

**TOWN OF BROADWAY, VIRGINIA  
LAND DEVELOPMENT REGULATIONS**

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## **ARTICLE 1 AUTHORITY AND ENACTMENT**

### **101.00 AUTHORITY TO ESTABLISH ZONING**

Whereas, by act of the General Assembly of Virginia as recorded in Title 15.2, Chapter 22, Article 7, Section 15.2-2280 *et seq.*, Code of Virginia, 1950, as amended, the governing body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning, and in each district it may regulate, restrict, prohibit, and determine the following: (a) the use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, floodplain 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 variations in the sizes of lots based on whether a public or community water supply or sewer system is available and in use; and (d) the excavation or mining of soil or other natural resources.

### **102.00 AUTHORITY TO ESTABLISH SUBDIVISION REGULATIONS**

Whereas, by act of the General Assembly of Virginia as recorded in the Code of Virginia, 1950, as amended, as Article 6, Section 15.2-2240 *et seq.* requires the Town Council of the Town of Broadway, Virginia adopt regulations to assure the orderly subdivision of land and its development, to provide for the harmonious and economic development of the Town, for the coordination of streets within subdivisions with other existing or planned streets, for adequate open spaces for traffic, recreation, light and air, and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, and prosperity including reasonable regulations and provisions that apply to or provide (a) for size, scale, and other plat details; (b) for the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general areas as to location, widths, grades, and drainage; (c) for adequate provisions for drainage and flood control and other public purposes, and for light and air; (d) for the extent to which and the manner in which streets shall be graded, graveled, or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed; (e) for the acceptance of dedication for public use of any right-of-way located within any subdivision which has been constructed or proposed to be constructed within the subdivision, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line as a part of a public system, or other improvement, financed or to be financed in whole or part by private funds in accordance with certain conditions prescribed herein; (f) for monuments of specific types to be installed establishing street and property lines; (g) for provisions regarding the time period within which plats approved in accordance with the provisions herein must be recorded; (h) for the administration and enforcement of such ordinance,

not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved; (i) for payment by a subdivider or developer of land of his pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction, or improvement of his subdivision or development in accordance with certain provisions herein; (j) for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia; (k) for the partial or complete release of any bond, escrow, letter of credit, or other performance guarantee required by the Town under the provisions herein; and (l) for the exercise of other subdivision powers prescribed by general law.

### **103.00 ENACTMENT**

Therefore, be it ordained by the Town Council of the Town of Broadway, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Title 15.2, Chapter 22, Articles 6 and 7 of the Code of Virginia, 1950, as amended that the following Ordinance be adopted, constituting the Town of Broadway Zoning Ordinance, as amended and Subdivision Ordinance - Town of Broadway, Virginia, as amended. This Ordinance shall be known and may be cited as the "Land Development Regulations of the Town of Broadway, Virginia (2009)". The Subdivision Ordinance shall consist of Article 9, and the Zoning Ordinance shall consist of all other articles of the Land Development Regulations. A reference herein to "this Ordinance" shall refer to the Land Development Regulations as a whole, including both the Zoning Ordinance and the Subdivision Ordinance.

## **ARTICLE 2 PURPOSES OF THE REGULATIONS**

### **201.00 PURPOSES**

The Planning Commission of the Town of Broadway, Virginia and the Town Council of the Town of Broadway, Virginia have undertaken to achieve the delicate balance between the individual property rights of its citizens and the health, safety, and general welfare of the public and accomplish the objectives of Section 15.2-2200 by reasonable restrictions on those property rights. The purposes of these regulations are: (a) to provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers; (b) to reduce or prevent congestion in the public streets; (c) to facilitate the creation of a convenient, attractive, and harmonious community; (d) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational

facilities, airports, and other public requirements; (e) to protect against destruction of, or encroachment upon, historic areas; (f) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers; (g) to encourage economic development activities that provide desirable employment and enlarge the tax base; and (h) to establish certain subdivision standards and procedures to assure the orderly subdivision of the land and its development for the Town of Broadway, Virginia, and to implement the Town's Comprehensive Plan.

**Ordinance of December 6, 2011** added the phrase "and to implement the Town's Comprehensive Plan" to the end of this section.

## **202.00 INTERPRETATION OF ORDINANCE**

The Town Council finds and declares that the standards and procedures of this Ordinance are part of a long-range plan to guide and facilitate the orderly and beneficial growth of the Town, and to promote the public health, safety, convenience, comfort, prosperity, and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs where land and acreage become urban in character as a result of development for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate, and efficient manner. This Ordinance shall be liberally construed to effectuate the purposes expressed herein.

## **203.00 NON-EXCLUSIONARY INTENT**

It is not the intent of these regulations to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within the Town of Broadway. Further, it is not the intent of this ordinance to use public powers in any way to promote the separation of economic, racial, religious, or ethnic groups within the Town of Broadway, except as may be an incidental result of meeting the other purposes outlined herein.

