APPENDIX A

ZONING*

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APPENDIX A - ZONING*

Printed herein is the zoning ordinance of the town as adopted on_____ 2017. Amendments to the 2017 ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Cross reference(s)--Buildings and building regulations, Ch. 14; businesses, Ch. 18; street numbers for lots and buildings, § 42-46 et seq.
State law reference(s)--Zoning, Code of Virginia, § 15.2-2280 et seq.

ARTICLE I. LEGAL STATUS PROVISIONS

1.1. Preamble.

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

1.2. Title.

This ordinance shall be known and cited as the zoning ordinance of Chilhowie, Virginia. The map portion may be cited separately as the zoning map of Chilhowie, Virginia.

1.3. Authority.

This ordinance and map are adopted according to the authority of Code of Virginia, §§ 15.2-2280 et seq., as amended.

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

(a)The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, flood protection and other specific uses;
(b)The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;
(c)The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including the establishment of minimum lot sizes based on whether a public or community water supply or sewer system is available and used; and
(d)The excavation or mining of soil or other natural resources. Ref-Code of Virginia, § 15.2-2280 et seq.

1.4. Jurisdiction.

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

1.5. Interpretation.

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

1.6. Relationship to other laws and private restrictions.

1.6-1. Other laws.

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

1.6-2. Private restrictions.

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

1.7. Provisions are cumulative.

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

1.8. Separability.

It is hereby declared to be the intention of the town council of the Town of Chilhowie, Virginia, that the provisions of this ordinance are separable.

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

1.9. Ordinance provisions do not constitute permit.

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

1.10. Scope of regulations.

1.10-1. Use, buildings and structures. Upon the effective date of this ordinance no use, building or other structure shall hereafter be erected or altered in such manner as to become nonconforming or more nonconforming as:

(a)To exceed the height or bulk;

(b)To accommodate or house a greater number of families;

(c)To occupy a greater percentage of lot area;

(d)To have more narrow or smaller rear yards, front yards, side yards or other open space; than specified in each district; or
(e)To be used in any manner contrary to the provisions of this ordinance;
(f) To reduce the amount of required parking or other minimum standards set forth in this ordinance.

1.10-2. Yard or lot.

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

1.11. Vested rights of nonconforming uses.

Nothing in this ordinance shall be constructed to authorized [construed to authorize] the impairment of any vested right. All uses existing upon [November 20, 1986] which do not conform to the zoning prescribed for the district in which they are situated may be continued so long as the use continues and such use is not discontinued for more than one year in situations not involving a structure or two years where a nonconforming building is involved.

1.12. Construction of language.

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

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

[1.13. Reserved.]

1.14. Procedure for amendment.

1.14-1. Council or commission action.

The town council may from time to time, on its own motion, upon motion of the planning commission, or on petition as hereinafter provided, after public hearings as required by law and after report by the planning commission, amend, supplement, change or repeal the district boundaries or regulations herein or subsequently established.

1.14-2. Owner amendment.

A petition to amend or change the zoning ordinance or district boundaries herein or subsequently established may be filled [filed] with the zoning administrator by the owner(s) or representative agent of the owner(s) of an area proposed to be rezoned. A fee as provided in article V will be charged for the filing of such petition.

1.14-3. Hearing and notice required.

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

1.14-4. Report of planning commission.

No action shall be taken by the town council upon any motion or petition to amend this ordinance until such motion or petition has been referred to the planning commission for a report thereon and until such report has been received from the planning commission, unless a period of 30 days has elapsed after date of referral. If the planning commission does not transmit a report within this 30-day period it may be assumed that the planning commission has approved the motion or petition.

1.14-5. Amendment limited to one time within one year.

When any petition for a proposed change in this ordinance has been denied by the town council, no subsequent petition for the same, or substantially the same change, in whole or in part, shall be filed with or accepted by the zoning administrator, or any proceeding therefor commenced or maintained, within one year next succeeding the date of the action of the town council denying said proposed change.

1.15. Violation and penalty.

All departments, officials, and public employees of the Town of Chilhowie which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall issue no such permit or licenses for uses, buildings, or purposes where same would be in conflict with the provisions of this ordinance, [and, if issued, the same] shall be null and void. If a permit is issued in error and the person, firm or corporation using the permit in good faith, acts in accordance with the permit,

then the person, firm or corporation shall not be held in violation of the provisions of this ordinance. This use will become nonconforming, however.

Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than $10.00 nor more than $1,000.00 for each offense. Each day's continuance of such violation shall constitute a separate offense.

ARTICLE II. ZONING DISTRICTS ESTABLISHED AND OFFICIAL ZONING MAP

2.1. Establishment of districts.

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

Agriculture-conservation ..... A-C
Residential-general R-2
Business-general B-2
Business and Industrial BN-1
(Ord. of 11-10-88)

2.2. Provisions of official zoning map.

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

2.3. Identification or alteration of the official zoning map.

The official zoning map shall be identified by the town seal and the signature of the mayor under the following words: "This is to certify that this map is the official zoning map of the Town of Chilhowie," together with the adoption date of this ordinance.

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

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

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

State law reference(s)--Official map, Code of Virginia, § 15.2-2233 et seq.

2.4. Rules for interpretation of district boundaries.

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

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

ARTICLE III. DISTRICT REGULATIONS*

3.1. Agriculture-conservation (A-C) district.

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

3.1-1. Uses permitted.

Uses permitted in the agriculture-conservation (A-C) district shall be established in compliance with the standards of this activity article, article IV, supplementary regulations, and as specified in the Town of Chilhowie Code. Uses permitted shall be one or more of the following uses:

(a)Agriculture, general farming, horticulture, and forestry;
(b)Single-family and two-family dwelling;
(c)Home occupation as defined;
(d)Hunting or fishing cabin, fishing docks;
(e)Church;
(f) Accessory uses as defined.
(g) Mobile Homes

3.1-2. Conditional uses permitted.

Conditional uses in the agriculture-conservation (A-C) district shall be permitted following a public hearing and approval as set forth in article V. Conditional uses shall be one or more of the following uses:

(a)Schools, parks, playgrounds, golf courses;
(b)Tennis courts, swimming pools, lodges, private clubs not considered as an accessory use;
(c)Public utilities except distribution systems;
(d)Fire, police, rescue or similar public services; or
(e)Retirement or nursing homes.

3.1-3. Area of lot.

Area regulations for the agriculture-conservation (A-C) district for each permitted use shall be 15,000 square feet.

3.1-4. Setbacks for structures and livestock feeding.

The setback line for structures shall be 35 feet from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the centerline of any street less than 50 feet in width.

The setback line for livestock barns, sheds or feeding areas shall be 100 feet from the adjacent property line where the A-C district boundary is adjacent to a residential district boundary.

3.1-5. Lot frontage.

The minimum frontage for permitted or conditional uses shall be 100 feet measured at the setback line.

3.1-6. Yards.

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

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

3.1-7. Maximum height.

The maximum height for any structure shall be 45 feet, except a silo shall be excepted from this provision.

3.2. Residential-general (R-2) district.

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

3.2-1. Uses permitted.

Uses permitted in the residential-general (R-2) district shall be established in compliance with the standards of this article, article IV, supplementary regulations, and as specified in the town Code. Uses permitted shall be one or more of the following uses:

(a)Single-family dwelling;
(b)Two-family dwellings;
(c)Home occupation;
(d)Accessory use;
(e)Rooming[houses] and boardinghouses;
(f)Tourist homes; or
(g)Modular homes, as defined.

3.2-2. Conditional uses permitted.

Conditional uses in the residential-general (R-2) district shall be permitted following a public hearing and approval as set forth in articles V and VI. Conditional uses shall be one or more of the following uses:

(a)Schools, parks, playgrounds;
(b)Churches;
(c)Tennis courts, swimming pools not considered an accessory use;
(d)Multifamily dwelling units; or
(e)Medical or dental offices.

3.2-3. Area of lots. Area regulations for each use in the residential-general district shall be as follows:

(a)Single-family dwelling - 10,000 square feet, provided public water and sewer are available;

(b)Multifamily dwelling units - 5,000 square feet per unit, provided water and sewer are available;

(c) Multifamily dwelling units of four or more - 20,000 square feet plus 2,500 square feet for each unit over four, provided water and sewer are available;

(d)Medical and dental offices - 20,000 square feet; or

(e)Other permitted and conditional uses shall have to meet area, setback and parking requirements.

3.2-4. Setback for structures.

The setback line for structures shall be 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of any street less than 50 feet in width.

3.2-5. Lot frontage.

(a)The minimum frontage for permitted uses shall be 80 feet measured at the setback line.

(b)The minimum frontage for conditional uses shall be 100 feet as measured at the setback line.

3.2-6. Yards.

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

(a)Side yard shall be a minimum of ten feet on one side with a minimum of ten feet on the second side for a total minimum of 20 feet;

(b)The rear yard for each main structure shall be 25 feet;

(c) The side yard for an accessory structure shall be a minimum of five feet

(d)The minimum side yard for corner lots shall be 25 feet for both main and accessory structures from the nearest street right-of-way.

3.2-7. Maximum height.

The maximum height for structures shall be 40 feet.

3.2-8 Planned Residential Development. – see chapter 3 of the code of the Town of Chilhowie

3.3. Business-general (B-2) district.

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

3.3-1. Uses permitted.

Uses permitted in the business-general (B-2) district shall be established in compliance with the standards of this article, article IV, supplementary regulations, and as provided in the town Code. Uses permitted shall be one or more of the following uses:

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

3.3-2. Conditional uses permitted.

Conditional uses in the business-general (B-2) district shall be permitted following a public hearing and approval as set forth in articles V and VI. Conditional uses shall be one or more of the following uses:

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

3.3-3. Area of lots.

Area regulations for each use in the business-general (B-2) district shall not be required, however, an existing lot may not be divided or a building erected which would decrease the amount of parking required for uses or buildings established on the property.

3.3-4. Setback for structures.

The setback line for structures shall be ten feet from any street right-of-way.

3.3-5. Lot frontage.

A minimum frontage shall not be required.

3.3-6. Yard.

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

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

3.3-7. Maximum height.

The maximum height for structures shall be 45 feet.

3.3-8. Lot coverage.

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

3.3-9. Sidewalks required.

Sidewalks shall be required to be constructed to equal the existing width along a property frontage and no less than five feet if nonexistent.

3.4. Business and industrial (BN-1) district.

This district is designed to provide areas suitable for industrial development which can be compatible with adjacent commercial and residential areas. Any industrial use which could constitute a nuisance because of odor, fumes, smoke, noise or vibrations, will not be permitted. District boundaries will be established or expanded in conformance with the comprehensive plan.

3.4-1. Uses permitted.

Uses permitted in the business and industrial (BN-1) district shall be established in compliance with standards of this article, article IV, supplementary regulations, and as provided in the town Code. Uses permitted shall be one or more of the following uses:

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

(e)Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stones, rubber, shell, straw, textiles, tobacco, wood, yard [yarn] and paint;
(f) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas;
(g)Building material sales yards, plumbing supplies storage;
(h)Contractors' equipment storage yards or plants, or rental of equipment commonly used by contractors;
(i) Cabinets, furniture and upholstery shops;
(j) Boatbuilding;
(k)Monumental stoneworks;
(l) Veterinary or dog or cat hospital, kennels;
(m)Wholesale businesses, storage warehouses; or
(n)Truck terminals.

3.4-2. Conditional uses permitted.

Conditional uses in the business and industrial (BN-1) district shall be permitted following a public hearing and approved as set forth in articles V and VI. Conditional uses shall be one or more of the following uses:

(a)Quarries, sand, gravel or crushed stone operations;
(b)Sawmills and planning mills or wood preserving operations;
(c)Asphalt mixing;
(d)Public utilities
(e)Medical Treatment Facility

3.4-3. Area of lots.

Area regulations for each use in the business and industrial (BN-1) district shall not be less than 10,000 square feet and the size shall be sufficient to handle off-street turning and unloading of trucks, parking as required and in compliance with sewer or setback requirements.

