervisors in accordance with the provisions of this Section.
- 2) **Revocation.** Upon determination by the Zoning Administrator of any violation of a special use permit, such special use permit may be subject to revocation if the violation is not corrected within 90 days of written notice thereof. Such notice shall be provided to the owner of the property by the Zoning Administrator after consultation with the County Attorney and shall describe the violation and the means necessary to correct it. Copies of such notice shall be provided to the County Attorney, the Planning Commission and the Board of Supervisors. If the violation is not corrected within the specified period, and the Zoning Administrator is not satisfied that appropriate means are being taken to correct such violation, the Board of Supervisors shall have the authority to revoke the special use permit. No special use permit may be revoked except after notice and hearing as provided by Section 15.1-431 of the Code of Virginia, 1950, as amended.

### **Sec. 8-12. Expiration of special use permits.**

An approved special use permit shall become null and void if no application for a building permit to construct the authorized improvements has been submitted within one year of the date of approval by the Board of Supervisors. In the case of improvements intended to be constructed in phases, the Board of Supervisors may specify a longer period in its approval of the special use permit in conjunction with a schedule for issuance of building permits for such phases. Upon

written request by the applicant, and upon notification to the Board of Supervisors, the Zoning Administrator may grant one year extension of the expiration date of a special use permit.

**Sec. 8-13. Existing uses.**

Any use permitted as a special use in the district in which it is located and for which no special use permit has been approved, shall be considered a nonconforming use, provided such use was legally established prior to the effective date of this Ordinance.

**Sec. 8-14. Fees.**

A filing fee in such amount as established by general rule by the Board of Supervisors shall be submitted with each application for a special use permit.

**ARTICLE IX**  
**AMENDMENTS**

**Sec. 9-1. Generally**

Whenever public necessity, convenience, general welfare or good zoning practice require, and subject to the procedures and requirements set forth in Sections 15.1-491 and 15.1-493 of the Code of Virginia, 1950, as amended, the regulations, restrictions and district boundaries established by this Ordinance may be amended, supplemented, changed or repealed by ordinance adopted by the Board of Supervisors. Any ordinance to amend the provisions of this Ordinance shall be enacted in the same manner as all other ordinances.

**Sec. 9-2. Initiation of amendments.**

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

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

#### **Sec. 9-4. Posting of signs for change of zoning.**

In the case of a proposed change in the zoning classification of 25 or less contiguous parcels of land initiated by resolution of the Board of Supervisors, motion of the Planning Commission or petition on behalf of a property owner, the Zoning Administrator shall, within five working days of the adoption of such resolution or motion or the filing of such petition, post at least one sign on the property involved. Such sign shall be placed so as to be visible from the principal street abutting the property and shall indicate that a zoning action is pending, along with a statement that the Zoning Administrator may be contacted for further information. If such sign has been properly posted by the Zoning Administrator as required herein and is subsequently vandalized or destroyed, or is removed without the consent of the Zoning Administrator, such fact shall not affect the jurisdiction of the Planning Commission or the Board of Supervisors to hear and take action on the case.

#### **Sec. 9-5. Action by Planning Commission.**

- 1) **Review and recommendation.** No ordinance to amend the provisions of this Ordinance shall be acted up on by the Board of Supervisors unless the amendment has been referred to the Planning Commission for its review and recommendation. The Commission may recommend that the Board of Supervisors adopt or reject the proposed amendment or may recommend changes in the proposed amendment. Failure of the Commission to consider the amendment and report to the Board of Supervisors within 90 days after the first regular meeting of the Commission after the amendment was referred to it shall be deemed to be a recommendation of approval.
- 2) **Public notice and hearing.** Before taking action on any amendment referred to it by the Board of Supervisors, the Planning Commission shall give public notice as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall hold a public hearing thereon.
- 3) **Report and recommendation of Zoning Administrator.** The Zoning Administrator shall submit a written report and recommendation regarding the amendment to the Planning Commission prior to its scheduled public hearing. In the case of a proposed change in the zoning classification of property, the Zoning Administrator's report shall be accompanied by a copy of the plat showing the property involved and a location map showing its relationship to surrounding streets and properties.
- 4) **Form of action by the Commission.** All actions by the Commission shall be in the form of a motion, giving the reasons for such action, together with the vote of each member on the matter. All actions of the Commission shall be recorded and preserved in writing in its records. In any case where the Commission is unable to adopt a motion to recommend approval or disapproval, the Commission shall forward a written report to the Board stating such fact and summarizing its discussions on the matter.

### **Sec. 9-6. Action by Board of Supervisors.**

- 1) **Public notice and hearing.** Before taking action on any ordinance to amend the provisions of this Ordinance, the Board of Supervisors shall give public notice as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall hold a public hearing thereon. In the case of a proposed amendment to the zoning district map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range, if any, set forth in the applicable part of the County Comprehensive Plan.
- 2) **Final action.** After receiving a report from the Planning Commission and after giving public notice and holding a public hearing, the Board of Supervisors may adopt or reject the proposed amendment, or may make appropriate changes or corrections to the amendment, or may make appropriate changes or corrections to the amendment, provided that no land may be zoned to a more intensive use classification nor shall a greater area of land be rezoned than was described in the public notice without referral to the Planning Commission and an additional public hearing after public notice as required by Section 15.1-431 of the Code of Virginia, 1950, as amended
- 3) **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 up on 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 Board. In the case of withdrawal, no further action on the amendment shall be necessary.

### **Sec. 9-7. Joint public hearing.**

The Board of Supervisors and the Planning Commission may hold a joint public hearing on any proposed amendment, subject to the public notice requirements set forth in Section 15.2-2204 of the Code of Virginia, 1950, as amended.

### **Sec. 9-8. Filing new petition after rejection.**

Upon rejection by the Board of Supervisors of any proposed amendment to the official zoning district map by petition of a property owner, contract purchaser or agent of a property owner, substantially the same petition shall not be considered again by the Board within one year of the date of such rejection.