## **ARTICLE 3 DEFINITIONS OF TERMS USED IN THIS ORDINANCE**

### **301.00 GENERAL**

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders. The word “person” includes a firm, corporation, association, organization, trust, or partnership. The word “lot” includes “plot” or “parcel.” The word “building” includes “structure.” The word “shall” is always mandatory; the term “may” is discretionary. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

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## 302.00 SPECIFIC DEFINITIONS

When used in this Ordinance the following words and phrases shall have the meaning given in this Section:

- 302.01 ***Abandoned Vehicles.*** Any vehicle which is deemed inoperable by the fact that any of the following requirements are not met: valid license, inspection sticker, town tag, or cannot operate under its own power.
- 302.02 ***Accessory Building.*** A building that is intended to be used or is used for an accessory use. An accessory building is also an accessory structure.
- 302.03 ***Accessory Structure.*** A structure that is intended to be used or is used for an accessory use. An accessory building is an accessory structure, but not all accessory structures are accessory buildings.
- 302.04 ***Agriculture.*** The tilling of the soil, the raising of crops, horticulture, and forestry, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies or similar use, not including commercial slaughterhouses.
- 302.05 ***Alley.*** A platted service way providing a secondary means of access to abutting properties.
- 302.06 ***Alteration.*** Any change in the total floor area, use, adaptability, or external appearance of an existing structure.
- 302.07 ***Animal or Poultry Husbandry.*** Any keeping, boarding, breeding, or raising of any number of horses, goats, sheep, poultry, or other customary farm animals for any purpose; or of more than five (5) dogs and seven (7) cats or other customary pet animals for noncommercial purposes.
- 302.08 ***Animal Hospital or Clinic.*** Establishment where treatment is received and no activity is conducted outside the main building. Kennels are not included.
- 302.09 ***Apartment.*** A unit in a multi-family dwelling providing living quarters for a single family, in which separate access to the outside is usually not provided, and in which the major orientation of the unit is horizontal rather than vertical; or any condominium unit of similar physical character, appearance, and structure.
- 302.10 ***Auction House.*** A building or place where a public sale is held which property or goods, excluding livestock, are sold to the highest bidder.

302.11 **Automobile Graveyard.** Any lot or place which is exposed to the weather upon which more than three (3) motor vehicles of any kind not displaying current Commonwealth of Virginia inspection certification are placed, located, or found.

302.12 **Bed and Breakfast or Short Term Rental.** A Single Family Dwelling, a unit within a Two-Family Dwelling or a Multi-Family Dwelling, or an Accessory Building to a Dwelling (a) in which guests are provided with an abiding place for a fee on a more or less transient and temporary basis, (b) in which the average length of stay is one week or less in duration; and (c) in a structure and on a lot in which no more than four (4) guest rooms under common ownership are available for guests, with no more than eight (8) guests are at one (1) time, except for minors in the company of adult guests. To be a Bed and Breakfast or Short Term Rental, it is not necessary that the facility provide breakfast or any other meals. A structure used as a Bed and Breakfast or Short Term Rental does not thereby cease to be a Dwelling, and the requirements of the Land Development Regulations applicable to such Dwellings continue to apply to the Bed and Breakfast or Short Term Rental. The particular type of Dwelling constituting the Bed and Breakfast or Short Term Rental must be a structure that is permitted (either by right, or through a duly granted special use permit) in the underlying zoning district.

**Ordinance of May 2, 2023** amended this section to add the reference to "Short Term Rentals" and adjusted other aspects of the definition. The section previously read as follows: "**Bed and Breakfast.** A bed and breakfast facility is a structure in which guests are provided with sleeping

quarters for a fee, but the proprietor also resides in the facility, and in which no more than four (4) guest rooms are available for guests, and no more than eight (8) guests are at one (1) time, except for minors in the company of adult guests."

302.13 **Boarding House (Rooming House).** A building or part thereof where lodging is provided for compensation to unrelated persons on a more or less transient or temporary basis and in which the average length of stay exceeds one (1) week in duration

**Ordinance of May 2, 2023** adjusted several aspects of this definition. The section previously read as follows: "**Boarding House (Rooming House).** A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation for three (3)

to ten (10) unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one (1) week in duration. A lodging house is also included in this definition."

302.14 **Building.** Any structure designed or intended for support, enclosure, shelter, or protection of persons, animals, or property.

302.15 **Building Code.** The Virginia Uniform Statewide Building Code, as adopted by the Town of Broadway and as amended.

302.16 **Building Inspector.** The building official appointed by the Rockingham County to administer and enforce the provisions of the Building Code, or his designated representative or agent.

302.17 **Building, Main.** A building in which is conducted the main or principal use of the lot on which said building is situated.