3.4-4. Setback for structures.

The setback line for structures shall be 20 feet from any street right-of-way and 20 feet from any property line bordering a residential home.

3.4-5. Lot frontage.

The minimum lot frontage shall be 100 feet.

3.4-6. Yards.

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

3.4-7. Maximum height.

The maximum height for structures shall be 90 feet.

3.4-8. Noise.

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

ARTICLE IV. SUPPLEMENTARY DISTRICT REGULATIONS AND GENERAL PROVISIONS

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

4.1. Zoning affects every building and use.

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

4.2. Integrity of required open space.

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

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

4.3. Existing lots of insufficient size.

4.3-1. Lot of record--Separate ownership.

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

4.3-2. Two or more lots--Single ownership.

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

4.4. Visibility at intersections.

On a corner lot in any district, nothing shall be erected, placed, planted or allowed to be grown in such a manner as to impede vision between a height of 21/2 and ten feet within 15 feet of the intersecting street right-of-way.

4.5. Fences, walls and hedges.

Fences, walls and hedges may be permitted in any required yard or along the edge of any yard except as prohibited in article section 4.4. The maximum height of a fence shall be six feet.

4.6. Use of required yard area.

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

4.7. Accessory buildings.

An accessory building cannot be established unless a principal use exists on the property. No accessory building may be erected within ten feet of any side or back yard line.

4.8. Structures to have access.

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

4.9. Parking, storage or use of major recreational equipment.

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

4.10. One principal building on any lot.

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

4.11. Parking and storage of inoperable vehicles.

No automotive vehicle which does not display a current license plate may be parked on any public street for more than 24 hours. No more than two inoperable vehicles shall be stored on any open lot in any district except those vehicles being repaired in conjunction with an automobile service and repair business. This provision shall not apply to vehicles enclosed within a private garage.

4.12. Maintenance of property.

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

4.13. Maintenance of landscaping.

Landscaping required by this ordinance shall be maintained and any dead vegetation shall be replaced.

4.14. Height regulations, exceptions and limitations.

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

4.15. Home occupations.

The following limitations shall apply to home occupations:

(a)Family members residing on the premises and one other employee may be engaged in such occupation;

(b)The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(c)There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, nonilluminated, and mounted flat against the wall of the principal building;

(d)No home occupation shall be conducted in any accessory building;

(e)There shall be no retail or wholesale sales occurring on the premises in connection with such home occupation, except as incidental to the home occupation;

(f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street or in a rear or sideyard.

4.16. Nonconforming uses, lots and structures.

4.16-1. Intent.

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

4.16-2. Nonconforming structures.

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

(a) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

(b) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance; and

(c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4.16-3. Nonconforming uses of land.

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

(a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

(b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;

(c) If any such nonconforming use of land ceases for any reason for a period of more than 365 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located; and

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

4.16-4. Nonconforming uses of structures or of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of $1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;

(c) Any structure, or structure and land in combination in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of 12 consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. Vacancy of the premises due to change in lease shall not constitute discontinuance or abandonment so long as the owner is pursuing to advertising the property for lease; and

(e) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction.

4.16-5. Repairs and maintenance.

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

4.16-6. Change of nonconforming use in a nonconforming structure.

If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use, provided that the board of zoning appeals, either by general rule or by making findings in

the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of zoning appeals may require appropriate conditions and safeguards in accord with the provisions of this ordinance (see article VI).

4.16-7. Junkyards.

Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses. They shall be allowed up to three years after adoption of this ordinance in which to completely screen, on any side open to view from a public road, such operation or use by a masonry wall, a uniformly painted solid board fence, or an evergreen hedge six feet in height.

4.17. Minimum required space for off-street automobile parking.

Off-street parking shall be provided at the time of erection of any principal building, or at the time any principal building is enlarged. A new principal use may be allowed on a lot with insufficient parking provided the parking required for such a use does not exceed the parking required for the prior principal use on the same lot. All new parking must have adequate provision for access from a public street. Minimum parking requirements are as follows:

Use of Building	Minimum Number of Parking Spaces
Dwellings, of all types except elderly	Two spaces for each dwelling unit
Elderly housing	One space for every three units
Tourist homes, motels, hotels, and rooming houses	One space for each guest bedroom
Churches, auditoriums, theaters, stadiums and other places of assembly	One space for every four seats
Hospitals	One space for each two beds
Medical and dental clinics	Five spaces for each doctor, plus one per employee
Mortuaries or funeral homes	30 spaces
Retail stores selling directly to the public and personal service establishments	One space for each 250 square feet of retail floor space
Restaurants, cafes and taverns	One space for each four seats provided for customers
Dancehalls	One space for each 100 feet of floor space
Bowling alleys	Four spaces for each alley
Industrial and manufacturing establishments	One space for each two employees computed on the basis of the greatest number of persons to be

	employed on any one shift
Private clubs and lodges	Adequate space is determined by planning commission after submittal of site plan
Professional offices	One space for each employee, plus one space for every 500 square feet of floor space
Riding stables	Ten spaces
Fire stations	Ten spaces
Marinas and boat dock	One space for each berth, with a minimum of ten spaces
Boat launching ramp	Ten spaces, plus spaces for ten boat trailers
Schools (elementary and nursery)	Three spaces for each classroom, plus one space for each six seats in an auditorium or gymnasium and spaces for school buses
Schools (high)	Ten spaces for each classroom, plus one space for each five seats in an auditorium or gymnasium
Sanitariums, nursing homes and convalescent homes	One space for each four patient beds
Skating rinks	One space for each 200 square feet of floor area

4.17-1. General requirements for parking lots.

A parking space shall be a minimum of nine feet wide by 18 feet in length. Parking space shall be served by a driveway with a minimum width of 18 feet and all spaces over four required shall be provided with turnaround or maneuvering which will not require backing into a public street or right-of-way. All commercial, industrial, or public use parking shall be provided with space for turning or maneuvering which will not require backing into public street right-of-way.

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

4.17-2. Design requirements.

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

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

4.18. Off-street loading space.

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

(a)At the time building plans for commercial or industrial uses are submitted, the zoning administrator shall require submission of specific information in writing as to the size of delivery vehicles and frequency of delivery;
(b)Construction plans shall not be approved without a site plan drawn to scale which can show that off-street loading can be provided without backing, or maneuvering into a public street right-of-way;
(c)An off-street loading space shall be a minimum of 20 feet wide by 60 feet long;
(d)A minimum of one space shall be required for all retail commercial uses; and
(e)The required spaces for other public, commercial, or industrial use shall be as follows:

Use	Floor Area in Square Feet	Required Spaces
Public assembly	N/A	1
Health care	N/A	1
Community education	N/A	1
Retail sales	Less than 20,000	1
Retail sales	20,000 and up	2 plus 1 for each 40,000 square feet over 80,000
Wholesale and industrial	50,000 and up	2 per 50,000 square feet

4.19. Solid waste disposal.

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

4.20. Sign regulations.

4.20-1. Purpose.

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

4.20-2. Exclusion from sign regulations.

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

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

4.20-3. Prohibition of obstructive and certain signs.

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

4.20-4. Temporary mobile or trailer signs.

Temporary mobile or trailer-mounted portable signs are not permitted. Signs that advertise a product, service or other business not situated on the same premises are prohibited. Mobile or Trailer mounted signs may become compliant by attaching them to an imbedded metal or wood post.

4.20-5. Location of signs.

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

4.20-6. Height of signs.

There is no limitation on height of signs.

4.20-7. Overhanging signs.

One existing overhanging sign is allowed to protrude over a sidewalk where buildings have been built on the front lot line, provided that any such sign shall not be allowed to protrude more than five feet from the building front, and shall not exceed one square foot for 20 square feet of that business storefront, up to a maximum of 24 square feet. Where buildings are built on the front property line without any setback all new signs shall be flush-mounted. Flush signs shall not protrude more than 15 inches. The minimum clearance over a private driveway shall be 15 feet as measured from the bottom of the grade of the driveway.

4.20-8. Under canopy signs.

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

4.20-9. Motion or nonstationary signs.

No sign or any portion thereof shall be permitted which moves or assumes any motion constituting a nonstationary or fixed condition except for the rotation of barber poles. Signs which are not permanently attached to the ground or a building except as otherwise noted in this ordinance are prohibited.

4.20-9.1. Billboards.

Definition: A "billboard" is defined to mean any sign or structure, the sole or primary purpose of which is to be used for the display of outdoor advertisements or notices or posters and is located off of the premises of the business it advertises. Billboards are permitted in all zones except R-2 but only by conditional use permit.

4.20-10. Nonconforming signs and closed businesses.

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

4.20-11. Sign type area and number of signs.

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

(a)The area of sign for identification shall be two feet per front foot or a maximum of 100 square feet as measured by the smallest rectangle placed over the sign; If the purpose of the sign is to advertise to traffic traveling on Interstate 81 then the sign area may exceed 100 square feet but only by a conditional use permit.

(b)The area of product trade signs shall be 30 square feet for a total of 60 square feet; and

(c) Only one pole-mounted sign shall be allowed for each business.

4.20-12. Sign construction.

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

4.20-13. Sign permit required.

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

4.21. Uses not specified.

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

State law reference(s)--Public hearings, Code of Virginia, § 15.2-2204.

4.22. Mobile Homes.

Mobile homes must be located in a designated mobile home park. Nonconforming mobile homes may be replaced within 30 days, provided they meet setback and yard regulations.

4.23. Mobile Home Park

4.23-1 General Requirements

(a)Mobile home parks shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. The slope of the land shall not exceed 15 percent.

(b)All streets within the mobile home park shall be all-weather streets. The owner/developer shall maintain the streets and shall be responsible for the removal of snow and ice.

(c) Each lot shall be provided with the appropriate electrical connections which shall be weatherproof and shall be in compliance with the National Electrical Code.

(d) All mobile homes shall be underpinned, and axles and wheels shall be covered. The trailer hitch shall be removed if it is the removable type or shielded if not removable. All mobile homes shall be installed and anchored in accordance with state requirements.

(e) Each lot shall be provided with a concrete parking pad large enough for one car and a concrete walkway from the parking pad to the main entrance of the mobile home. The parking pad shall be at a minimum of ten feet wide and 20 feet long. The walkway shall be at a minimum of three feet wide.

(f) Each mobile home park with four or more mobile home lots shall set aside an area to be used as a recreational area for the park residents. The area should be centrally located and easily accessible to all residents. The size of the area shall contain no less than ten percent of the total land area of the park.

(g) Travel trailers shall not be parked in mobile home parks. However, special travel trailer parks may be developed. A travel trailer park shall conform to this ordinance except for the provisions in [section] 4.23-2.

(h) Reserved.

(i) Existing mobile home parks shall be exempt from [sections] 4.23-1 and 4.23-2 of this ordinance. Any addition to an existing mobile home park shall conform to the entire ordinance.

(j) Storage building may be allowed only in side or rear yards. The buildings shall be anchored and detached from the mobile home. No flammable material may be stored under a mobile home.

4.23-2. Area requirements.

(a) A mobile home park shall be a minimum of two acres and a maximum of five acres and shall contain a maximum of four mobile homes per acre.

(b) Each mobile home lot or space designed to accommodate one mobile home shall have a minimum area of 4,000 feet, one side of which shall front on an internal street, road or right-of-way.

(c) Each mobile home lot or space shall have a minimum width of 45 feet at the ten-foot setback line from a private drive.

(d) Mobile home stands for mobile homes shall be arranged so as to provide a distance of at least 30 feet or more between individual mobile homes, or 15 feet from the property or mobile home lot line.

(e) Each mobile home shall be placed not less than 25 feet from the right-of-way of any existing public street or highway.

(f) All internal drives shall have a minimum right-of-way width of 40 feet or more. They shall be improved to a minimum width of 20 feet. Cul-de-sac streets shall not be longer than 500 feet, with a minimum of 100 feet for the turnaround, right-of-way and 40 feet improved. No street shall have a grade that exceeds 15 percent.