### **Sec. 9-9. Fees.**

A filing fee in such amount as established by general rule by the Board of Supervisors shall be submitted with each petition to change the zoning classification of property.

## ARTICLE X

### BOARD OF ZONING APPEALS

#### **Sec. 10-1. Membership.**

Pursuant to the provisions of Section 15.1-494 of the Code of Virginia, 1950, as amended, there shall be a Board of Zoning Appeals which shall consist of five members who shall be residents of the County and shall be appointed by the Circuit Court. One the members of the Board shall be appointed from among the members of the Planning Commission. Terms of the members of the Board, reappointments, the filing of vacancies and procedures for the removal of members shall be as set forth in Section 15.1-494 of the Code of Virginia, 1950, as amended.

#### **Sec. 10-2. Officers.**

The Board of Zoning Appeals shall elect from among its members a Chairman, a Vice-Chairman who shall serve in the absence of the Chairman, and a Secretary, all of whom shall serve annual terms and may succeed themselves.

#### **Sec. 10-3. Support services.**

With the approval of the Board of Supervisors and within the limits of funds that may be appropriated for such purposes, the Board of Zoning Appeals may employ or contract for such clerical, technical or legal services necessary for it to carry out its responsibilities.

#### **Sec. 10-4. Rules and forms.**

- 1) **Adoption of Rules.** The Board of Zoning Appeals shall adopt Rules necessary for the conduct of its affairs in keeping with the applicable provisions of this Article and the provisions of Title 15.1 of the Code of Virginia, 1950, as amended. Copies of such Rules shall be available to the public.
- 2) **Forms for applications and appeals.** The Board of Zoning Appeals shall see that forms necessary for applications and appeals are available, which forms shall be provided to applicants by the Zoning Administrator.

#### **Sec. 10-5. Meetings.**

- 1) **Regular meetings.** The Board of Zoning Appeals shall, in accordance with its Rules, schedule regular monthly meetings which shall be open to the public. The Board's Rules may provide for cancellation of any regular scheduled meeting if, by the filing deadline for applications and appeals to be heard at such meeting, there is not business to be brought before the Board. The Board may hold such special meetings as it deems necessary in accordance with its Rules.

- 2) **Public hearings.** The Board of Zoning Appeals shall not make a decision on any application or appeal until it has conducted a public hearing after giving notice as required by the provisions of Section 15.1-431 of the Code of Virginia, 1950, as amended, which provisions shall be incorporated within or attached to the Rules of the Board.
- 3) **Quorum.** A quorum of not less than a majority of all members of the Board of Zoning Appeals shall be required for the conduct of any hearing and the taking of any action.

#### **Sec. 10-6. Records and annual report.**

The Board of Zoning Appeals shall keep minutes of its proceedings, including the vote of each member on each question and the reasons of the Board for each action taken and shall keep records of all its official actions. Minutes and records shall be public and shall be filed in the office of the Board. The Board shall submit an annual report of its activities to the Board of Supervisors.

#### **Sec. 10-7. Powers and duties.**

Pursuant to the provisions of Section 15.1-495 of the Code of Virginia, 1950, as amended, the Board of Zoning Appeals shall have such powers and duties as set forth in this Article.

#### **Sec. 10-8. Appeals.**

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

#### **Sec. 10-9. Variance.**

- 1) **Criteria for authorization of variance.** The Board of Zoning Appeals shall have the power to authorize upon application in specific cases, such as variance as defined in Section 15.1-430 (p) of the Code of Virginia, 1950, as amended, from the terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, provided that the spirit of this Ordinance shall be observed and substantial justice shall be done, and provided that the following criteria shall be met.
- 2) No variance shall be authorized by the Board unless a property owner can show to the satisfaction of the Board that:
  - a) The property was acquired in good faith; and

- b) By reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of this Ordinance of subsequent amendment thereto, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property or of the conditions, situation or development of property immediately adjacent thereto, strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the utilization of the property; or that the granting of the variance requested will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- 3) No variance shall be authorized by the Board unless it finds from the evidence presented that:
- a) Such variance will be in harmony with the intended spirit and purpose of this Ordinance;
  - b) The strict application of this Ordinance would produce undue hardship, and that such hardship is not shared generally by other properties in the same zoning district and the same vicinity as the subject property;
  - c) The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
  - d) The condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to this Ordinance; and
  - e) The variance will not include a departure from the use regulations set forth in this Ordinance.
- 4) **Conditions.** In the authorization of a variance, the Board of Zoning appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.

**Sec. 10-10. Special exception.**

The Board of Zoning Appeals shall have the power to hear and decide applications for such special exceptions as may be authorized elsewhere in this Ordinance. In the granting of any such special exception, the Board may impose such conditions relating to the use provided for as it may deem necessary in the public interest, including limiting the

duration of the special exception, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be satisfied.

**Sec. 10-11. Interpretation of official zoning district map.**

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

**Sec. 10-12. Prohibition on rezoning of property.**

No provision of this Article shall be construed as granting the Board of Zoning Appeals the power to rezone property, which shall be vested in the Board of Supervisors.

**Sec. 10-13. Appeal procedure.**

- 1) **Who may file appeal.** An appeal to the Board of Zoning Appeals pursuant to Section 10-8 of this Article may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance.
- 2) **Filing of appeal.** An appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof. Copies of the notice of appeal shall also be submitted to any other individual, officer, department or agency involved in the appeal. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all papers and other materials constituting the record upon which the action appealed from was taken.
- 3) **Stay of proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case a court of record, on application and with notice to the Zoning Administrator, and for good cause shown.