- 302.18 ***Child Care Center.*** Any facility other than a Family Day Care Home, providing care, protection, and guidance to a group of children during only part of the day.
- 302.19 **Repealed by Ordinance of December 6, 2011.**
- Former Section 302.19 read:** “*Church or House of Worship.* A building where persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to conduct public worship.”
- 302.20 ***Community Center.*** Community entertainment, recreation, or meeting place operated by a non-profit organization.
- 302.21 ***Communications Equipment.*** Any tower, dish or other equipment used to send or receive electronic transmissions for public or private use.
- 302.22 ***Condominium.*** A unit in a building or development which is individually owned, but in which the common areas are owned, controlled, and maintained through an organization consisting of all individual owners.
- 302.23 ***Cottage Industry.*** A small, non-polluting business or industry employing fewer than five (5) workers.
- 302.24 ***Cul-de-Sac.*** A circular turning area at the end of a dead end street.
- 302.241 ***Density, gross:*** The number of dwelling units per gross acre of land on the site or lot.
- Ordinance of December 6, 2011 added this section.**
- 302.242 ***Density, net:*** The number of dwelling units per net acre, which is the gross site or lot area less floodplain, steep slopes in excess of 25%, public right-of-way, and any nonresidential use areas in residential or mixed-use developments.
- Ordinance of December 6, 2011 added this section.**
- 302.25 ***Developer.*** An owner of property being subdivided, whether or not represented by an agent.
- 302.26 ***Development.*** A tract of land developed or to be developed as a unit under single ownership or unified control which is to contain three or more residential dwelling units. The term “development” shall not be construed to include any property which will be principally devoted to agricultural production.
- 302.27 ***Driveway.*** Any private way provided for the principal purpose of providing vehicular access to an off-street parking area or service in the case of drive-in type uses.



302.28 ***Dwelling.*** Any building or portion thereof which is designed for or used for residential purposes, except hotels, boarding houses, manufactured homes, and automobile trailers.

**Ordinance of May 2, 2023** deleted the reference to “lodging houses” and “tourist cabins”.

302.29 ***Dwelling, Multi-Family.*** A building designed for, or occupied exclusively by, three (3) or more families living independently of each other; the term includes condominiums of similar physical appearance, character, and structure. The term also includes Townhouses and Apartments.

**Ordinance of July 7, 2015** deleted the phrase “or more” after the word “three (3)”.

**Ordinance of May 2, 2023** restored the language that the Ordinance of July 7, 2015 deleted, and added the final sentence.

302.30 ***Dwelling, Single-Family.*** A building designed for, or occupied exclusively by, one (1) family.

302.31 ***Dwelling, Two-Family (Duplex).*** A building designed for, or occupied exclusively by, two (2) families living independently of each other.

302.32 ***Dwelling Unit.*** One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one (1) kitchen.

302.33 ***Easement.*** A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

302.34 ***Engineer, Civil.*** An engineer currently licensed by the Commonwealth of Virginia.

302.35 ***Family.*** One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boarding house, lodging house, or hotel, as herein defined.

302.36 ***Family Day Care Home.*** Any private family home providing care, protection, and guidance to not more than ten (10) children during only part of the day. Children related by blood or marriage to the person who maintains the home shall not be counted.

302.37 ***Flood Proofing.*** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding required for new construction in the floodplain by the Virginia Uniform Statewide Building Code, Section 135.6.

302.38 ***Floor Area.*** The sum of the gross horizontal areas of the total number of floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including any attic space providing headroom

- of less than seven (7) feet, unusable basement or cellar space not used for retailing, uncovered steps or fire escapes, open porches, accessory water or cooling towers, accessory off-street parking spaces, and accessory off-street loading berths.
- 302.39 **Frontage.** The minimum width of a lot measured from one side lot line to the other, along a straight line on which no point shall be farther away from the street upon which the lot fronts, or from the front edge of the lot, than the building setback line as defined and required herein.
- 302.40 **Garage, Private.** Accessory building designed or used for the storage vehicles owned and used by the occupants of the building to which it is accessory.
- 302.41 **Garage, Public.** A building or portion thereof, other than a private garage, designed or used for servicing, repairing, painting, equipping, renting, selling, or storing motor-driven vehicles.
- 302.42 **Gardening.** Any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, generally for the use and/or consumption by the occupants of the premises, but not including accessory structures used for the same purpose.
- 302.43 **Golf Course.** Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.
- 302.44 **Golf Driving Range.** A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.
- 302.441 **Group Home.** A residential facility in which no more than eight mentally ill, mentally retarded or developmentally disabled persons reside with one or more resident counselors or other staff persons. A "residential facility" means any group home or other residential facility for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority pursuant to the Virginia Code. For the purposes of these regulations a group home shall be treated as residential occupancy by a single family per Virginia Code § 15.2-2291. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Virginia Code § 54.1-3401, as amended.
- Ordinance of December 6, 2011** added this section. Pursuant to authority granted in Section 805.05, and by letter dated January 3, 2012, to the Town Clerk, the Town Attorney corrected a typographical error in this section by capitalizing the word "Home" and first letter of the first sentence, and changing the colon after the title of the section to a period.
- 302.45 **Group Housing Project.** A Group Housing Project shall consist of two (2) or more buildings located on a site where the building arrangement is such that the property