4.23-3. Sanitary facilities.

(a)An adequate supply for water under pressure from a source and of a quality approved by the state department of health shall be provided. Water shall be piped to each mobile home lot.

(b)Mobile homes shall not be occupied until water and sewer connections have been approved by the health department.

(c)Each mobile home park shall provide a garbage collection box for use by the residents of the park. The collection box shall be at a central location. The park owner shall be responsible for disposal of the garbage.

4.23-4. The mobile home park plan.

(a)Application for mobile home park. The developer of the mobile home park shall submit to the administrator five copies of the mobile home park plan at a scale of one-inch equals 100 feet which shall show thereon:

(1)The proposed mobile home park name and location;

(2)The names and addresses of the owner of record, developer, the person who proposed [prepared] the drawings, and holder of any easements affecting the property;

(3)The name of all owners of record immediately adjacent to property proposed as a mobile home park;

(4)The date of drawing, true north point, and scale;

(5)A survey plat of the property;

(6)The location and names of all existing or platted streets within or adjacent to the proposed mobile home park and the location of existing buildings, easements, rights-of-way, utility lines and drainage ways;

(7)Plat showing layout of lots, streets, water lines, sewer lines and septic tanks, and the location of the mobile home on lot;

(8)An application fee for administration and inspection shall be charged as determined by the governing body.

(b)Supporting information.

(1)Vicinity map--The mobile home park plan shall include a vicinity map at a scale of one inch equals 2,000 feet (1" = 2,000') showing the surrounding area. This map should identify all subdivision or mobile home parks and any other prominent natural feature or landmark in any area extending one-half mile on each side of the proposed park.

(2)Statement of availability of water and sewer and method of providing each to the park. The developer shall submit a copy of the health department permit for a septic tank system, if the park will not be served by a public sewer system. The developer shall also submit a letter approving the water system.

(3)Private restriction, if any, proposed for the mobile home park.

(4)Sedimentation and erosion control measures proposed for the mobile home park, on the advice of the area conservationist.

(5)Copy of highway access permit.

4.24. Floodplain district.

(See Appendix B. Floodplain District)

4.25. Subdivisions

(See Chapter 46, Subdivisions, Chilhowie Code of Ordinances)

ARTICLE V. ADMINISTRATION OF ZONING ORDINANCE*

**Cross reference(s)--Administration, Ch. 2.*

5.1. Creation and authorization of the office of zoning administrator.

The office of zoning administrator is hereby established to administer and enforce this ordinance. The zoning administrator shall be designated by the town council and may be provided with the assistance of other persons at the direction of the town council.

5.2. Duties of zoning administrator on issuance of permits.

The zoning administrator shall be responsible for the administration and enforcement of this ordinance and shall have all necessary authority on behalf of the town council to carry out the following duties:

5.2-1. Issuance of permits.

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

5.2-2. Zoning permits required.

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

5.2-3. Permits not to be issued.

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

5.2-4. Certificate of zoning compliance.

A certificate of zoning shall be issued as follows:

(a)New construction. A certificate of zoning compliance shall be issued within five working days after construction has been completed. The premises are to be inspected and certified by the office of the zoning administrator to be in conformity with the plans and specifications upon which the zoning permit were [was] based. A certificate of zoning compliance issued in violation of this ordinance shall be void and of no effect. No permit for excavation or construction shall be issued by the zoning

administrator before he is satisfied that the plans, specifications and intended use conform to the provisions of this ordinance;

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

(c) Existing nonconforming uses or buildings. A certificate of zoning compliance for all nonconforming industrial and commercial uses shall be applied for by the tenant, owner or agent of the property occupied by such nonconforming use within twelve months from the effective date of this ordinance. It shall be the duty of the zoning administrator to give public notice in a local newspaper to this effect four times within 60 days of the adoption of this ordinance. Upon expiration of the said 12 months, failure to produce a certificate of zoning compliance for any such nonconforming use shall give rise to the rebuttable presumption that such nonconforming use was not lawful on the effective date of this ordinance. From and after the effective date of this ordinance, the provisions of this section shall apply to any lawful use thereafter made to be a nonconforming use by amendment of this ordinance, except that the only public notice required in connection therewith is that required by law prior to such amendment.

5.2-5. Plans required for zoning permits--Procedures for approval or disapproval.

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

(a) If the proposed building or use is found to conform to the provisions of this ordinance, the administrator shall issue a zoning permit to the applicant. One copy of the approved plans shall be issued to the applicant. One copy shall be forwarded or taken to the building inspector for his files. One copy shall be retained in the administrator's files.

(b) If the proposed building or use is not in compliance, the administrator shall disapprove of the permit and advise in writing the applicant as to what measures could be taken to bring about compliance through a change in the plans. An applicant shall also have right of appeal as permitted.

5.2-6. Application forms.

The zoning administrator shall provide application forms and instructions for the applicant that clearly facilitate timely review of the application. No permit shall be issued

without street address, route number, approximate location, tax parcel number and legal description of the subject property.

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

5.3. Duties of administrator on zone amendments, zone changes, conditional uses and variances and appeals.

5.3-1. Applications and fees.

The zoning administrator shall be responsible for receiving each application for a zoning amendment, zone change to the zoning map, conditional use, variance or appeal. The application shall not be processed until the required fee has been paid. No application for a zoning amendment, e.g., a change in use, or an application for a zoning change, i.e., district, will be received or accepted with regard to the same request within a one-year period.

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

(a)Zoning Application $30.00
(b)Zone change or amendment ..... $250.00 plus cost of publication
(c) Conditional use ..... $250.00 plus cost of publication
(d)Variance ..... $250.00 plus cost of publication
(e)Appeal to board of zoning appeals ..... $250.00 plus cost of publication
The fee may be waived for any governmental agency.

5.3-2. Procedure.

The zoning administrator shall, after consultation with the planning commission chairman or mayor, advertise the application for hearing as required by the Code of Virginia, 1950, as amended. The zoning administrator shall be responsible for mailing notice to affected property owners one week prior to the hearing. Addresses in the commissioner of revenue's office shall constitute valid addresses. Requests for a zone change shall be reviewed in conformance with the town's comprehensive plan.

State law reference(s)--Public hearings, notice, Code of Virginia, § 15.2-2204.

5.4. Duties of administrator regarding enforcement and remedies.

5.4-1. Complaints regarding violations.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis of such complaint and shall be filed with the zoning administrator. The zoning administrator shall properly record the complaint, immediately investigate and take such action as provided for in this ordinance. The town attorney shall be immediately advised of all violations of this ordinance. The town attorney shall report to the council any violations not abated through orders issued by the zoning administrator.

5.4-2. Penalties for violation.

Violations of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) following official notification shall constitute a misdemeanor and may be punished by a fine of not less than $10.00 nor more than $1,000.00. Each day such violation exists may be deemed a separate offense.

The owner or tenant of any building, structure or premises and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may be punished as heretofore provided.

5.4-3. Remedies.

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

Should such notice fail to force compliance within 30 days, the zoning administrator shall request that the town council authorize the town attorney to bring legal action to insure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding.

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

5.4-4. Appeal.

An appeal of the zoning administrator decisions may be filed within 15 days by filing a letter with the zoning administrator. Appeals shall go to the board of zoning appeals.

5.5. Conditional use provisions.

Certain uses of land and buildings, designated in article III, district regulations, as conditional uses, may be permitted in one or more of the various districts only after individual consideration and reconsideration by the planning commission, followed by approval by the town council.

Such conditional uses are deemed to be generally appropriate to the district or districts to which they are assigned under this ordinance, and reasonably harmonious with the uses permitted in said districts as a matter of right, provided that the location and design of the site in each case is determined by the planning commission to be in accord with standards herein set forth.

It is the intent of this section that the designation of certain uses as conditional for certain districts, and the procedures set forth for the review and approval or disapproval of such uses, be administered so as to further the purposes of this ordinance and facilitate the creation of a convenient, attractive and harmonious community.

5.5-1. Procedures for review and approval of conditional uses.

Any person desiring to use any land or building in a manner classed by this ordinance as a conditional use for the district in which said land is located shall make application to the zoning administrator for a conditional use permit, and shall submit supporting maps and other documents as required by sections 5.5-2 and 5.2-6.

5.5-2. Public hearing and report to council.

The zoning administrator shall forward the application to the planning commission, which shall hold a public hearing thereon in accordance with Code of Virginia, § 15.2-2204, as amended. After receiving a report and recommendation from the zoning administrator, the planning commission shall either approve or disapprove the application for a conditional use permit. The planning commission shall authorize the granting of the permit if it determines the proposed development is in full compliance with the standards set forth in section 5.5-3 and shall record its finding concerning such compliance. Upon approval by the planning commission, a report shall be made to the next town council meeting. The decision of the commission shall be final unless the town council motions to amend or override the commission decision.

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

5.5-3. General requirements.

A conditional use permit may be granted provided the planning commission finds that the proposed conditional use:

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

5.5-4. Conditions.

In authorizing a permit for any conditional use provided for in this ordinance, the planning commission, after report and recommendation by the zoning administrator, may impose specific conditions on the development and use of land as necessary to assure compliance with the standards set forth in section 5.5-3. Such conditions may include, but are not limited to: dimensional requirements for front, side, and rear yards greater than those specified elsewhere in this ordinance; screening by planting or fences or other devices, landscaping for appearance; dedication of land for street purposes; construction of turning lanes on public roads; prohibition and/or regulation of signs; requirement of additional parking spaces and limiting hours of operation.

ARTICLE VI. BOARD OF ZONING APPEALS AND ADMINISTRATION OF VARIANCES

6.1. Creation, membership and appointment of the board.

The board of zoning appeals is hereby established which may be referred to in this ordinance as the "board" or "board of zoning appeals." The board shall have jurisdiction

within the corporate limits of the Town of Chilhowie, and it shall consist of five residents of the town, appointed by the circuit court of the county. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the town except that one may be a member of the planning commission.

6.1-1. Terms of office of board members, vacancies, removals.

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

6.1-2. Staff of board and compensation of board members.

Within the limits of funds appropriated by the town council, the board may employ or contact for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the town council.

6.1-3. Powers of the board.

The board is hereby vested with the powers to:

(a) Hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in carrying out the administration or enforcement of the ordinance;
(b) Hear and act upon application for variances in accordance with this article to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reason of unique shape, topography or physical features of the lot;
(c) Hear and decide appeals from the decision of the zoning administrator;
(d) Hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary;
(e) Hear and decide appeals from the decision of the planning commission or town council concerning conditional use permits and special exceptions;
(f) Hear and decide all other matters referred to it on which it is required to act under this ordinance; and
(g) Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

6.1-4. Election of officers.

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

6.1-5. Stay of proceedings.

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

6.1-6. Rules and proceedings of the board.

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

(a)The presence of a majority of all members of the board shall constitute a quorum;

(b)No action shall be taken by the board on any case until after a public hearing and notice thereof shall be published and mailed in accordance with Code of Virginia, § 15.2-2204, as amended;

(c)Appeals to the board shall be taken within 15 days after the decision appealed from by filing with the zoning administrator and with the board, a notice of appeal specifying the grounds of the appeal. The zoning administrator shall then transmit to the board all the papers constituting the record upon which the action was taken;

(d)The board shall fix a reasonable time for hearing the application or appeal, give public notice thereof as well as notify interested parties and decide the same within 60 days;

(e)The board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance form [from] the ordinance;

(f) The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the town clerk and shall be public records. The chairman of the board, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses;

(g)The board may call upon any other office or agency of the Town of Chilhowie for information in the performance of its duties, and it shall be the duty of such other agencies to render the information to the board as may be reasonably required;

(h)Any office, agency or department of the Town of Chilhowie or other aggrieved party may appeal any decision of the board to the circuit court of Grayson County as provided for in Code of Virginia, § 15.2-2314, as amended;

(i)In decisions or variance, the board shall indicate the specific section of this ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare." The board shall state clearly the specific conditions imposed in granting the variance. For variance cases pertaining to hardship, the board shall specifically identify the hardship warranting such action by the board;

(j) At the public hearing of the case before the board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other; and

(k) The Chilhowie planning commission shall be permitted to submit an advisory opinion on any matter before the board, and such opinion shall be made part of the record of the public hearing.