**Sec. 10-14. Application for variance, special exception or interpretation of zoning district map.**

- 1) **Who may file application.** An Application for a variance, special exception or interpretation of the official zoning district map pursuant to Sections 10-9, 10-10 or 10-11 of this Article, may be made by any property owner, tenant, government official, department, board or bureau, on forms provided for such purpose by the Board of Zoning Appeals.
- 2) **Application procedure.** Applications shall be submitted to the Zoning Administrator in accordance with Rules adopted by the Board. The Zoning Administrator shall transmit all applications and accompanying maps and documents to the Secretary of the Board who shall place the matter on the docket of the Board. The Zoning Administrator shall also transmit copies of all applications to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- 3) **Reconsideration of application.** Substantially the same application for a variance, special exception or interpretation of the zoning district map which has been decided by the Board shall not be considered again by the Board within 12 months of the date of its decision, except that the Board may, pursuant to its Rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.

**Sec. 10-15. Public hearings and decisions.**

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

**Sec. 10-16. Expiration of variance or special exception.**

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

**Sec. 10-17. Amendment of variance or special exception.**

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

**Sec. 10-18. Enforcement of decisions.**

Decisions of the Board of Zoning Appeals shall be administered and enforced by the Zoning Administrator. Noncompliance with any action taken by the Board, including conditions imposed by the Board, shall constitute a violation of the provisions of this Ordinance. The Board shall have the authority to revoke a special exception if it determines that there has not been compliance with the terms or conditions of the special exception. No special exception may be revoked except after notice and hearing as provided by this Article.

**Sec. 10-19. Appeals from decisions of the Board.**

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

**Sec. 10-20. Fees.**

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

## **Article XI**

### **DEFINITIONS**

#### **Sec. 11-1. Applicability.**

For the purpose of this Ordinance, and unless specifically prescribed to the contrary elsewhere in this Ordinance, certain words and terms shall be interpreted as set forth in this Article. Words and terms not defined herein shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

#### **Sec. 11-2. General rules**

The following general rules of interpretation shall apply throughout this Ordinance, as they are appropriate to the context.

- 1) The word “person” includes a firm association, organization, partnership, trust company of corporation as well as an individual.
- 2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- 3) The word “shall” is mandatory, and the word “may” is permissive
- 4) The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied
- 5) The words “building” or “structure” includes any part thereof, and the word “building” includes the word “structure”
- 6) The terms “main” and “principal” are synonymous.
- 7) The word “land” includes the words “water” and “marsh”

#### **Sec. 11-3. Certain words defined.**

The following words and terms shall be interpreted as having such meaning as set forth herein, unless a specific meaning to the contrary is indicated elsewhere in this Ordinance.

- 1) **Above Ground/On-ground Pool.** See “Swimming Pool, Indoor or Swimming Pool, Outdoor” dependent on physical location.

- 2) **Accessory building.** A building separate from the main building on a lot and used for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located. Where such building is attached by wall or roof to a main building, it shall be considered to be a part of the main building.
- 3) **Accessory use.** A use of land or a use of a building for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located.
- 4) **Alcohol and drug treatment center.** A facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be licensed either by the Virginia State Board of Health or by the Department of Behavioral Health and Developmental Services. Any such facility may not dispense or utilize methadone as part of its treatment procedures or keep methadone on the premises.
- 5) **Alley.** A public way affording or intended to afford secondary means of vehicular access to abutting properties and situated along the side or rear of such properties.
- 6) **Amusement center.** A building, portion of a building or area outside of a building, where three or more video games machines, pinball machines, billiard tables or other similar player-operated amusement devices, or any combination of three or more such devices, are maintained for use by the public.
- 7) **Auto service center.** An establishment for the servicing and minor repair of motor vehicles within enclosed service bays or stalls, and which may include the dispensing of motor fuels and related products at retail and the sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, cleaning and polishing materials and similar items. "Auto service center" shall not include any establishment engaging in general auto or truck repair, body repair or painting, welding, frame straightening, tire recapping or vulcanizing, storage of wrecked vehicles or any operation involving the installation or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials, or other major body or mechanical parts.
- 8) **Auto service station.** An establishment for the dispensing of motor fuels and related products at retail and having pumps, underground storage tanks and other facilities for such activity, and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles in enclosed service bays or stalls. "Auto service station" shall not include any establishment engaging in general auto or truck repair, body repair or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials or other major body or mechanical parts.

- 9) **Automobile graveyard.** Any area outside of a completely enclosed building used for the storage, keeping or parking of two or more motor vehicles of any kind, incapable of being operated and not economically practical to make operative.
- 10) **Barrier.** A fence, wall building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.
- 11) **Bed and breakfast facility.** A facility within an owner-occupied single-family dwelling for the housing of a person on a transient basis containing not more than two lodging units for such persons, which units are provided with private baths, and where no meals other than breakfast are served to guests.
- 12) **Board of Supervisors.** The governing body of Lee County, Virginia
- 13) **Board of Zoning Appeals.** The Board of Zoning Appeals of Lee County, Virginia, the composition, powers and duties of which are set forth in Article X of this Ordinance.
- 14) **Buildable area.** The area of a lot, excluding the area of the minimum front, side and rear yards require by the provisions of this Ordinance.
- 15) **Building.** A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property.
- 16) **Building Official.** The official designated to enforce the provisions of the Virginia Uniform Statewide Building Code within the jurisdiction of Lee County, Virginia
- 17) **Child care center.** Any facility operated for the purpose of providing care, protection and guidance to a group of more than five children separated from their parents or guardians during a portion of the day, not including children of a family residing on the premises. The term “child care center” shall include a family day care home as licensed by the State of Virginia.
- 18) **Completely enclosed building.** A building enclosed on all sides and having no outside openings other than ordinary doors, windows and means of ventilation.
- 19) **Convenience Stores.** A retail facility selling gasoline and such other convenience items as prepackaged food products, household items, newspapers, magazines, lottery tickets, minor automobile accessories such as cleaners, prepackaged motor oil and fuel treatments, sandwiches and other freshly-prepared foods for off-site consumption. Such facilities are limited by the following conditions:
  - A plan of design including sketches and/or blueprints must be submitted to and approved by the Planning Commission
  - Underground storage tanks must be set back at least 30 feet from all property lines