- cannot be subdivided into conventional streets and lots that meet the requirements of the Town of Broadway Land Development Regulations.
- 302.46 **Group Housing Project for Older Persons.** A Group Housing Project provided under any state or federal program specifically designed and operated to assist elderly persons (as defined in the state or federal program) or intended for, and solely occupied by, persons sixty-two (62) years of age or older.
- 302.47 **Guest Room.** A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.
- 302.48 **Health Department.** The Rockingham County Health Department or its designated agent or representative.
- 302.49 **Height.** The vertical distance measured from the level of the edge of the pavement opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and the ridge of a gable, hip, or gambrel roof, or to the tallest point if no roof. For structures set back from the road line, the height shall be measured from the average elevation of the ground surface along the front of the structure.
- 302.50 **Highway Engineer.** The official designated by the Virginia Department of Highways and Transportation to inspect subdivision streets and alleys, and other public ways.
- 302.51 **Home Occupation.** An occupation, trade, or business conducted as an accessory use within a dwelling or within an accessory building located on the same lot as the dwelling unit, in a residential zoning district, and conducted by the resident thereof.
- 302.52 **Hog Pen.** An enclosure for concentrated confinement or housing of swine.
- 302.53 **Hospital.** An institution rendering medical, surgical, obstetrical, or convalescent care, including any institution licensed as a hospital by the State Hospital Board.
- 302.54 **Hotel.** A building or group of buildings that is (a) not a Bed and Breakfast/Short Term Rental; (b) in which lodging, or board and lodging, are provided and offered to the public for compensation on a more or less transient or temporary basis; and (c) in which the average length of stay is one week or less in duration. The term “hotel” includes the term “motel”.

**Ordinance of May 2, 2023** adjusted several aspects of the definition. The section previously read as follows: **Hotel.** A building that is not an inn or bed and breakfast and in which lodging, or board and lodging, are provided and offered to the public for compensation and in which

cooking facilities may be provided or in which lodging facilities are provided primarily for travelers and in which the length of stay is primarily less than one week in duration. The term “hotel” includes the term “motel”.

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302.55 **Repealed by Ordinance of May 2, 2023**

**Former Section 302.55 read** as follows; “*Inn*. A building or buildings designed and occupied as the more or less temporary abiding place for individuals who are, for compensation, lodged with or without meals, and in which provision is not generally made for cooking in individual

rooms or suites and in which no more than four (4) guest rooms are available for guests, and no more than eight (8) guests are at one (1) time, except for minors in the company of adult guests.”

- 302.56 ***Job Trailer***. A vehicular portable unit built on a chassis, utilized as a temporary building on construction sites, which is either designed or converted for uses incidental to construction work.
- 302.57 ***Junk Yard (Automobile Wrecking Yard)***. A lot, land, or structures or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running conditions, or for the sale of parts thereof.
- 302.58  ***kennel***. Any location where breeding, raising, grooming, caring for or boarding of dogs, cats, or other similar small animals for commercial purposes is carried on.
- 302.59 ***Light Industry***. Includes warehousing and light manufacturing uses which produce some noise, traffic congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise, or odors.
- 302.60 ***Livestock***. Animals kept or raised for sale, use, or pleasure.
- 302.61 ***Livestock Market***. A commercial establishment wherein livestock is collected for sale, sold, or auctioned off.
- 302.62 ***Living Unit***. Another term for “dwelling unit”.
- 302.63 ***Loading Space***. A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks and other carriers.
- 302.64 ***Lot***. A numbered and measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended to be a unit for the purpose, whether immediate or future, or transfer of ownership, or of development or separate use.
- 302.65 ***Lot Area***. The total horizontal area within the lot lines of a lot. No alley, public way, public land, or area proposed for future street purposes is included within the net area of the lot.