State law reference(s)--Board of zoning appeals, Code of Virginia, § 15.2-2308.

6.2. Variance.

6.2-1. Application for zoning variance.

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

6.2-2. Notice to affected property owners.

Notice to affected property owners and public agencies including the Chilhowie planning commission and town council shall be given in accordance with notice and hearing procedures of Code of Virginia, § 15.2-2204, as amended.

6.2-3. Standards for variances. The board shall not grant a variance unless it finds:

(a) That the property owner acquired the property in good faith, and that by reason of exceptional narrowness, shallowness, size or shape, or exceptional topographic conditions of the property, or of the use or development of property immediately adjacent to it, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property;

(b) That the strict application of the ordinance would product [produce] undue hardship;

(c) That the hardship is not generally shared by other properties in the same zoning district and the same vicinity;

(d) That the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant;

(e) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;

(f) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

(g)That the variance shall be in harmony with the intended spirit and purpose of this ordinance;

(h)That financial concerns shall not be sole consideration as a basis for granting a variance; and

(i) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

6.2-4. Nonconforming does not constitute grounds for granting a variance. No permitted or nonconforming use of neighboring lands, structures or buildings in the same district or in other districts shall be considered grounds for the issuance of a variance.

6.2-5. Prohibition of use variances.

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

6.2-6. Conditions and restrictions by the board.

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

6.3. Variance appeals.

Any person, including any agency of the town government, aggrieved by a decision of the board on a variance may appeal any decision of the board to the circuit court of the county as provided for in Code of Virginia, § 15.2-2314, as amended.

ARTICLE VIII. DEFINITIONS

7.1. General provisions.

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

7.2. Accessory.

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

7.3. Alley.

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

7.4. Automobile graveyard.

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

7.5. Automotive service.

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

7.6. Basement or cellar.

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

7.7. Boardinghouse.

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

7.8. Building.

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

7.9. Building height.

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

7.10. Bulk.

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

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

7.11. Clinic.

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

7.12. Community education.

Structure or location where knowledge is taught.

7.13. Conditional use or special permit.

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

7.14. Construction sales and service.

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

7.15. Convenience sales and services.

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

7.16. Daycare

A place, program, or organization that takes care of children during the day usually while their family members are at work with all necessary state, federal, and local licenses and approvals.

7.17. Development.

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

7.17.1 Dwelling, manufactured home.

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

7.18. Dwelling, mobile home (singlewide and doublewide).

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

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

7.19. Dwelling, modular home.

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

7.20. Dwelling, multifamily.

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

7.21. Dwelling, other.

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

7.22. Dwelling, single-family detached.

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

7.23. Dwelling, two-family or duplex.

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

7.24. Dwelling unit.

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

7.25. Family.

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

7.26. Flood.

A general and temporary inundation of normally dry land areas.

7.27. Floodway.

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

7.28. Floodplain.

(1)A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation;

(2)An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

7.29. Floor area.

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

(1)Areas used for off-street parking spaces or loading berths, driveways and maneuvering aisles relating thereto required in this ordinance.

(2)In the case of nonresidential facilities: arcades, porticos, and similar open areas which are located at or near street level, which areas [are] accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

7.30. General personal service.

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

7.31. Home occupation.

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

7.32. Hospital.

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

7.33. Incidental alterations.

(1)Changes or replacements in the nonstructural parts of a building or other structure without limitation to the following examples:

(a)Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;

(b)A minor addition to the exterior of a residential building, such as an open porch;

(c)Alterations of interior nonloadbearing partitions in all other types of buildings or other structures;

(d)Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits.

(2)Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:

(a)Making windows or doors in exterior walls;

(b)Replacement of building facades having nonloadbearing capacity; and

(c)Strengthening the floor loadbearing capacity, in not more than ten percent of the total floor area, to permit the accommodation of specialized machinery or equipment.

7.34. Junkyard.

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

7.35. Kennel.

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

7.36. Landscaping.

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

7.37. Library.

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

7.38. Lot.

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

7.39. Lot area.

The entire area of a lot.

7.40. Lot frontage.

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

7.41. Lot line.

A line marking the boundary of a lot.

7.42. Lot measures.

(1)Lot depth shall be the average horizontal distance between the front and rear lot lines.

(2)Lot width shall be the average horizontal distance between side lot lines.

7.43. Lot of record.

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

7.44. Manufacturing.

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

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

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

[3]Blacksmith shop, welding or machine shop, excluding punch presses exceeding 40-ton-rated capacity and drop hammers.

[4]Laboratories, pharmaceutical or medical.

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

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

[7]Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired by electricity or gas, or other environmentally safe energy.

[8]Manufacture of cabinets, furniture and upholstery shops.

[9]Boat building.

[10]Monumental stone works.

[11]Truck terminals.

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

7.45. Mobile home.

(See Dwelling, mobile home.)

7.46. Mobile home park.

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

7.47. Mobile home space.

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

7.48. Mobile home stand.

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

7.49. Motel, motor hotel, motor lodge.

Shall mean the same as Transient lodgings.

7.50. Nonconforming.

(1)Any lawful building or other structure which does not comply with any one or more of the applicable bulk regulations; or

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

[7.50.1.] 100-year flood (base flood).

A flood that, on the average, is likely to occur once every 100 years (i.e., that has one percent chance of occurring each year, although the flood may occur in any year).

7.51. Place of worship.

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

7.52. Principal activity.

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

7.53. Principal building.

A building which contains the principal activity or use.

7.54. Private recreation facility.

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

7.55. Profession (professional office).

The term "profession" is limited to physicians and surgeons, lawyers, members of the clergy, architects, engineers, or other persons holding advanced degrees. The term is not intended to include insurance agents, insurance adjusters, realtors, photo studios, beauty parlors, barbershops, dance schools, business schools or any persons engaged in sales or trade.

7.56. Recreational equipment, major.

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

7.57. Retail stores and shops.

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

7.58. Required yard.

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

7.59. Residence.

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

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

7.60. Restaurant.

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

7.61. School.

An institution for the teaching of children with all necessary state, federal, and local licenses and approvals.

7.62. Setback line.

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

7.63. Sign.

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

(1)Is a structure or any part thereof, or is attached to, painted on, or in any manner represented on a building or other structure, and
(2)Is used to announce, direct attention, or advertise, and
(3)Is visible from outside a building.
A sign shall include writing, representation, or other figure of similar character within a building only when illuminated and located within a window.

7.64. Sign, civic.

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

7.65. Sign, realty.

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

7.66. Sign, residential.

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

7.67. Story.

A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

(1)A basement or cellar if the finished floor level directly above it is not more than six feet above the average adjoining elevation of finished grade.
(2)An attic or similar space under a gable, hip or gambrel roof, [in which] the wall plates or any exterior walls are not more than two feet above the floor of such space.

7.68. Street.

A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property. The word "street" shall include the words "road," "highway," and "thoroughfare."

7.69. Street line.

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

7.70. Structure.

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

7.71. Subdivision

The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or of building development, including all changes in street or lot lines and the creation of any new street or easement.

7.72. Transient lodgings.

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

7.73. Travel trailer.

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

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

7.74. Use.

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

7.75. Use and occupancy permit.

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

7.76. Use, public.

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

7.77. Use, recreation.

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

7.78. Utility facilities.

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

7.79. Variance.

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

7.80. Wholesale sales.

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

7.81. Yard.

An open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance. The measurement of a yard shall be construed as the minimum horizontal distance between the lot lines and any part of the building, such as roof overhang.

7.81-1. Yard locations of accessory uses.

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

7.82. Yard, front.

A yard extending along the full length of a front lot line. In the case of a corner lot, a yard of at least the full depth required for a front yard in these regulations, and extending along the full length of a street line shall be considered a front yard. At least two such yards shall be designated for each corner lot, at least one such yard shall be designated for each through lot.

7.83. Yard, rear.

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

7.84. Yard, side.

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

7.85. Zoning permit.

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

APPENDIX B

FLOODPLAIN

1. Purpose.

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

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

2. Applicability.

These provisions shall apply to all lands within the jurisdiction of the Town of Chilhowie and identified as being in the 100-year floodplain by the Federal Insurance Administration.

3. Compliance and liability.

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

4. Abrogation and greater restrictions.

This ordinance supersedes any ordinance currently in effect in floodprone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

5. Severability.

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

6. Definitions.

A. Base flood/100-year flood - A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).
B. Base flood elevation (BFE) - The Federal Emergency Management Agency designated 100-year water surface elevation.
C. Basement - Any area of the building having its floor subgrade (below ground level) on all sides.
D. Board of zoning appeals - The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this ordinance.
E. Development - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
F. Floodplain - Any land area susceptible to being inundated by water from any source.
G. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
H. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.
I. Lowest floor - The lowest floor of the lowest enclosed area (including basement).
J. Recreational vehicle - A vehicle which is:
    a. Built on a single chassis;
    b. Four hundred square feet or less when measured at the largest horizontal projection;
    c. Designed to be self-propelled or permanently towable by a light duty truck; and
    d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
K. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

L. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include either:
   (1)Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
   (2)Any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."

ARTICLE II. ESTABLISHMENT OF ZONING DISTRICTS.

7. Description of districts.

A. Basis of districts. The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for The Town of Chilhowie prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 1977, and Flood Insurance Rate map dated June 15, 1978, as amended.

Note: Subsections 1 and 2 and 3 are for use where a floodway has been delineated and separate floodway and flood-fringe districts will be established.

1. The floodway district is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in table 1 of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.
2. The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.
3. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey, Flood-Prone Quadrangles, etc., then the applicant for the proposed use,

development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town of Chilhowie.

B. Overlay concept.

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

8. Official zoning map.

The boundaries of the floodplain districts are established as shown on the flood boundary and floodway map and/or flood insurance rate map which is declared to be a part of this ordinance and which shall be kept on file at the Town of Chilhowie offices.

9. District boundary changes.

The delineation of any of the floodplain districts may be revised by the town council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

10. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

ARTICLE III. DISTRICT PROVISIONS.

11. General provisions.

A. Permit requirement. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such

development shall be undertaken only in strict compliance with the provisions of the [zoning] ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Chilhowie Subdivision Regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels of floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or relocation of watercourse. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Soil and Water Conservation) and the Federal Insurance Administration.

C. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Site plans and permit applications. Certified elevations required. The zoning administrator shall not issue any permit until site and building plans have been submitted which show clearly the property boundaries, location of proposed building, location of the stream channel, elevation as measured above mean sea level for the minimum floor level of any habitable structure and the elevation of the 100-year flood as established in the Federal Insurance Rate Study. **Elevations for habitable structure or commercial building shall be certified by a registered engineer, architect or land surveyor and shall be at or above the 100-year flood elevation.** All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. For structures to be elevated, the elevation of the lowest floor (including basement).
2. For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
3. The elevation of the 100-year flood.
4. Topographic information showing existing and proposed ground elevations.

E. Recreational vehicles. Recreational vehicles placed on sites either:

(i) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or

(ii) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Uniform Statewide Building Code.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

12. Floodway district.

In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year elevation.

In the floodway district no development shall be permitted except where the effect of such development on flood heights in fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities as required above.

13. Permitted uses in the floodway district.

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
C. Accessory residential uses, such as yard areas, gardens, play areas, and previous loading areas.
D. Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, airport landing strips, etc.

14. Flood-fringe and approximated floodplain districts.

In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Within the approximated floodplain district, all new subdivision proposals and other purposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle-

-equal reduction of conveyance--shall be used to make the determination of increased flood heights.

Within the floodway area delineated by the applicant, the provisions of section 7 shall apply.

15. Factors to be considered.

Utilities and facilities. All new or replacement water supply systems and sanitary sewage systems, together with attendant facilities located in areas subject to flooding, shall be designed and constructed so as to minimize or eliminate flood damage, infiltration or inflow of floodwater into the system, and discharge or overflows from the system into floodwaters.