- All signs must comply with the sign regulations in Article V of this ordinance;
- 20) **Crematory or Crematorium** – A facility containing a furnace which is designed and licensed by the Commonwealth of Virginia for cremation of dead human remains.
  - 21) **Development site.** All of the land developed or intended to be developed for single-family attached dwellings and related accessory uses, structures and facilities, when such land is contiguous and under single ownership or control for purposes of planning and initial development. A development site shall include the individual lots on which attached dwellings are or will be located, as well as all open spaces, parking areas, driveways, recreational facilities, community areas and other areas owned or to be owned in common by owners of individual lots within the development.
  - 22) **Dwelling, multi-family.** A building which contains three or more dwelling units.
  - 23) **Dwelling, single-family.** A building which is completely separated from any other main building and which contains only one dwelling unit, as distinguished from single-family attached dwellings.
  - 24) **Dwelling, single-family attached.** A building which contains one dwelling unit located on an individual lot of record and which is attached by means of party walls in a series or two or more buildings, each of which contains one dwelling unit and is located on a separate lot of record. A building meeting the terms of this definition and commonly known as a “townhouse” shall be considered a single-family attached dwelling.
  - 25) **Dwelling, two-family.** A building which contains two dwelling units.
  - 26) **Dwelling unit.** A room or group of rooms within a building and constituting a separate and independent housekeeping until occupied or intended for occupancy by one family and containing cooking, sleeping and sanitary facilities. The term “dwelling unit” shall not include a manufactured home, recreational vehicle or room or group of rooms within a hotel, motel, bed and breakfast, tourist home, fraternity or sorority house, lodging, house or similar lodging facility.
  - 27) **Dwelling use.** Any principal use containing dwelling or lodging units which are not generally available for occupancy for periods of less than one week, as distinguished from units located within hotels, motels and similar facilities intended for transient occupancy.
  - 28) **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, except as otherwise provided herein. Domestic servants or employees residing on the premises shall be considered as part of a family. The term “family” shall not be construed to include a fraternity, sorority, club or group of persons occupying a hotel,

tourist home or lodging house, but shall include the occupants of a group home as defined in this Article.

- 29) **Floor area.** The sum of the horizontal areas of all usable floors of a building as measured from the exterior faces of exterior walls and including all intervening walls, partitions, hallways, corridors, lobbies and stairways. Floor area shall not include unenclosed porches, balconies, carports, garages, or any basement or attics which are not improved and available for occupancy.
- 30) **Frontage.** That portion of a lot abutting a street and being situated between the lot lines intersecting the street: also referred to as “street frontage.”
- 30) **Funeral Home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for
- (a) embalming and the performance of other services used in the preparation of the dead for burial,
  - (b) the performance of autopsies and other surgical procedures,
  - (c) the storage of caskets, funeral urns and other related funeral supplies, and
  - (d) the storage of funeral vehicles,
- Said facility shall not include facilities for cremation.
- 31) **Group home.** A residential facility in which not more than eight mentally ill, mentally retarded, or other developmentally disabled persons reside, with one or more resident counselors or other staff persons, the purpose of such facility being to provide its occupants the benefits of normal residential surroundings to achieve optimal assimilation into the community. The term “group home” shall include family care homes or foster homes and any other residential facility for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority under State law, but shall not include residential treatment center or other facilities, the principal purpose of which is to provide emergency shelter or to provide diagnostic or treatment services for persons currently suffering from illegal use of or addiction to a controlled substance as defined in Section 54.1-3401 of the Code of Virginia.
- 32) **Health Official.** The official designated to enforce the requirements of the State Department of Health.
- 33) **Height.** The vertical distance measured from the average of the lowest and highest elevations of the finished grades immediately adjacent to a building to the highest point of a flat roof, mansard roof or parapet.
- 34) **Higher educational institution** – A public or private institution providing full-time or part-time education beyond the high school level and including any lodging rooms or housing for students or faculty. Higher educational institutions include colleges, universities, or any trade or vocational school including, but not limited to, those

educating students in such subjects as barbering, cosmetology, music, drafting or healthcare professions. Such institutions of higher learning may be either non-profit or for-profit institutions and must be accredited by a recognized regional or national accreditation organization.

35) **Home Business.** An occupation, profession, enterprise or business activity conducted within a single-family dwelling which is residence of the principal practitioner, or conducted within an accessory building located on the same lot and clearly accessory to the dwelling. In order to qualify as a home business, an activity as described herein must be clearly secondary to the principal dwelling use of the premises and must meet all of the following criteria, which are intended to distinguish such activity from a “home occupation” as defined herein and from other business uses:

- a) Not more than 25 percent of the floor area of the main building shall be devoted to such activity;
- b) Not more than two persons who do not reside on the premises shall be employed on the premises in the conduct of the activity;
- c) There shall be no signs, other than one sign not to exceed six square feet in area, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any non-dwelling use; and
- d) There shall be no group instruction or assembly, no housing of persons for compensation, and no product offered for sale or stored other than that which is produced on the premises or which may be incidental to the primary service rendered.