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- 302.66 ***Lot, Corner.*** A lot abutting upon two (2) or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.
- 302.67 ***Lot Coverage.*** The ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.
- 302.68 ***Lot, Depth of.*** The average horizontal distance between the front and rear lot lines.
- 302.69 ***Lot of Record.*** A lot or parcel of land whose existence, location, and dimensions have been recorded in the Office of the Clerk of the Circuit Court of Rockingham County at the time of the adoption of this Ordinance.
- 302.70 ***Lot, Width.*** The average horizontal distance between side lot lines.
- 302.71 ***Main Use.*** The primary purpose for which land or a building is used.
- 302.72 ***Manufacture and/or Manufacturing.*** The processing and/or converting of raw, unfinished materials, or products or either of them into articles of substances of different character or for use for a different purpose.
- 302.73 ***Manufactured Home.*** A manufactured dwelling unit designated for long-term occupancy and constructed originally with wheels for movement (whether or not such wheels have later been removed) and which has plumbing and electrical connections provided for attachment to outside systems. A camping vehicle or travel trailer shall not be considered a manufactured home.
- 302.74 ***Manufactured Home Park.*** Any development in which space is leased providing for three (3) or more manufactured homes intended for residential use for a period of time longer than thirty (30) days.
- 302.75 ***Manufactured Home Stand.*** A plot of ground within a manufactured home park designed to accommodate one manufactured home.
- 302.76 ***Manufactured Home Subdivision.*** Any area designated to accommodate three (3) or more manufactured homes intended for residential use on lots owned by the manufactured home owner.
- 302.761 ***Mobile Food Service Establishment.*** Any mobile vehicle located on any lot from which, for compensation, food or beverages are dispensed to persons for consumption, whether or not on the premises. If a vehicle is immobilized on a lot such that it becomes a fixture, then such vehicle is not a Mobile Food Service Establishment, but is instead a

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Restaurant. A vehicle operating primarily in transit on a public street (such as an ice cream truck) is not a Mobile Food Service Establishment.

**Ordinance of December 6, 2011** added this section.

- 302.77 ***Motor Home or Camper.*** A unit or subunit which is or becomes self-propelled and is designed for human habitation on a short-term basis.
- 302.78 ***Motor Vehicle.*** Any vehicle which is self-propelled or designed for self-propulsion. Any device designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, a sleeping place, storage, or office or commercial space shall be considered a part of a motor vehicle.
- 302.79 ***Non-Conforming Lot.*** An otherwise legally platted lot that does not conform to the minimum area or width requirements of this Ordinance for the District in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.
- 302.80 ***Non-Conforming Use of Structures.*** The otherwise legal use of a building or structure that does not conform to the use of regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.
- 302.81 ***Non-Conforming Structure.*** A structure existing at the time of enactment or amendment of this Ordinance which does not conform to the requirements of this Ordinance by reason of height or condition, or by reason of its impingement upon required yard areas.
- 302.82 ***Non-Conforming Use of Land.*** A use of land existing at the time of the enactment of this Ordinance, or at the time of an amendment thereto, which does not conform with the regulations of the use district in which it is located.
- 302.83 ***Nursing Home.*** Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities, and infirmaries.
- 302.84 ***Off-Street Parking Area.*** Space provided for vehicular parking outside the dedicated street right-of-way.
- 302.85 ***One Hundred Year Flood.*** A flood that, on the average, is likely to occur once every 100 years.

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- 302.86 **Overhang.** Any projection, either roof, bay, window, or similar cantilevered construction, which extends beyond the foundation of a structure.
- 302.87 **Parks, Playgrounds, and Outdoor Recreation Areas.** Land publicly or privately owned devoted to recreational pursuits, usually an open area reserved for outdoor activities such as play, hiking, exercise, or competitive sport not requiring structures for habitation.
- 302.88 **Pen.** A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of one hundred (100) square feet for each small animal or two hundred (200) square feet for each larger animal shall not be regarded as a pen.
- 302.89 **Personal Service Home Occupation.** A home occupation that generally provides on-premises goods or services to individual clients. Personal service home occupations include (but are not limited to) occupations related to the care of a person, a person's apparel, or the training and development of a person, such as beauty or barber shops, nail salons, dressmakers or tailors, photography or portrait painting.
- 302.90 **Plat.** Includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide".
- 302.91 **Professional.** When used in connection with "use" and "occupancy", a use or occupancy by persons generally engaged in rendering personal, executive, sales, or administrative services or activities, including accountants, architects, professional engineers and land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stockbrokers, and administrative agencies considered professional in character. The term does not include repair or sale of tangible personal property stored or located within the structure nor any use which would create any loud noises or noxious odors.
- 302.92 **Property.** Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.
- 302.93 **Property Owners Association.** A corporation or other legal entity or a non-profit organization which has as its purpose maintenance of streets and/or other common areas.
- 302.931 **Public Assembly Hall.** A meeting halls for any church or other religious institution, club, lodge or similar use in which people gather to meet for public or private functions, and including attendant educational or recreational facilities.