All new or replacement gas or electrical distribution systems, together with attendant facilities, shall be designed, located, and constructed so as to minimize or eliminate flood damages.

Adequate drainage shall be provided to reduce exposure to flood hazards.

Manufactured homes. All manufactured homes to be placed or substantially improved in the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the provisions of the Virginia Uniform Statewide Building Code.

ARTICLE IV. VARIANCES.

16. Factors to be considered.

In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.
B. The danger that materials may be swept on to other lands or downstream to the injury of others.
C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
E. The importance of the services provided by the proposed facility to the community.
F. The requirements of the facility for a waterfront location.
G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
K. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
M.Such other factors which are relevant to the purposes of this ordinance [section].

The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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

16. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the 100-year flood elevation.
B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value, elevation and/or floodproofing should be considered to the greatest extent possible.
C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.

Chapter 46

SUBDIVISIONS*

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ARTICLE I. IN GENERAL

Sec. 46-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator or agent means the official designated by the town council to administer and enforce all provisions of this chapter.

Alley means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage and access is on a street.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of the town.

Building means any structure built for the support, shelter or enclosure of person, animal, chattel or movable property of any kind, and which is permanently affixed to the land.

Building setback line means a line in front of which the erection of any portion of a building is prohibited.

Comprehensive land use plan means the comprehensive plan of the town.

Cul-de-sac means a local public street having only one outlet, with an appropriate turnaround for the safe and convenient reversal of traffic.

Developer means an owner of property being subdivided, whether or not represented by an agent.

Easement means a grant by the property owner of the use of land for a specific purpose or purposes.

Engineer means an engineer licensed by the state.

Frontage means the length of the property line of any lot, lots, or tract of land measured along a public street, road, or highway against which land abuts.

Grade means the slope of a road, street or other public way, specified in percent and shown on street profile plans as required in this chapter.

Grade, landing means the grade required on streets entering major thoroughfares, at points of intersection, as specified in this chapter.

Health officer means the health director or sanitarian of the county.

Highway department means the state department of transportation.

Highway engineer means the resident engineer employed by the state department of transportation serving the county.

Improvements means public utilities, circulation and drainage facilities, including but not limited to: streets; storm and sanitary sewer systems; curbs and gutters; culverts, catch basins and other drainage structures; water lines and fire hydrants; sidewalks; and street signs.

Jurisdiction means the area or territory subject to the legislative control of the town council.

Lot means a numbered and recorded portion of a subdivision intended for transfer or for building development for a single building and its accessory building.

Lot, butt means a lot at the end of a block and located between two corner lots.

Lot, corner means a lot abutting two or more streets at their intersections; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

Lot, depth of means the mean (average) horizontal distance between the front and the rear lot lines.

Lot, interior means a lot other than a corner lot.

Lot, through means a lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

Lot, width of means the horizontal distance between the side lines of a lot measured along the front at the setback line.

Owner means any person, group of persons, firm, corporation or any other legal entity having legal title to the land sought to be subdivided under this chapter.

Pedestrian way or crosswalk means a right-of-way across, along, or within a block, for use by pedestrian traffic whether designated as a pedestrian way, crosswalk or otherwise designated, and which may include utilities.

Performance bond means the bond from a surety company authorized to conduct business in the state, in an amount sufficient for and conditioned upon the construction of all improvements stipulated by the town.

Planned unit development means a tract of land which contains or will contain two or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas. Types of development which may be reviewed and approved as planned units include, but not limited to the following: residential communities, and mobile home residential complexes.

Planning commission means the planning commission of the town.

Planning department means the planning department of the town.

Property means any piece, tract, lot, parcel of land or several of them collected together for the purpose of subdividing.

Public works department means the department of the town which is charged with the responsibility of maintaining and operating town utilities, streets and other services.

Resubdivision means an authorized change in property lines of a recorded subdivision.

Right-of-way means a piece or strip of land set aside for use as a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another public use.

Roadway means that portion of a street used by vehicular traffic.

Street means a public right-of-way which offers a primary means of vehicular access to properties, or provides for through traffic, whether designated as a highway, parkway, turnpike, street, avenue, road, boulevard, throughway, lane, place, or any other thoroughfare. A street shall be deemed the total length and width of the strip of land dedicated or designed for public travel, including such improvements as may be required.

Streets, arterial mean those streets used primarily for heavy or fast traffic and from which direct access to abutting property may be restricted or prohibited.

Streets, collector mean those streets which carry traffic from local streets to the major system of arterial streets, including the principal entrance streets of a residential development and certain streets for circulation within such development.

Streets, local mean those streets which are used primarily for access to abutting properties.

Streets, marginal access mean minor streets which are parallel to and adjacent to arterial streets and which provide access to abutting properties and protection from through traffic.

Subdivider means an individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any
tract, lot, or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

Subdivision means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or of building development, including all changes in street or lot lines and the creation of any new street or easement; provided, however, that if the subject land lies within an agricultural or residential use district, the parcels created shall conform to the zoning ordinance. This term includes resubdivision. The following shall not be deemed a subdivision:

(1) The sale or exchange of adjacent property between adjoining lot owners, where such sale or exchange does not create additional building sites.

(2) The division of land into parcels of five acres or more not involving any new street or easement.

(3) A division of agricultural land for agricultural purposes or for a building site for members of the immediate family owning such agricultural land, which does not involve any new street or easement.

(4) Inherited parcels.

Town engineer means the person designated as such by the town.

Zoning ordinance means the zoning ordinance of the town printed in appendix A. (Ord. of 10-14-93, § 5.3)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 46-2. Rules of construction.

In the interpretation of this chapter, the following rules shall be observed and applied:

(1) The term "lot" includes the terms "plot" and "parcel."

(2) The term "approve" shall be considered to be followed by the term "or disapprove."

(3) Any reference to this chapter includes all ordinances amending or supplementing it.

(4) All distances and areas refer to measurement in a horizontal plane.

Sec. 46-3. Interpretation.

(a) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.

(b) Where the conditions imposed by any provisions of this chapter upon the subdivision of land are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

(c) This chapter is not intended to annul any easement, covenant or other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement, the requirements of this chapter shall govern.

Sec. 46-4. Jurisdiction.

The provisions of this chapter shall apply to all land within the incorporated Town of Chilhowie.

Sec. 46-5. Purpose.

This chapter is adopted for the following purposes:

(1) To promote the public health, safety, convenience, comfort, prosperity and general welfare.

(2) To further the orderly layout and use of land.

(3) To provide a guide for the change that occurs when land and acreages become urban in character as a result of development for residential, business or industrial purposes.
(4) To avoid unplanned concentrations of population.
(5) To bring about the coordination of streets within subdivisions with other existing and planned streets.
(6) To provide for the safe and efficient circulation of traffic.
(7) To avoid hazardous intersections and other dangerous conditions.
(8) To establish construction standards for streets and other improvements.
(9) To provide for adequate drainage.
(10) To provide for adequate light and air.
(11) To facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements in a safe, adequate and efficient manner.
(12) To ensure proper legal description and proper monumenting of subdivided land and ensure that the purchasers of lots are buying a commodity that is suitable for development and use.
(13) To facilitate the further resubdivision of tracts or parcels of land.

Sec. 46-6. Penalty.

Any person violating the provisions of this chapter shall be subject to a fine of not more than $500.00 for each lot or parcel of land so subdivided or transferred or sold.

Sec. 46-7. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the administrator. The fees for processing subdivision plats shall be established by the town council at its discretion. The fees are payable to the treasurer of the town upon submission of the preliminary plat to the administrator.

Secs. 46-8--46-35. Reserved.

ARTICLE II. ADMINISTRATION*

DIVISION 1. GENERALLY

Secs. 46-36--46-65. Reserved.

DIVISION 2. ADMINISTRATOR†

Sec. 46-66. Appointment; duties, authority.

(a) *Appointed.* An administrator, as appointed by the town council, is hereby delegated to administer this chapter. The administrator shall be considered the agent of the town council and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the town council.

(b) *Duties.* The administrator shall perform all duties regarding subdivision and subdividing in accordance with this chapter and applicable state authority.

(c) *Consultation.* In the performance of these duties the administrator shall consult with the planning commission and may call for opinions or decisions, either verbal or written, from town officials and the town council in considering details of any submitted plat.

(d) Establishment of procedures. In addition to the regulations contained in this chapter for the platting of the subdivision, the administrator may, from time to time, establish any reasonable administrative procedures deemed necessary for the proper administration of this chapter.

Sec. 46-67. Enforcement.

(a) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell such parcel before a plat of the subdivision has been approved by the administrator in accordance with the provisions of this chapter and duly recorded in the circuit court clerk's office located in the county courthouse.

(b) No building permit shall be issued for the construction of any building or structure to be located on a lot created or established in violation of the regulations of this chapter.

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*Cross reference(s)--Administration, ch. 2.

†Cross reference(s)--Officers and employees, § 2-96 et seq.

(c) No plat of a subdivision shall be approved which does not comply with all the provisions of this chapter.

Sec. 46-68. Appeals.

Any person aggrieved by the administrator's objection to a plat or a failure to approve a final plat may appeal to the town council. All such appeals shall be brought before the council and a decision announced by the council within 21 days following the objection or rejection of the plat by the administrator. If this 21-day appeal period does not contain or include a scheduled meeting of the council, a special session shall be required. The town council may direct that the final plat be approved if it finds that the action of the administrator was arbitrary, unreasonable or discriminatory. Appeals from the decision of the council shall be taken to the circuit court having jurisdiction.

Sec. 46-69. Amendments.

This chapter may be amended in whole or in part by the town council. The planning commission may on its own initiative or at the request of the council shall prepare and recommend amendments to this chapter. No such amendment shall be adopted by the town council without a reference of the proposed amendment to the planning commission for recommendation. No such amendment shall be adopted without a public hearing having been held by the town council. Notice of the time and place of the hearing shall have been given at least once a week for two successive weeks, and the last notice at least six days but not more than 21 days prior to the hearing.

Secs. 46-70--46-100. Reserved.

ARTICLE III. PLATS

DIVISION 1. GENERALLY

Sec. 46-101. Physical features.

In all subdivisions due regard shall be given to the preservation of natural features such as large trees, watercourses, historical and similar features.

Sec. 46-102. Unsuitable land.

No land shall be subdivided, which is held by the administrator, after determination by the town engineer and county health department in accordance with applicable town and state health standards, to be unsuitable for such use by reason of adverse earth or rock formation or topography, or any other reason likely to be harmful to the health, safety or welfare of the future residents in the proposed subdivision of the community.

Sec. 46-103. Dedication of land for public use.

(a) *Acceptance of dedication.* When a final plat of a subdivision has been approved and all other required approvals are obtained and the plat is recorded, such recordation shall constitute acceptance for the purpose designated on the plat of all lands shown on the plat as dedicated to the public use, including street dedications.

(b) *Rejection of dedication.* Whenever a preliminary plat includes a proposed dedication of land for public use and the administrator finds that such land is not required or not suitable for public use, the administrator may either refuse to approve such dedication or require the rearrangement of lots in the proposed subdivision to exclude such land.

Sec. 46-104. Preservation for public spaces.

(a) *Preliminary plat to accommodate planned public spaces.* The administrator shall require that a subdivider set aside land for a proposed street, highway or parkway, or proposed site for a park, playground or other public use as may be indicated in the town comprehensive land use plan. Such space shall be suitably incorporated by the developer into his subdivision plat after proper determination of its necessity by the administrator and the appropriate town officer or other public agency involved in the acquisition and/or use of each such site.

(b) *Acquisition of land for public use.* The administrator shall consider all preliminary plats and plans or studies related thereto, to determine the need for acquisition for public use of any of the land included in the preliminary plat. If such studies or plans do relate thereto, the administrator may refer the plat to the public body concerned with acquisition for its consideration and reply. The administrator may propose alternate areas for such acquisition and shall allow the public body or agency 30 days for reply. The agency's reply, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and the estimate of the time required to complete the acquisition. Upon
receipt of an affirmative reply, the administrator shall designate on the preliminary plat that area proposed to be acquired by the public body.