36) **Home Occupation.** An Occupation, profession, enterprise or similar activity conducted within a dwelling unit which is the residents of the practitioner, or conducted within an accessory building location the same lot and clearly incidental to such dwelling unit. In order to qualify as a home occupation, an activity as described herein must be clearly secondary to the principal dwelling use of the premises and must meet all of the following criteria, which are intended to distinguish such activity from a “home business” as defined here in and from other business uses:

- a) Not more than 25 percent of the floor area of the main building shall be devoted to such activity, and in no case more than a total of 400 square feet on any premises;
- b) No one other than a member of the family residing on the premises shall be employed on the premises in the conduct of the activity;
- c) There shall be no signs, other than on non-illuminated sign not exceeding two square feet in area attached to the building, and no displays or alterations to the

exterior of the building that would distinguish it as being devoted to any non-dwelling use;

- d) There shall be no group instruction or assembly, no housing of persons for compensation, no repair of vehicles and no product offered for sale or stored other than that which is incidental to a service rendered directly to persons on the premises; and
- e) No mechanical equipment or machinery shall be used in the conduct of the activity that produces noise, smoke, odor, vibration or other effect discernable beyond the property lines.

37) **Hospital.** A facility in which the primary function is the provision of diagnostic, treatment, medical and nursing services, surgical or non-surgical, of two or more non-related individuals, and which provides inpatient beds, but not including a facility exclusively or primarily for the care and treatment of psychiatric patients or persons suffering from substance abuse.

38) **Hot Tub.** See “Swimming Pool, Indoor or Swimming Pool, Outdoor” dependent on physical location.

39) **Hotel.** A building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance through a common lobby. The term “hotel” is intended to apply to inns, lodges and similar facilities, except when such conform to the definition of motel or tourist home as set forth in this Article.

40) **Junkyard.** An outdoor area used for the depositing, keeping, storing, buying or selling of discarded materials no longer useable in their present form, including but not necessarily limited to: scrap metals, building materials, machinery, household appliances, plumbing supplies, furnishings, fixtures, or motor vehicles or parts thereof. The term “junkyard” includes an automobile graveyard as defined herein, but shall not include a garbage dump, tire dump, landfill as defined under the Solid Waste Management Regulations promulgated by the Virginia Waste Management Board, or similar use.

41) **Kennel.** Any lot, structure or enclosure used for the keeping, boarding, raising or breeding of dogs, cats or similar domestic household animals for commercial or noncommercial purposes, and involving four or more animals of the same species over the age of four months. A noncommercial facility housing a fewer number of such animals as household pets on the same lot as a dwelling use shall not be construed to be a kennel, but shall be considered an accessory use or structure.

- 42) **Livestock.** Animals, other than dogs, cats and household pets, which are kept or raised for use, profit or enjoyment, including horses, cattle, sheep, goats, pigs, poultry and similar domesticated animals and fowl.
- 43) **Lodging unit.** A room or group of rooms within a building, constituting living quarters for one or more persons, and not containing cooking facilities. A room or group of rooms within a hotel, motel or tourist home constituting living quarters for transient guests shall be considered a lodging unit even though it may contain partial or complete kitchen facilities.
- 44) **Lodging house.** A building containing lodging units for more than two, but not more than twenty persons, with or without board, and where such lodging units are not available for occupancy for periods of less than one week, as distinguished from a hotel, motel or tourist home where occupancy is available to transient guests on a daily basis. The term “lodging house” shall include homes for adults when licensed by the State, but shall not include residential facilities which also have as their purpose incarceration, detention, treatment, counseling, training or diagnostic services or programs intended for a specific client population.
- 45) **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. “Lot” includes the terms “tract,” “parcel” and “property” 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.
- 46) **Lot, Corner.** A lot abutting upon two or more streets at their intersection, or a lot bounded entirely by streets.
- 47) **Lot line.** Any boundary of a lot, including a boundary, which constitutes a street line.
- 48) **Lot of record.** A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court, or a lot or parcel which is described by metes and bounds and is similarly recorded.
- 49) **Lot, through.** A lot other than a corner lot having frontage along more than one street.
- 50) **Lot width.** The minimum horizontal distance between the side lines of a lot measure between the points where the minimum required front yard line intersects the side lines of the lot. On a corner lot or through lot on which more than one front yard is required, the lot width shall be measured adjacent to the frontage with the least dimension.
- 51) **Main building.** A building in which is conducted to the principal or main use of the property on which the building is located.

- 52) **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 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on a site; is built on a permanent chassis; is defined to be used for dwelling purposes by one family, with the required utilities; and which includes the plumbing, heating, air conditioning, and electrical systems to be utilized in the structure.
- 53) **Manufactured home park.** A lot or parcel on which are located, or which is arranged or equipped for the accommodation of, two or more manufactured homes for dwelling use with spaces for such available for rent or lease for periods of not less than one year, and including such open spaces and other facilities as may be provided for the use of or service to residents of manufactured homes located on such lot or parcel. A manufactured home park may include uses and structures accessory to the manufactured home park and individual manufactured home units, such as awnings, porches, patios, garages, carports, storage buildings, parking areas, laundries, management, maintenance and service facilities, utilities, recreational facilities, community buildings and similar facilities for the use of or service to residents of the manufactured home park. (Six mobile homes per acre allowed in a manufactured home park).
- 54) **Manufactured home space.** An area within a manufactured home park devoted to the site of an individual manufactured home and set aside for the private use of residents of such manufactured home, shown on a plat or other site plan of the manufactured home park, and which includes such yards, open spaces, and other contiguous areas necessary to support such individual manufactured home, as distinguished from common areas, peripheral buffers, roadways and other facilities of such park.
- 55) **Motel.** A building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance from the outside as opposed to through a common lobby. The term “motel” is intended to apply to motor inns, motor lodges, motor courts, tourist courts and similar facilities, except when such conform to the definition of hotel or tourist home set forth in this Article.
- 56) **Nonconforming building.** A building having one or more nonconforming features.
- 57) **Nonconforming feature.** A feature of a use, as distinguished from the use itself, or a feature of a building, which feature was lawfully existing at the effective date of this Ordinance or subsequent amendment thereto, and does not conform with the requirements established by this Ordinance or any amendment thereto. Features of uses or buildings shall be construed to include density, lot area, lot dimensions, yards, open spaces, height, bulk, number of occupants, screening, landscaping, lighting and off-street parking requirements. A building having such nonconforming feature may be referred to as a nonconforming building.