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- 302.94 **Public Service or Storage Buildings.** Governmental facilities necessary for public health, safety, and welfare.
- 302.95 **Public Utilities.** Public service structures such as power plants or substations; treatment plants, sewage treatment plants; or such similar operations publicly or privately owned furnishing electricity, gas, rail transport, communications, or related services to the general public. The term Utilities does not include Telecommunications Antennae or Telecommunications Towers.
- 302.96 **Public Utility Transmission Systems.** To include water, sewer, electricity, gas lines, or related transmission facilities for public use, telephones, etc. The term does not include Telecommunications Antennae or Telecommunications Towers.
- 302.97 **Ramada.** A structure erected over a manufactured home for the purpose of providing shade or shelter.
- 302.98 **Required Open Space.** Any space required in any front, side, or rear yard.
- 302.99 **Residential Use.** Any place, building, or establishment used in whole or in part as a dwelling or manufactured home.
- 302.100 **Restaurant.** Any building in which, for compensation, food or beverages are dispensed to persons not residing on the premises for consumption on the premises, including, among other establishments, cafes, delicatessens, or refreshment stands.
- 302.101 **Restaurant, Drive-In.** An eating and/or drinking establishment which caters to motor-driven vehicle business where the person being served may consume his food and/or drink while sitting in a motor-driven vehicle, as opposed to a restaurant serving exclusively inside or adjacent to the main building.
- 302.102 **Retail Stores and Shops.** Buildings for display and sale of merchandise at retail for for the rendering or personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following, which will serve as illustrations: drug store, newsstand, food store, candy shop, milk dispensary, dry-goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, and beauty and barber shop.
- 302.103 **Right-of-Way.** Access over or across particularly described property for a specific purpose or purposes.
- 302.104 **Right-of-Way Line.** The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.



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- 302.105 ***School, Business or Commercial.*** Privately owned and operated educational institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to prepare individuals to pursue any occupation for profit in business administration, bookkeeping, accounting, data processing, stenography, clerical, secretarial, receptionist, or other office occupations.
- 302.106 ***School, Private.*** Privately owned and operated educational institution or educational organization, maintained or conducting classes for the purpose of offering instruction of students from kindergarten to twelfth grade level.
- 302.107 ***School, Public.*** Publicly owned and operated educational institution or educational organization regulated by the Commonwealth of Virginia and maintained or conducting classes for the purpose of offering instruction of students from kindergarten to twelfth grade level.
- 302.108 ***School, Vocational.*** Privately or publicly owned and operated educational institution or educational organization maintained or conducting classes for the purpose of offering instruction to pursue any occupation for profit in any skilled trade, electronics, data processing or industry, or to give occupational training, or to give training in public or other service occupations, or to give vocational training designed to prepare an individual for, or to upgrade an individual in, technical occupations and technical phases of other occupations.
- 302.109 ***Screening.*** A barrier to vision or noise consisting of trees, bushes, shrubbery, or fences.
- 302.110 ***Setback.*** The minimum distance by which any building structure must be separated from the front lot line.
- 302.111 ***Setback Line.*** A line generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground.
- 302.1111 ***Short Term Rental.*** See definition of Bed and Breakfast or Short Term Rental in Section 302.12.
- Ordinance of May 2, 2023** added this section.
- 302.112 ***Sign.*** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used as an outdoor display.

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- 302.113 **Sign Area.** The smallest square, rectangle, triangle, circle, or combination thereof encompassing the entire advertising area, excluding architectural trim and structural supports.
- 302.114 **Sign, Business.** A sign painted, electrical, or otherwise, erected for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the premises upon which said sign is located.
- 302.115 **Sign, Directional.** A directional sign is one (one end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called giving only the name of the firm or business responsible for the erection of same and distance.
- 302.116 **Sign, Locational.** A sign which directs attention to the approximate location of an establishment from which an advertised product or service may be obtained.
- 302.117 **Sign, Outdoor Advertising.** A structural poster panel or painted sign, either free standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the premises upon which it is located. Also known as a “billboard”.
- 302.118 **Sign Structure.** A structure, including the supports, uprights, bracing and framework be it single-faced, double-faced, V-type, or otherwise, which is located on the ground or on top of another structure and which supports no more than two (2) signs.
- 302.119 **Sign Structure Facing.** The surface of the sign upon, against, or through which the message of the sign is exhibited, not including architectural trim and structural supports.
- 302.120 **Site Plan.** The proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable sections of this Ordinance.
- 302.121 **Storage Trailer.** A vehicular portable unit built on a chassis, utilized as a temporary storage unit, which is designed or converted for uses incidental to the principal permitted use on the property.
- 302.122 **Storey.** That portion of a building, other than the basement, included between the surface of the floor next above it, if there be no floor above it, the space between the floor and the ceiling next above it.
- 302.123 **Street.** The principal means of access to abutting properties.