Sec. 46-105. Large tracts.

Where land is subdivided into larger parcels than normal building lots, whenever possible such parcels shall be arranged in a way that future resubdivision is feasible.

Sec. 46-106. Vacation of recorded subdivision.

No subdivision or any lot lines in a subdivision may be changed, altered or vacated except as provided in Code of Virginia, §§ 15.2-2271 through 15.2-2276.

Sec. 46-107. Resubdivision.

A resubdivision of all or any part of a recorded subdivision may not be made or recorded until submitted and approved by the administrator.

Sec. 46-108. Reserved areas prohibited.

Unless as described in section 46-104(b), no area within a proposed subdivision or resubdivision shall be set aside for future use or otherwise carry the designation "reserved."

Sec. 46-109. Advertising standards.

A subdivider, when advertising a subdivided tract of land for sale, shall be specific as to the following items:

(1) Whether officially approved water and sewage facilities are available or not.
(2) The amount of officially approved water available to each lot purchaser in terms of gallons per day.

Sec. 46-110. Allowable error of closure.

The maximum allowable error of closure shall be as stipulated by the Virginia Association of Surveyors.

Sec. 46-111. Changes after approval.

No changes, erasures or revisions shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the report has been endorsed in writing,unless authorization for such changes has been granted in writing by the administrator.

Sec. 46-112. Required improvements.

The subdivider shall at his expense install street and utility improvements, and other improvements indicated on the plat, as provided in this chapter. The cost of engineering design, checking, drafting and field inspection is to be borne by the subdivider. Furthermore, the subdivider's bond, if required, shall not be released until all construction has been inspected and approved by the appropriate official.

Sec. 46-113. Surveyor's or engineer's certificate; certificate of approval.

(a) The following certificate shall be affixed to a plat:

I hereby certify that to the best of my knowledge and belief, all of the requirements of the town council and ordinances of the town, regarding the platting of subdivisions within the town have been complied with. The signature of the Engineer or Land Surveyor, the property owner and the zoning administrator shall be included following the above statment

Secs. 46-114--46-145. Reserved.

DIVISION 2. PRELIMINARY PLAT

Sec. 46-146. Submittal generally; approval, review.

(a) The subdivider shall prepare a proposed preliminary plat, including a proposal for the installation of improvements and intended dedication or reservation of public lands, and shall file a letter of transmittance of the plat with the administrator.

(b) The administrator shall obtain the required recommendations from the planning commission and other public agencies. After applying the provisions of this chapter, he shall tentatively approve or disapprove the plat, or approve it with modifications. Written findings shall be reported to the subdivider. The administrator shall reserve the right to review the preliminary plat at any time within six months of the date of approval.

Sec. 46-147. Application for approval.

Written application for approval of a preliminary plat shall be submitted by the owner. All such applications shall accompany the preliminary plat and shall contain the following information:

(1) *Name for file identification:*
   a. Name of the subdivision if property is within an existing subdivision.
   b. Proposed name of the subdivision if property is not within a previously platted subdivision. Any such proposed name shall not duplicate the name of any existing or proposed subdivision in the town.

(2) *Location and description of property.* Location of property by parcel number or numbers as designated on town tax maps.

(3) *Basic facts and proposals pertaining to the property:*
   a. Size in acres of the entire tract to be subdivided.
   b. Size of existing lots, if any, in square feet.

c. Number of proposed lots in the subdivision.
d. Area of lots proposed: minimum, average and maximum. e. Proposed type of water and sewer facilities.
f. Any other proposals, such as parcels of land intended to be dedicated, conveyed, or reserved for public use, and the conditions proposed for each such disposal and use.

(4) *Right-of-way and easement information:*
a. Citation of an existing legal right-of-way or easement affecting the property.
b. Existing covenants on the property, if any.

Sec. 46-148. Drawing specifications.

The administrator may request that all preliminary plats for subdivisions featuring apartments, townhouses or condominium construction be drawn at a scale of one inch equaling 50 feet. All other subdivisions shall be drawn at a scale of one inch equaling 100 feet. Scale variations may be made upon request, at the discretion of the planning commission. The preliminary plat shall accurately show on its face the following information:

(1) Proposed subdivision name or identifying title and location.
(2) Name, address and telephone number of the owner, the subdivider, and the surveyor or engineer preparing the plat.
(3) Date of drawing, true north point or magnetic north point with magnetic declination of the appropriate year, graphic scale and number of sheets.
(4) Location and names of all adjoining subdivisions and the names of the owners of any adjacent unsubdivided property.
(5) Boundaries of the land being subdivided shown in heavy outline, with the approximate dimensions of the property and the approximate acreage contained therein; all existing property lines within the tract with all names of such owners.
(6) Location, names and widths of all existing and/or platted streets, alleys, easements, railroad and utility rights-of-way, parks, cemeteries, parking spaces, watercourses, permanent buildings, bridges, other public ways and open spaces, and any additional feature deemed as pertinent data by the planning commission.
(7) Location, names and widths of all proposed streets and rights-of-way including alleys, easements for water and sewer mains and other public utilities.
(8) Reference to accompanying profiles of all proposed streets and alleys, showing the proposed grade lines thereon and typical cross sections if such profiles and cross sections are required by the planning commission.

(9) Location and area of all property proposed to be dedicated for public use and the conditions, if any, of such dedication.

(10) Layout, numbering and approximate dimensions of all proposed lots or parcels.

(11) Location of and proposed connections with existing sanitary sewers and water supply, or alternate means of sewage disposal and water supply, location of existing culverts and other underground structures within or adjacent to the tract.

(12) Location of proposed sanitary sewers, culverts, other storm drains and water mains.

(13) Proposed building setback lines along all streets including the minimum amount of setback required.

(14) Contours at intervals of not more than five feet or at more frequent intervals if required by the agent for land with unusual topography.

(15) Approximate radii of curves and central angles on all streets.

(16) Delineation of the 100-year floodplain as established by the Tennessee Valley Authority.

(17) Reference to accompany statements concerning any proposed covenants to be imposed by the owner.

(18) Location of necessary benchmarks and source of topography.

Sec. 46-149. Disposition.

The administrator shall, within 60 days of the receipt of an application for the approval of a preliminary plat, tentatively approve or disapprove the plat, or approve it with modifications.

Secs. 46-150--46-180. Reserved.

DIVISION 3. FINAL PLAT

Sec. 46-181. Submittal generally; review, approval or rejection.

(a) Within six months of the date of approval of the preliminary plat, the subdivider shall prepare and submit to the administrator the final plat incorporating all required modifications to the preliminary plat. The subdivider shall file three reproductions thereof. Failure to do so shall make the preliminary plat approval null and void. The administrator may, on written request by the subdivider, grant an extension of this time limit.

(b) The administrator shall review the plat to determine if all requirements of the preliminary approval have been met. A final review shall be conducted by the administrator in coordination with the planning commission, town engineer, county health officer and other appropriate public agencies for recommendations as to

whether or not their requirements for public utilities, highway plans, easements, drainage facilities, etc., have been addressed.

(c) The administrator shall approve or reject the final plat within 30 days of the subdivider's submission of the final plat to the administrator unless the subdivider is notified of objections to the plat or the time is extended by agreement of the administrator with the subdivider.

Sec. 46-182. Recordation of approved plat.

Within 60 days of the date of the approval of the final plat, the subdivider shall submit to the administrator one reproductive print and two copies of the approved final plat. Failure to do so shall make final approval void and shall cause such approval to be withdrawn. The administrator shall, within 15 days of this submission, certify that these plats are identical to the final plat as approved by him and shall forward them to the town manager. The town manager shall within the same 15-day time period accept and sign the final plat on behalf of the town and shall cause one reproducible print to be filed with the circuit court of the county, one copy with the building inspector's office of the county and one copy with the public works superintendent. If, when submitted, the administrator determines that the plats are not identical to the approved final plat, he shall notify the subdivider and the plats shall be corrected to the extent of their difference. If required, the subdivider shall be granted an additional 15 days in which such corrections are to be made and all required plats recorded. After proper recordation the subdivider may proceed to develop and sell the lots of his subdivision.

Sec. 46-183. Final plat may constitute all or part of approved preliminary plat.

A final plat may include all or any part of the area contained in the approved preliminary plat, provided that the public improvements to be constructed in the area covered by the final plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, convenience and general welfare of the area's anticipated inhabitants and for adequate access to contiguous areas.

Sec. 46-184. Drawing specifications.

The final plat sheets shall be 17 inches by 21 inches in size and shall be drawn to the same scale as the approved preliminary plat. Such scale shall in no case be more than 100 feet to the inch. The final plat shall conform to the requirements of the approved preliminary plat and shall show on its face the following information:

(1) Subdivision name and location.

(2) Name, address and telephone number of the owner and the subdivider; name of the licensed professional engineer or surveyor responsible for the plat's preparation.

(3) Source of title. Certificates signed by the engineer or surveyor setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title.

(4) Certificate of owner's consent and dedication. A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owner, to be signed by the owner, and duly acknowledged before some officer authorized to take acknowledgements of deeds.

(5) Surveyor's certificate. A statement certifying that to the best of the surveyor's (or engineer's) knowledge and belief all of the requirements of the town council and ordinances of the town regarding the platting of subdivisions within the town, have been complied with.

(6) Date, scale and true north point or magnetic north point with magnetic declination of the appropriate year.

(7) Boundaries of the land being subdivided with accurate dimensions and bearings and the exact acreage contained therein; also the boundaries and acreages of any parcels within the subdivision which are separately owned. In all measurements on the plat, linear dimensions shall be expressed in feet and hundredths of a foot while all bearings shall be expressed in degrees, minutes and seconds.

(8) Accurate location and dimensions of all existing and proposed street rights-of-way, alleys, lot lines, easements, and other public ways by widths, bearings and lengths.

(9) Data for all curves in existing and proposed street rights-of-way, alleys, lot lines, easements, and other public ways to be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

(10) All street names.

(11) Generally recognized description of adjoining unsubdivided land and names of any adjacent subdivision.

(12) Accurate location and dimensions of all existing and proposed parks and other public areas, watercourses, and any areas reserved for public acquisition within the proposed subdivision.

(13) Sufficient data acceptable to the planning commission to readily determine on the ground the location, bearing, and length of all other lines of demarcation.

(14) Accurate locations and descriptions of all reference monuments.

(15) Building setback lines with minimum required setback.

(16) Total number of lots included on the plat.

(17) All lots in each block consecutively numbered.

(18) Delineation of all established floodplains.

(19) Location of the property to be subdivided by section and parcel numbers as designated on the town tax maps.

(20) All notes pertinent to the owner's and/or developer's intentions for planned land use, water and sewer systems, curbs, gutters, easements, areas of lots, etc.

(21) Reference to accompanying statement concerning any proposed covenants to be imposed by the owner.

(22) A blank oblong space three inches by five inches reserved for the use of the approving authority.

Secs. 46-185--46-215. Reserved.

ARTICLE IV. DESIGN STANDARDS

Sec. 46-216. Conformance to applicable rules and regulations.

In addition to the design standards established in this article, all subdivisions plats shall comply with the following plans, laws, rules and regulations:

(1) The comprehensive land use plan of the town and amendments thereto.

(2) Rules and regulations and construction specifications and standards of the public works department.

(3) The rules and regulations of the state health department relating to sewage disposal if the subdivision is not served by a public sewer.

(4) The applicable provisions of the state building code.

Sec. 46-217. Streets and alleys.

a) *General considerations.* Streets shall be designed and located in relation to existing, planned or platted streets or adjoining plats, to existing topographical conditions and natural terrain features such as streams and vegetation, to public safety and convenience, and in appropriate relation to the proposed uses of land to be served by such streets.

b) *Arrangement.*

1) All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way.