- 58) **Nonconforming sign.** A sign which was lawfully existing at the effective date of this Ordinance or subsequent amendment thereto, and which does not conform with the area, height, location, placement, type, number, or other regulation pertaining to signs set forth in this Ordinance or subsequent amendment thereto.
- 59) **Nonconforming use.** A principal or accessory use of land or of a building, which use was lawfully existing at the effective date of this Ordinance or subsequent amendment thereto and is not a permitted use under the provisions of this Ordinance or any amendment thereto.
- 60) **Nursing home.** Any facility or any identifiable component of a facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals. “Nursing home” includes facilities of varying nomenclature or designation, such as convalescent homes, skilled care facilities, assisted living facilities, intermediate care or extended care facilities and infirmaries, except for such exclusions as may be provided under applicable State law.
- 61) **Off-street parking space.** An area for the parking of one motor vehicles located other than within a public street or public alley right-of-way and having such dimensions as set forth in Article V of this Ordinance, an having a permanent means of access to a public street or a public alley without requiring passage through another parking space.
- 62) **Parking area.** A parcel of land or a portion thereof used for the parking of motor vehicle, including off-street parking spaces as defined herein as well as the access aisles and maneuvering space directly serving such off-street parking spaces.
- 63) **Party wall.** A wall separating and common to two building on individual lots and being of noncombustible material with a fire resistant rating and other characteristics as required by the Virginia Uniform Statewide Building Code.
- 64) **Plan of development.** The proposal for a development, including all plans, drawings, and information as required by the provisions of Article VII of this Ordinance, and subject to the requirements, reviews and approval procedures set forth in that Article.
- 65) **Planning Commission.** The Planning Commission of Lee County, Virginia
- 66) **Principal use.** The main or primary use of a lot or of a building.
- 67) **Public sewer or water system.** A sewer or water system owned and operated by Lee County or by such other authority as may be authorized by the laws of the Commonwealth of Virginia, when such facility is approved by the Board of Supervisors of Lee County.

- 68) **Recreational vehicle.** A vehicle built on a single chassis intended to be towed or self-propelled or attached to the chassis of another vehicle, and designed or used for recreational, travel, or sporting purposes or for temporary living quarters in conjunction with such purposes. “Recreational vehicle” shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor homes and converted trucks and buses.
- 69) **Recreational vehicle park.** A lot or parcel on which are located, or which is arranged or equipped for the accommodation of, two or more recreational vehicles of the general public as temporary living quarters for recreation, travel or vacation purposes, which spaces for such available for rent on a transient basis only, and including such facilities as may be provided for the use of or service to occupants of recreational vehicles located on such lot or parcel.
- 70) **Restaurant.** Any building or associated outdoor area in which, for compensation, food or beverages are dispensed for consumption on the premises or for carry-out purposes, including cafes, tearooms, confectionery shops, refreshment stands and similar establishments.
- 71) **Retail Auction House.** A permanently enclosed place of business for the conducting of public or retail auctions. The established place of business must include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.
- 72) **Retail stores and shops.** Buildings wherein the principal activity is the sale of merchandise at retail to the general public, and where such merchandise is typically sold in small quantities and broken lots, and not in bulk. For purposes of illustration, the term “retail stores and shops” shall include the following: drug stores; newsstands; food stores and supermarkets; candy shops; dry goods, notions and clothing stores; boutiques and gift shops; hardware, home furnishings and household appliance and electronic stores; antique shops; furniture stores; florist shops; opticians; shoe stores; jewelry stores; auto accessory stores; and music stores. Establishments for the sale in bulk of coal, wood, fuel, building materials and lumber, and establishments for the sale of vehicles, farm implements, boats, trailers, machinery and similar items shall not be considered retail stores and shops.
- 73) **Sanitary landfill.** An engineered land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment, and which meets the requirements of the Solid Waste Management Regulations promulgated by the Virginia Waste Management Board.

- 74) **Shopping Center.** A group of three or more commercial establishments on a site of two acres or more planned, developed, owned and managed as a unit and related in its location, size and types of establishments to the trade area which such unit is intended to serve, and which is provided with off-street parking on the premises.
- 75) **Sign.** A presentation of letters, numbers, figures, pictures, emblems, insignia, lines or colors, or any combination thereof which can be viewed from a public right-of-way, private road or another property, and which is displayed for the purpose of information, direction, or identification or to advertise or promote a business, service, activity, interest or product, or any otherwise lawful non-commercial message that does not attract attention to a business operated for profit or to a commodity following shall not be considered signs for the purposes of this Ordinance:
- a) The flag, emblem or insignia of a nation or other governmental unit, or a decorative flag or banner, except when displayed in connection with a commercial promotion or as part of a presentation otherwise considered a sign;
  - b) Legal notices, identification, informational or directional presentations erected or required to be erected by a governmental body;
  - c) Presentations not exceeding one square foot in area identifying property numbers, addresses or occupants or premises.
- 76) **Sign, animated.** Any sign having a conspicuous and intermittent variation in illumination, message or physical position of any or all of its parts. A time and/or temperature display which changes its messages not more than once every five seconds or any flag or banner which is entirely dependant upon wind for movement shall not be considered an animated sign.
- 77) **Sign area.** The area of the smallest individual rectangle, triangle or circle or combination of not more than two contiguous rectangles, triangles or circles which will encompass all elements of the sign which form an integral part of the display, including background, borders and structural trim. The area of a double-faced sign shall be construed to be the area of the largest single face of the sign, provided that the interior angle formed by the two faces does not exceed 30 degrees. A pole, post, upright or similar structural support for a freestanding sign, including pole covers, shall be considered as part of the sign area if such pole cover exceeds 24 inches in width.
- 78) **Sign, billboard.** A sign used as an outdoor display for the purpose of advertising or promoting a business, service, activity or product which is not located, offered for sale or otherwise related to use of the premises on which such sign is situated.
- 79) **Sign, directional.** A sign located on the premises of the activity to which it pertains and intended for the purpose of directing or guiding traffic or persons or identifying parking spaces, when such sign contains no advertising, does not exceed three square

feet in area and, if freestanding, does not exceed three feet in height; or a sign located off the premises of the use or activity to which it pertains and intended to identify the location of or provide directions to such premises, which sign may be referred to as an “off-premise directional sign.”