- 302.124 **Street Center Line.** A line generally parallel to the right-of-way lines that equally divide the street right-of-way.
- 302.125 **Street, Half.** A street that does not meet the minimum right-of-way width requirements set forth or referenced in this Ordinance.
- 302.126 **Street, Internal.** A private street providing access to lots within a development, but not including driveways.
- 302.127 **Street Line.** The dividing line between a street or road right-of-way and the contiguous property.
- 302.128 **Street, Major.** A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.
- 302.129 **Street, Other.** A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.
- 302.130 **Street Width.** The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, planting strips, and bikeways.
- 302.131 **Structure.** Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. Does not include streets, driveways, sidewalks, curbs, or street level guttering, or objects entirely underground.
- 302.132 **Subdivider.** Any 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 groups or another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.
- 302.133 **Surveyor.** A land surveyor currently certified by the Commonwealth of Virginia.
- 302.134 **Television and/or Radio Stations.** A broadcasting facility licensed in the public interest, convenience, and necessity by the Federal Communications Commission, which includes transmitting and receiving equipment, studios, offices, utility buildings, and other necessary accessories required to operate a station.
- 302.135 **Repealed by Ordinance of May 2, 2023**

**Former Section 302.135** read as follows; “*Tourist Court, Auto Court, Motel, Hotel, Cabin, or Motor Lodge.* Building or buildings containing individual sleeping rooms, designed for, or used temporarily by,

automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

**302.136 Repealed by Ordinance of May 2, 2023**

**Former Section 302.136** read as follows: “Tourist Home.  
A dwelling where only lodging is provided for

compensation for up to fourteen (14) persons (in contrast  
to hotels and boarding houses) and open to transients.”

**ARTICLE 4  
ESTABLISHMENT OF DISTRICTS**

**401.00 DIVISION OF THE TOWN OF BROADWAY INTO DISTRICTS**

For the purposes of this Ordinance, the Town of Broadway is divided into zoning districts named and described in the following sections. The boundaries of said zoning districts are hereby established and shown on the Official Zoning Map maintained in the office of the Zoning Administrator and shown as originally adopted within Article 12, Zoning Map et seq.

**402.00 INCORPORATION OF THE ZONING MAP**

The zoning map entitled the “Official Zoning Districts Map for the Town of Broadway, Virginia”, dated July 5, 1988, as amended from time to time since that time, hereinafter referred to as the Official Zoning Map, with all notations, references, amendments, and dates thereof, and other information shown thereon, shall constitute a part of this Ordinance. Said map shall be made a public record and shall be kept permanently in the office of the Zoning Administrator, where it shall be accessible to the general public.

**403.00 MAP AMENDMENT**

If in accordance with the provisions of Article 8, herein, changes are made in the district boundaries or other information portrayed in the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved, together with a numerical entry referring to the application for the amendment, submitted in accordance with Article 8, herein, which shall be kept as a public record by the Zoning Administrator. Said numerical entry shall state the reference number of the application in the records of the Zoning Administrator and the date of the approval of the amendment by the Governing Body. Amendments to this Ordinance, which involve matter portrayed on the Official Zoning Map, shall become effective immediately upon being entered onto the Official Zoning Map. The Town of Broadway Official Zoning Map, which shall be located in the office of the Zoning Administrator, shall be the final authority in determining the current zoning status of

land and water areas, buildings, and other structures in the Town. No changes of any nature shall be made in the Official Zoning Map except in accordance with law.

#### **404.00            REPLACEMENT OF THE OFFICIAL ZONING MAP**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Governing Body may, by resolution, adopt a new Official Zoning Map which shall supercede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map, or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

#### **405.00            RULES FOR DETERMINING BOUNDARIES**

Unless district boundary lines are fixed by dimensions, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following shall apply:

- 405.01            Unless otherwise indicated, district boundaries indicated as approximately following property lines, landlines, centerlines of streams, roads, highways, alleys, the shorelines of reservoirs, or other bodies of water or civil boundaries, shall be construed to follow such lines.
  
- 405.02            District boundaries indicated as approximately parallel to the centerline of streams, roads, highways, or rights-of-way of the same, or the shorelines of reservoirs, or other bodies of water, or said lines extended, shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.
  
- 405.03            Where a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, or alley.
  
- 405.04            Where a district boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event

of change in the shoreline, such boundary shall be construed as moving with the actual shoreline with its reestablished center or channel.

- 405.05 If no distance, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the Official Zoning Map. In case of subsequent dispute the matter shall be referred to the Board of Zoning Appeals, which shall determine the boundary in accordance with the provisions of this Ordinance.

- 302.137 **Townhouse.** A unit separated from adjacent units by a vertical wall with no openings, providing a dwelling for a single family, in which separate access to the outside is provided, and in which the major orientation of the unit is vertical rather than horizontal, and which is part of a structure containing at least four (4) such units.
- 302.138 **Townhouse Development.** One or more single-family dwellings consisting of townhouses, with accessory parking, open space, and recreational and management facilities.
- 302.1381 **Townhouse group.** A cluster or grouping of townhouse units containing not less than four nor more than six individual townhouse dwelling units contiguous to one another.
- Ordinance of July 7, 2015 added this section
- 302.1382 **Townhouse project site.** The entire parcel or parcels of land for which individual townhouse units are proposed prior to the creation of any townhouse lots.
- Ordinance of July 7, 2015 added this section
- 302.139 **Travel Trailer Park or Travel Trailer Camp.** Premises where travel trailers are parked temporarily in conjunction with travel, recreation, or vacation.
- 302.140 **Tree.** A woody perennial plant having a single main stem.
- 302.141 **Warehouse.** A structure for storing goods, wares or merchandise.
- 302.142 **Wholesale Sales.** An operation which sells chiefly to retailers, other merchants, or industrial, institutional and commercial uses for resale or business use.
- 302.143 **Yard.** A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by structures from ground to sky except where encroachments and accessory structures are expressly permitted.
- 302.144 **Yard, Front.** An open, unoccupied space, of a minimum depth equal to the setback, on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. On corner lots, the depth of the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
- 302.145 **Yard, Rear.** An open space, excluding steps, on the same lot with the main building, such space being unoccupied except possibly by an accessory structure and extending the full width of the lot and situated between the rear line of the lot and the rear line of