2) Proposed streets in the subdivision shall be extended to the tract's boundary lines with adjacent tracts, unless such extension is prevented by topography or

other physical conditions, or unless such extension is found by the administrator to be unnecessary or undesirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts. Where such extensions provide access to adjacent tracts not yet subdivided, temporary turnarounds shall be provided at the end of such streets.

3) Local streets shall be laid out so as to conform to the existing topography and shall be designed to discourage through traffic, to permit efficient drainage and utility systems, to require the minimum number of streets necessary for the provision of safe and convenient access to property, and to create desirable building sites.
4) Where such use will result in a more desirable layout, the rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, U-shaped streets and cul-de-sacs shall be encouraged.
5) All arterial streets shall be properly related to population densities, the pattern of existing and proposed land uses, and special traffic generators such as industries, business districts, schools, churches and shopping centers.
6) Streets and other accessways in business and industrial developments shall be planned with relation to the grouping of buildings, truck loading and maneuvering areas, location of rail facilities, and the provision of alleys, walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

c) *Railroads and highways*. Subdivision of land adjacent to railroad right-of-way and limited access highways shall be dealt with as follows:
   1) In areas of business, commercial or industrial use, the nearest street extending parallel or approximately parallel to a railroad or limited access highway shall, wherever practicable, be at a sufficient distance therefrom to insure adequate lot depth for commercial or industrial sites.
   2) Streets parallel to a railroad or limited access highway and intersecting with a street which crosses same railroad or limited access highway at a grade shall, whenever practicable, be at a distance no less than 150 feet from the railroad or limited access highway right-of-way. Such distance shall be determined for future separation of grades by means of appropriate approach gradients.
d) *Access to arterial streets*. Where a subdivision borders on or contains an existing or proposed arterial street, the administrator may require that certain measures be taken so as to reduce the impact of heavy traffic in residential areas and to afford separation of through and local traffic, through one or more of the following means:
   1) In the subdivision of lots so as to back onto the major street and front onto a parallel local street (reverse frontage), access from the major street shall be prohibited.

2) Where appropriate, a series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street (see subsection (1) above) with the rear lines of their terminal lots backing onto the arterial street, shall be utilized.
3) Marginal access areas or service drives shall be separated from the arterial street by a planting or grass strip, and connecting therewith at infrequent intervals.
4) The number of residential streets entering a major street shall be kept to a minimum by providing one direct connection to such an artery for each 50 dwelling units in the subdivision.

e) *Street right-of-way width.* The right-of-way width of all streets shall be determined by the administrator upon recommendation by the highway engineer, except that:
1) No street shall have a right-of-way width less than 50 feet.
2) Right-of-way widths for collector streets and for local streets in nonresidential (commercial or industrial) subdivisions shall not be less than 60 feet.
3) In no case shall the right-of-way width of an arterial street be less than 80 feet.

f) *Cul-de-sacs or dead-end streets.* All cul-de-sacs or dead-end streets shall terminate in a turnaround having a minimum right-of-way diameter of 100 feet. Such streets should not be longer than 500 feet, exclusive of the turnaround. Where the curvature or slope of a cul-de-sac street does not make obvious the dead-end characteristics, an appropriate street sign shall be placed at the street entrance.

g) *Half-streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid half-streets. Where a half-street is adjacent to a new subdivision, the other half of the street will be dedicated by the subdivider. Where a new subdivision abuts on an existing street of inadequate right-of-way, additional right-of-way width may be required to be dedicated by the subdivider in order to meet the requirements of this section.

h) Construction *requirements*. Unless otherwise specified, all street construction requirements shall be those of the state department of transportation for acceptance into the state secondary system and those requirements of the town for accepting new streets for town maintenance.

i) *Street intersections.*
(1) Streets shall be laid out so as to intersect as nearly as possible at right angles (90 degrees) as topography and good design permit. A proposed intersection of two new streets at an angle of less than 60 degrees shall be prohibited. Not more than two streets shall intersect at any one point.
(2) Proposed new intersections along one side of an existing street shall coincide with any existing intersection on the opposite side of such street. Intersects of local streets with centerline offsets of less than 150 feet shall be prohibited. Where streets intersect with arterial or collector streets their centerlines shall be continuous or shall be separated by a minimum distance of 300 feet.

(3) Intersections shall be designed with a flat grade wherever practicable. In no case shall the grade within the intersection exceed ten percent.

(4) A leveling area shall be provided at the approach of an intersection with an arterial or major collector street having no more than five percent grade for a distance of 50 feet, measured from the nearest right-of-way line of the intersecting street.

(5) Where any street intersection will involve earth banks and vegetation that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation in connection with the grading of the public right-of-way to the extent deemed necessary to provide a minimum sight distance of 200 feet along each approach leg, measured from the nearest right-of-way line of the intersecting street.

(6) The minimum corner pavement width at all street intersections shall not be less than 35 feet. Furthermore, the right-of-way line at corner lots shall be flared and shall be defined by a chord line connecting the two points on the intersecting right-of-way lines which are located a distance of not less than 20 feet from the right-of-way intersection point.

(7) The administrator, upon the advice of the highway engineer, may request that a vision easement be established at those corner lots which present a hindrance to the safe traffic movement due to obstruction of vision present on such lot. The easement shall regulate the construction, planting or maintenance of signs, fences, walls, telephone booths, bus shelters, hedges and other natural growth, or any other obstruction to vision.

(8) Alley intersection with streets and abrupt changes in street or alley alignment shall have the corners rounded off in accordance with standard engineering practice, to permit safe vehicular movement.

j) *Private streets and reserve strips.* There shall be no private streets platted in any subdivision. All subdivided property shall be served by a publicly dedicated and accepted street. Reserved strips restricting access to streets, alleys, public ways and easements shall not be permitted.

k) *Alleys.*

(1) Alleys shall be provided in the side or rear of lots to be used for business and industrial purposes, except that the administrator may waive this requirement where other definite and suitable provision is made for service access, such as off- street parking and loading, consistent with and adequate for the uses proposed.

(2) The width of alleys shall not be less than 20 feet.

(3) Dead-end alleys will be permitted only at the discretion of the administrator, and crooked and tee alleys shall be discouraged. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at their terminus.

(4) Alleys shall not be permitted in residential areas.

l) Street names. Proposed streets which are already in alignment with other existing and named streets shall bear the name of the existing street. In no case shall the name of proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, court, etc.

m) Identification signs. Street identification signs of a uniform design approved by the administrator shall be installed at all intersections. The town shall collect from the subdivider, prior to recordation, sufficient funds for the purchase and erection of signs required.

Cross reference(s)--Streets, sidewalks and certain other public places, ch. 42.

Sec. 46-218. Easements.

a) Utility *easements. Easements of not less than ten feet in width shall be provided for water, sewer, power lines, and other public utilities in the subdivision. Such easements shall be designed and laid out so as to ensure continuity for utilities from block to block and to adjacent property. All such utility easements shall be kept free of permanent structures and shall, wherever the terrain permits, be centered on rear or side lot lines.*

b) *Drainage easements. Utility easements may be on the street right-of-way following approval by the town, state and the utility provider. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater right-of-way or drainage easement conforming* substantially to the lines of such watercourse. Drainage easements for primary runoff shall be a minimum of ten feet in width. When a channel is provided, the width of the easement shall be the width of the channel. Additional easement width may be required along either side of a channel when the town engineer deems such necessary for adequate surface drainage and stormwater flow.

Sec. 46-219. Flood control regulations.

The subdivider shall prepare a contour map of the proposed area with such contour intervals as the administrator shall determine to be necessary, and shall prepare drainage plans or flood control devices satisfactory to the administrator. No plat shall be approved until the administrator shall certify that the proper plans for drainages and flood control have been made.

Sec. 46-220. Blocks.

n) *Residential blocks.*

4) *Blocks in residential areas shall be of sufficient width to provide for two tiers of lots of minimum depth. Exceptions to this prescribed block width shall be permitted where topographical conditions or size of property prevent such a design or in blocks adjacent to schools, parks, arterial or collector streets, railroads, shopping centers or waterways. In such cases the administrator may approve a single tier of lots of minimum depth.*
5) *Blocks, in general, shall not be longer than 1,600 feet nor less than 400 feet in length.*
6) *Blocks along arterial or collector streets shall not be less than 1,000 feet in length.*
7) *In any residential block more than 800 feet in length, a pedestrian way or crosswalk of not less than ten feet in width may be required by the administrator where deemed essential to provide circulation or convenient access to schools, playgrounds, shopping centers, transportation or other community facilities. All crosswalks, if required, shall be located as near as possible to the center of such blocks.*

o) *Nonresidential blocks. Blocks designed for business, commercial or industrial uses shall not be longer than 1,600 feet nor less than 500 feet in length.*

Sec. 46-221. Water facilities.

Where public water is adequate and sufficient, the service shall be extended by the subdivider to all lots within a subdivision, including fire hydrants. All design standards and specifications for water, construction, and improvements shall be in accordance with the criteria of the public works department and the state waterworks regulations. Water lines may be located on the street right-of-way following approval by the town.

Sec. 46-222. Sewerage facilities.

Where public sewerage facilities are available, the service shall be extended to all lots within a subdivision and septic tanks will not be permitted. Every such subdivision shall be provided by the subdivider with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications of the public works department.

Sec. 46-223. Privately owned water or sewerage facilities.

Sewer lines may be located on the street right-of-way following approval by the town. Where public water and/or public sewerage facilities are not available, privately owned water and/or sewerage facilities shall be required. All installations shall meet all the requirements of the public works department, the state water control board, the state

health department, and any other state or local regulation having authority over such installation.

Sec. 46-224. Septic tanks.

The administrator shall not approve any subdivision where sanitary sewers are not provided unless the agent shall receive in writing from the county health department a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks and that they will not, so far as can be determined, create hazards to public health.

Sec. 46-225. Lots.

a) *Size and area.* If any provision of this chapter conflicts with lot area requirements or setbacks of a particular zone listed in the zoning ordinance, then this chapter shall have primacy. The minimum lot size and lot area in any subdivision shall be in accordance with the following provisions:
   1) *Lot size, public water and sewer.* Lots in proposed subdivisions served by both public water and public sewer systems shall conform to the lot size requirements of the zone in which the subdivision is located.
   2) *Lot size, public sewer.* Residential lots served by a public sewer but not a public water system shall be 90 feet or more in width and shall contain an area of not less than 15,000 square feet.
   3) *Lot size, public water.* Residential lots served by a public water system but not a public sewer system shall contain an area of not less than 15,000 square feet.
   4) *Lot size, neither public water nor sewer.* Residential lots served by neither public water nor public sewer systems shall be 100 feet or more in width and shall contain an area of not less than 20,000 square feet.
   5) *Septic tanks and wells.* Greater lot areas may be necessary where individual septic tanks or individual wells are used if the health official determines that there are factors of drainage, soil condition, or other conditions to cause potential health problems. The administrator shall require that data from soil studies, and when requested by the health official, percolation tests, be submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal. These tests and soils studies shall be performed by or under the supervision of the health official.
   6) *Lot dimensions to include roads and easements.* Satisfaction of lot dimension shall be achieved by including land covered by roads, water or flowage easements.
   7) *Lots abutting U-shaped terms.* Where lots abut a cul-de-sac or U-shape turn, frontage shall be measured at the building setback line.

b) *Shape. The lot arrangement, design and shape shall be such that all lots will provide satisfactory and desirable building sites and be properly related to topography and the character of surrounding development while conforming to the regulations of this chapter. Lots shall not contain peculiar shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.*

c) *Location and orientation.*
   1) Each lot shall front on or abut a publicly dedicated street with a right-of-way not less than 50 feet wide.
   2) If the existing right-of-way is not 50 feet in width, the subdivider shall make provisions in the deed to the lots for all buildings to be so constructed as to permit the widening by dedication of such right-of-way to a width of 50 feet.
   3) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
   4) Double frontage (through lots) and reverse frontage lots shall be avoided, except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.

d) *Corner lots.*
   1) Corner lots shall have extra width to permit appropriate building setback from and orientation to both streets as determined by the agent.
   2) No corner lot or lots shall be resubdivided to face another street unless all established building setbacks are observed on both streets.
   3) Minimum setbacks shall be 35 feet.

e) *Side lot lines. Side lot lines shall be approximately at right angles to street lines or radial to curved street lines.*

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

g) *Building setbacks. Building setback lines shall be established along all streets and shall be shown on the preliminary and final plats and shall be 35 feet minimum. If this is in conflict with the provisions of a particular zone listed in the zoning ordinance, the subdivision chapter shall have primacy.*

h) *Separate ownership. Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership.*

i) *Off-street parking and delivery facilities. Properties laid out for business, commercial or industrial purposes shall be designed specifically for such purposes with adequate space set aside to provide for off-street parking and/or delivery facilities required by the type of use and development contemplated.*

Sec. 46-226. Monuments.