- 80) **Sign, freestanding.** Any sign supported by uprights, poles, posts or braces, which are situated upon or anchored within the ground. A freestanding sign shall be considered a structure.
- 81) **Sign, portable.** A sign consisting of a fixed message or a changeable message panel, which is not attached to a building or anchored within the ground and is capable of being moved easily from one location to another on its own chassis or by other means. A portable sign shall not be construed as a temporary sign as defined herein.
- 82) **Sign, temporary promotional.** Any sign denoting a sale or special promotion or announcing a grand opening, new management or similar event or activity occurring on the premises; when such sign is attached flat against a building wall, is located within a window, or is freestanding but not located within five feet of a street line, and does not remain on the premises for a period exceeding 30 days. Such sign shall not include a portable sign or permanently installed changeable message panel.
- 83) **Special exception.** An activity or feature specified in this Ordinance as permitted in a particular district or under specified circumstances by approval of the Board of Zoning Appeals pursuant to the provisions of Article X of this Ordinance.
- 84) **Special use.** A use specified in this Ordinance as permitted in a particular district only upon approval of a special use permit by the Board of Supervisors in accordance with the provisions of Article VIII of this Ordinance.
- 85) **Street.** The right-of-way within which lies a public or private thoroughfare, which affords or is intended for the purpose of affording the principal means of vehicular access to abutting property.
- 86) **Street line.** The right-of-way line of a street.
- 87) **Structural alteration.** Any change in the supporting members of a structure, including foundations, bearing walls, bearing partitions, columns, beams or girders, or any change in the supporting members of the roof of a structure or in the means of egress of a structure.
- 88) **Structure.** Any assembly of materials forming a construction for use, including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharfs, swimming pools, amusement devices, storage bins and other structures of this general nature.

- 89) **Tourist home.** A building containing not more than ten lodging units, with or without board, and where transient guests on a daily basis, and in which access to each lodging is provided from within the building. A tourist home may include a dwelling unit, which constitutes the residence of the owner or manager of the facility.
- 90) **Truck terminal.** A premises where there are dock facilities, either partially enclosed or unenclosed, used for loading and unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point and which is designed to accommodate the simultaneous loading and unloading of trucks.
- 91) **Usable open space.** The area of the lot, which is not covered by buildings and is not devoted to parking areas, driveways or other vehicular maneuvering area. Usable open space includes all yard areas, as well as other outdoor space available for active or passive use by occupants of the premises.
- 92) **Variance.** A departure from the strict application of the provisions of this Ordinance when authorized by the Board of Zoning Appeals pursuant to and in accordance with the provisions of Section 15.1-495 of the Code of Virginia, 1950, as amended, and the provisions of Article X of this Ordinance
- 93) **Yard.** An open space on a lot, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the ground level upward, except as otherwise provided in Article V of this Ordinance. The term “yard” shall mean the same as the term “setback.”
- 94) **Yard, front.** A yard extending the full width of a lot and being adjacent and parallel to the street frontage of the lot.
- 95) **Yard, rear.** A yard adjacent and parallel to the rear lot line of a lot and extending between the minimum required side yards on the lot.
- 96) **Yard, side.** A yard adjacent and parallel to the side lot line of a lot and extending from the minimum required front yard to the rear lot line. On irregular shaped lots, any yard adjacent to a lot line to which the yard definitions of this Article do not clearly apply shall be considered a side yard.
- 97) **Yard, street side.** A side yard adjacent to a street.
- 98) **Zoning Administrator.** The officer appointed by the Board of Supervisors to administer and enforce the provisions of this Ordinance.

AMENDMENT TO ZONING ORDINANCE  
LEE COUNTY, VIRGINIA

SAFETY ZONING ORDINANCE TO LIMIT HEIGHT OF OBJECTS AROUND  
LEE COUNTY AIRPORT

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NAURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE LEE COUNTY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE LEE COUNTY AIRPORT SAFETY ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING APPEAL PROVISIONS; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to S15.2-2294 of the Code of Virginia, 1950, as amended. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Lee County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Lee County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Lee County Airport and the public investment therein. Accordingly, it is declared:

- (1) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Lee County Airport;
- (2) That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and light of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE BOARD OF SUPERVISORS OF THE  
COUNTY OF LEE, VIRGINIA AS FOLLOWS:

## SECTION I: SHORT TITLE

This Ordinance shall be known and may be cited as the Lee County Airport Safety Zoning Ordinance.

## SECTION II: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires, the following words or terms will be defined as stated:

- 1) Airport- the Lee County Airport
- 2) Airport elevation-the highest point of the runway as shown by the Airport Layout Plan
- 3) Approach surface-A surface longitudinally centered on the extended runway centerline; extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 4) Approach, transitional, horizontal and conical zones-These zones are set forth in Section III of the Ordinance.
- 5) Board of Zoning Appeals-A board appointed to hear and act of appeals of the Lee County Zoning Ordinance as set forth in Article X of the Lee County Zoning Ordinance.
- 6) Conical surface- A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to1 for a horizontal distance of 4,000 feet.
- 7) Hazard to air navigation- An obstruction determined by the Federal Aviation Administration and/or the Virginia Department of Aviation to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- 8) Height- For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- 9) Horizontal surface- A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

- 10) Larger than utility runway- A runway that is constructed for and intended to be used by aircraft of greater than 12, 500 pounds maximum gross weight.
- 11) Nonconforming use- Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- 12) Nonprecision instrument runway- A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in Nonprecision instrument approach procedure has been approved or planned.
- 13) Obstruction- Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
- 14) Person- An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, receiver, assignee, or similar representative of any of them.
- 15) Primary surface- A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway.
- 16) Runway- A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- 17) Structure- An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.
- 18) Transitional surfaces- These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each one (1) foot vertically starting from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- 19) Tree- Any object of natural growth
- 20) Utility runway- A runway that is constructed for and intended to be used by propeller driven aircraft of 12, 500 pounds maximum gross weight and less.

- 21) Visual runway- A runway intended solely for the operation of aircraft visual approach procedures.

### SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Lee County Airport,. Such zones are shown on the Lee County Airport Safety Zoning Map consisting of one sheet, prepared by Delta Airport consultants, dated January, 1997, which is attached to this Ordinance and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Runway Larger Than Utility With A Visibility Minimum Greater Than  $\frac{3}{4}$  Mile Nonprecision Instrument Approach Zone- The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Transitional Zones- The transitional zones are the area beneath the transitional surfaces.
3. Horizontal Zone- The horizontal zone is established by swinging arcs 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface or each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. Conical Zone- The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

### SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grown in any zone created by this Ordinance to a height in excess of the applicable height herein established for such zone. Any tree representing a hazard, as determined by the Virginia

Department of Aviation (VDOA) or the Federal Aviation Administration (FAA), and required to be partially or completely removed, shall be removed at the expense of the Lee County Board of Supervisors or the Lee County Airport Commission. Nothing contained herein shall prohibit the Lee County Board of Supervisors or the Lee County Airport Commission from seeking partial or full reimbursement of any such tree removal expenses for the VDOA and/or the FAA. Such applicable height limitations are hereby established for each of the zones in questions as follows:

- 1) Runway Larger Than Utility With A Visibility Minimum Greater Than  $\frac{3}{4}$  mile Nonprecision Instrument Approach Zone- Slopes thirty-four (34) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- 2) Transitional Zones- Slopes seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is planned to be 1,411 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each one (1) foot upward beginning at the sides of and the same elevation as to approach surface, and extending to where they intersect the conical surface.
- 3) Horizontal Zone- Established at 150 feet above the airport elevation or at a planned height of 1,561 feet above mean sea level.
- 4) Conical Zone- Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- 5) Excepted Height Limitations-Nothing in this Ordinance shall be constructed as prohibiting the construction or maintenance of any structure, or growth of any tree up to a height up to 50 feet above the surface of the land, except when, because of terrain, land contour, or topographic limits prescribed for such zones.

#### SECTION V: USE RESTRICTION

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

## SECTION VI: NONCONFORMING USES

1. Regulation Not Retroactive- The regulations prescribed in this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
2. Marking and Lighting- Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Lee County Board of Supervisors to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Lee County Board of Supervisors.

## SECTION VII: PERMITS

1. Future Uses- No material change shall be made in the use of land and no structure shall be erected or otherwise established, in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 4.
2. Existing Uses- No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to be come a greater hazard to air navigation, that it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed – Whenever the Zoning Administrator determines that nonconforming tree or structure has been abandoned or more than 60 percent torn down, physically deteriorated, decayed, or is damaged by any cause whatsoever to an extent greater than 60 of its most recent assessed taxable value, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variiances- Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Zoning Appeals for a variance from such regulations. The Board of Zoning Appeals shall submit the variance request to the Virginia Department of Aviation for evaluation and comment as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this County Airport Commission for comments. If the Lee County Airport Commission does not respond to the application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.
5. Obstruction Marking and Lighting- Any permit or variance granted may if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to permit the County of Lee at its own expense, to install, operate and maintain the necessary markings and lights.

#### SECTION VIII: ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator up on a form published for that purpose. Applications required by this Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted for denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Zoning Administrator.

#### SECTION IX: BOARD OF ZONING APPEALS

The Board of Zoning Appeals established by the Lee County Zoning Ordinance shall have and exercise the following powers with respect to this Ordinance: (1) to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Boarding of Zoning Appeals under such regulations may be required to pass; and (3) to hear and decide specific variances.

## SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Administrator, made in the administration of the Ordinance, may appeal to the Board of Zoning Appeals.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Zoning Appeals by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the notice of appeal has been filed with it that by reason of the facts stated in the certificate a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Zoning Appeals or notice to the Zoning Administrator and on due cause shown.
4. The Board of Zoning Appeals shall schedule meeting and hearings as outlined in Section 10-5 of the Lee County Zoning Ordinance. All proceedings of the Board of Zoning Appeals shall be in conformance with guidelines established by the Lee County Zoning Ordinance.

## SECTION XI: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Zoning Appeals, may appeal pursuant to Section 10-19 of the Lee County Zoning Ordinance.

## SECTION XII: PENALTIES

Each violation of this Ordinance or of any regulation order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1000); and each day a violation continues to exist shall constitute a separate offense.

## SECTION XIII: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structure or trees, or the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION XIV: SEVERABILITY

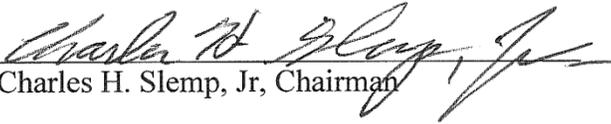
If any of the provisions of this Ordinance or the applications thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are declared to be severable.

SECTION XV: EFFECTIVE DATE

Whereas, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety and general welfare this Ordinance shall be in full force and effect from and as of the date of its adoption by the Lee County Board of Supervisors.

Adopted this 21<sup>st</sup> day of January, 2014.

LEE COUNTY BOARD OF SUPERVISORS

  
Charles H. Slemp, Jr, Chairman

ATTESTED:



D. Dane Poe, Clerk to the Board of Supervisors  
For the County of Lee