Permanent reference monuments must be installed by the subdivider and shall meet these minimum specifications. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the administrator are clearly visible for inspection and use.

1) Location, concrete. Concrete monuments four inches in diameter or square, at least 24 inches long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at angle points, and points of curve in each street. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade.
2) Location, iron pipe. All other lot corners shall be marked with an iron pipe not less than three-fourths-inch diameter and 24 inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod one-half inch in diameter, the top of which shall be flush with the finished grade.

Sec. 46-227. Sidewalks.

Where, in the opinion of the administrator, sidewalks are necessary to safeguard the safety of pedestrians, sidewalks at least five feet in width shall be provided on one or both sides of all arterial streets and on all other streets within or adjacent to a subdivision for such distances as individual conditions dictate.

Sec. 46-228. Fire hydrants.

The installation of adequate fire hydrants in a subdivision shall be required by the administrator. All water system installations shall be in accordance with all rules, regulations and construction standards of the public works department and any other state or location regulation having authority over such installation.

Sec. 46-229. Bond.

All physical improvements (see section 46-112) required by the provisions of this chapter for a subdivision shall be installed by the subdivider at his expense. Prior to final approval of the plat by the administrator the subdivider may be required, in lieu of construction, to furnish a performance bond in an amount calculated by the administrator to secure the required improvements in a workmanlike manner and in accordance with specification and construction schedules established or approved by the appropriate engineer. Such bond, if required, shall be payable to and held by the

town council until all construction has been inspected and accepted by the appropriate official.

Sec. 46-230. Inspection of required improvements.

All construction work on physical improvements shall be subject to periodic inspection by a duly authorized public official so as to ensure conformity with the approved plans and specifications. Upon completion of such improvements, a final inspection shall be conducted and the appropriate public official shall issue certificates of approval thereof to the subdivider and any bond or part thereof which may have been furnished for guarantee shall be released to the subdivider.

3.2-8 Planned Residential Development.

3.2-8.1 Purpose.

(1)General. This section establishes standards and criteria for planned residential developments (PRDs). Both processes allow for flexibility in project design and match the unique features of a project and a site to established sets of review criteria.

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

3.2-8.2 Applicability.

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

(2)Planned Residential Development must be a minimum of two acres and must be owned by the same person or entity at the time of application.

3.2-8.3 Scope of the Approval.

(1)General. The PRD approval shall be superimposed on the underlying zoning district. The PRD shall constitute a limitation on the use and design of the site.

(2)Planned Residential Development.

(a) An applicant may elect to undergo either a one step or a two-step approval process for a PRD. The specific development regulations which may be modified based on the PRD approval and all special requirements applied to the property within the PRD shall be specified in the approval and shown or listed on any approved PRD plan, subdivision, or binding site plan which is approved by the Town of Chilhowie and recorded in Smyth County's real property records. Where a one-step PRD process is used, the approved PRD plan shall be filed in Smyth County's real property records. Where a two-step process is used, either the second detailed PRD plan, subdivision, or building site plan shall be filed in Smyth County's real property records.

(b) A one step approval process would include the Town of Chilhowie's review and consideration of not only the general project concept, including its intensity and

overall design, but also of all specific site and development requirements associated with the proposed development.

(c) In a two-step approval process, an applicant would first seek approval of an overall project design and concept before extending significant time and resources in developing the specific site and development features of the proposal. The second approval associated with the PRD would then relate to specific site and development requirements as defined by the first approval. An applicant may also elect to obtain approval of an overall project design and then proceed with either a subdivision or a binding site plan application based on the initial PRD approval.

3.2-8.4 Decision Criteria.

(1) Design Criteria. The Town may approve, or approve with modifications, a PRD if the proposal meets the requirements of this chapter and the design of the proposed development achieves two or more of the following results:

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

(b) Achieving allowable densities for the subject property;

(c) Providing housing types that effectively serve the affordable housing needs of the community;

(d) Improving circulation patterns or the screening of parking facilities; (e) Minimizing the use of impervious surfacing materials;

(f) Increasing open space or recreational facilities on-site;

(g) Landscaping, buffering, or screening in or around the proposed PRD; (h) Providing public facilities;

(i) Preserving, enhancing or rehabilitating natural features of the subject property such as significant woodland, wildlife habitats or streams;

(j) Incorporating energy-efficient site design or building features; (k) Providing for an efficient use of infrastructure;

(l) Incorporating a historic structure(s) or a historic landmark in such a manner as preserves its historic integrity and encourages adaptive reuse.

(2) Public Facilities. The PRD shall be served by adequate public facilities including streets, bicycle and pedestrian facilities, fire protection, water, storm water control, sanitary sewer, and parks and recreation facilities.

(3) Perimeter Design. The perimeter of the PRD shall be appropriate in design, character and appearance with the existing or intended character of development adjacent to the subject property and with the physical characteristics of the subject property.

(4) Open Space and Recreation. Open space and recreation facilities shall be provided and effectively integrated into the overall development of a PRD and surrounding uses.

(5) Streets and Sidewalks. Existing and proposed streets and sidewalks within a PRD shall be suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the subject property.

3.2-8.5 Modification of Development Regulations.

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

(3) Authorization of Housing Types.

(a) A PRD may authorize a variety of housing types including, but not limited to, detach single-family homes with a variety of lot configurations; common wall dwellings; townhouses (including those on individual lots to be sold in fee and those sharing common lots); zero lot line homes; and "Zero" lot Open space.

(b) The authorization shall specify the number of various types of dwelling authorized and the number of dwellings that may be allowed in any one building or in any one building or in particular buildings.

(c) Since PRDs do not authorize the division of land, housing types that require the division of land require short subdivision, long subdivision, or binding site plan approval.

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

(5) Minimum Lot Width Circle. In order to increase project design flexible for PRD applications involving a subdivision, a minimum lot width circle of 30 feet is established. The conditions of approval may establish specific minimum lot width requirements for individual PRD applications, so long as they are not less than 30 feet.

(6) Building Setbacks. PRDs are subject to minimum front, rear and side street setbacks of 20 feet. No minimum interior setback is established, but may be required as a condition of approval.

(7) Minimum Building Separation. No minimum building separation requirement is established so long as all building and fire regulations are met. A minimum building separation may be established as a condition of approval for individual PRD applications.

(8) Maximum Lot Coverage and Impervious Surface Area. For PRDs, requirements governing maximum lot coverage for structures and maximum impervious surface area may be exceed in the R-2 zone by as much as 10 percent, so long as in no case does a proposed maximum lot coverage exceed 60 percent and a proposed maximum impervious surface area exceed 80 percent unless a higher percentage is established by the underlying zone in which case they shall not exceed that standards by more

than five percent. Specific lot coverage and impervious surface area requirements may be established for individual PRD applications as a condition of approval.

(9) Maximum Height of Structures.

(a) Modification of Building Heights. Requirements for building height may be modified as described below with a PRD when it assists in maintaining open space and natural resources. For sites in R-2, the maximum height allowed in a PRD is 45 feet. Belfries, cupolas, chimneys, flues, and flagpoles and exempt.

(10) Street and utility Standards. Street and utility standards for PRDs may be modified by the Planning Commission. Standards for water and sewer facilities are governed by the Director of Public Works in conjunction with the Town Engineer. All utilities must be underground, including but not limited to electrical, gas, cable, telephone, water, & sewer.

(11) Planned Residential Developments must be substainally site manufactured and constructed to existing building and fire codes. Roof trusses, wall panel systems, and floor truss systems will be considered as components and are therefore suitable for site manufacturing designation. Any housing units predominantly manufactured off site are not allowed in PRD's including manufactured buildings and modular buildings with less than five (5) large modular units.

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

3.2-8.6 Open Space and Recreation.

(1) Open Space.

(a) Requirement. PRD's must achieve the minimum open space requirements. Open space created as a result of a PRD approval must be dedicated to otherwise held in common. A performance bond may be required until such time that all common areas included in the approved plan are fully developed.

(b) Design. Open space created as part of a PRD shall, to the greatest extent possible, be located and configured to protect sensitive areas, provide for recreational opportunities, and create urban separators, open space corridors, green belts and connections between existing or planned parks, trails or open space. Open space created under this section may also include above-ground surface water management facilities and non- commercial structures such as community meeting rooms, swimming pools and other recreational facilities that serve the residents of the PRD.

(2) Recreation. Recreation space may be included in the open space required by this section. For PRDs with site areas under 25 acres, there is no specific requirement to provide recreation space; however , to the extent feasible, a PRD application should include provisions for recreation space. PRDs that are 25 acres in size or larger, shall include recreation space as a part of the proposed development. To the extent that adequate public recreation spaces are already available in proximity to the site, the need for on-site recreation space will be diminished. Recreation space may be active or passive recreation areas designed and set aside exclusively for individual or group activity, amusement or entertainment. Recreation space may include, but shall not be

limited to, swimming pools, community rooms, tennis courts, rest areas, or picnicking areas.

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

3.2-8.7 Design Guidelines and Review

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

- The Smyth County Building Department and all applicable building codes
- The Director of Public Works, in conjunction with the Town Engineer
- All affected State and Federal agencies including, but not limited to Virginia Department of Transportation, Virginia Department of Health, Department of Environmental Quality, Department of Historic Resources, etc.

3.2-8.8 Minimum Conditions of Approval.

(1) In approving a PRD application, conditions of approval shall at a minimum establish:
- a master site plan for the entire PRD showing the location of sensitive areas and buffers, open spaces, as well as the locations and ranges of densities for development;
- the period of time for which the PRD approval is valid
- project phasing and other project specific conditions necessary to mitigate impacts on the environment, public facilities and services including transportation, utilities, drainage, police and fire protection, schools, and parks;
- road design standards that shall apply to the various phases of the project;
- the range of residential units and types of residential structures for the PRD;
- whether future PRDs are planned for specific areas of a PRD application.

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

3.2-8.9 Definitions

Attached single-family homes - Attached single-family homes live like a semi-custom single-family home in an attached configuration, allowing buyers to forego maintenance and yard work

Binding site plan approval – Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with the Binding Site Plan and without regard to lot lines internal to the subject property. The applicant may sell or lease parcels subject to the Binging Site Plan

Common wall dwellings – Duplex dwelling, including individual ownership of each unit through the establishment of a property line through the common wall between the two individual units of a duplex.

Detached single-family homes – single family, stand-alone structures on individual building lots

Long subdivision – If you are proposing to create any new public rights-of-way and/or your proposed Plan of Subdivision does not comply with the existing zoning classification

Open space – any part of the property not improved with a vertical structure. This can include driveways, sidewalks, grass areas, planting/landscaping, etc

Short subdivision – If you are not proposing to create any new public rights-of-way and your proposed Plan of Subdivision complies with the existing zoning classification,

Townhouses – a home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own

Zero lot line homes – zero-lot line homes are built on or toward the edge of a lot's outer boundary (hence the "zero-lot" moniker), have either small front yards or small back yards (big enough for gardening), and just a thin strip of turf for side yards, thus minimizing maintenance Also known as a patio home, garden home or narrow-lot home