the main building projected to the side lines of the lot. On all corner lots the rear yard shall be the opposite end of the lot from the front yard.

302.146 **Yard, Side.** An open, unoccupied space, excluding steps, on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

### **303.00 CONTIGUOUSNESS.**

Whenever in these regulations, the substantive rights or obligations of a party depend on two or more parcels or uses being contiguous, such contiguousness shall be determined while ignoring any streets or rights of way that intervene between two property lines.

**Ordinance of December 6, 2011** added this section.

## **ARTICLE 5 APPLICATION OF ZONING REGULATIONS**

The regulations established herein within each district shall be minimum regulations and shall be uniformly applied to each class of structure or land, except as hereinafter provided:

### **501.00 USES**

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

501.01 **Permitted Uses.** A permitted use is one which is allowed by right in the district in which the land is situated. Where the proposed use is permitted and is in accordance with other regulations herein, the Zoning Administrator shall issue a Zoning Permit without a public hearing and in accordance with the procedures of this Ordinance.

501.02 **Special Uses.** Where uses are permitted by special use permit, such uses shall require a Special Use Permit in lieu of a Zoning Permit. A Certificate of Occupancy is still required. Procedures for applying for a Special Use Permit shall be as described in Article 8.



501.03      Accessory Use. An accessory use is a subordinate use, customarily incidental to and located upon the same lot occupied by a permitted main use. Unless an accessory use is specifically limited to certain zoning districts, the listing of an accessory use in this ordinance shall not be construed to limit other accessory uses not mentioned, so long as they are clearly accessory to the principal permitted use of land and do not create a threat to public health, safety, or the welfare of the community. In the case of any dispute over whether a use is a permitted accessory use, the burden of proof is on the landowner to show that these criteria are met. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used (other than for temporary storage of construction materials) unless the main building on a lot is completed and used.

501.04      Ordinance Exclusive. No use shall be permitted in the Town unless it is an enumerated permitted use, a special use for which a valid Special Use Permit has issued, or an accessory use.

**502.00            BUILDINGS**

No building shall hereafter be erected, constructed, or altered so as to violate this Zoning Ordinance.

**503.00            LOTS AND YARDS**

No new lot or yard shall hereafter be created, nor shall any lot or yard existing at the time of enactment of this Ordinance be altered, nor shall any building or structure, whether new or existing be moved, so that lot width, depth, or area requirements; front, side, or rear yard requirements; or inner or outer court requirements; or other requirements of this Ordinance are not maintained, except when a portion of a lot is acquired for public use. No part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except as otherwise permitted herein.

**504.00            GARDENING**

Gardening shall be exempt from zoning permit requirements in any district allowing residential uses provided that such gardening shall not be objectionable by reason of odor, dust, noise, pollution, soil erosion, sedimentation, or drainage.

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**505.00 PERMITS ISSUED PRIOR TO ADOPTION OF ORDINANCE**

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this Ordinance. However, if such construction does not commence within thirty (30) days after this Ordinance becomes effective, or if construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this Ordinance for the district in which the operation is located.

**506.00 EXISTING NON-CONFORMING LOTS, BUILDINGS, AND USES**

506.01 It is the intent of this Ordinance to recognize that the elimination of existing lots, buildings, and structures or uses that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is, therefore, the intent of this Ordinance to permit these non-conformities to continue, but not to encourage their survival, permit their expansion, or permit their use as grounds for adding other structures or uses prohibited elsewhere in the same district. Therefore, any structure or use of land existing at the time of the enactment of this Ordinance, and amendments thereto, but not in conformity with its regulations and provisions, may only be continued subject to the provisions herein.

506.02 Lots of Record. Where a lot of record at the time of enactment of this Ordinance does not contain land of sufficient area or width to permit conformity with the dimensional requirements of this Ordinance, the following provisions shall apply:

506.02-1 Two or More Lots Not Zoned R-1. When two (2) or more adjoining and vacant lots with continuous frontage, excluding those zoned R-1, are in single ownership at the time of enactment of this Ordinance or amendments thereto, and each of such lots have a width or lot area less than is required by the district in which they are located, but taken together such lot would conform to such standards, such lots shall be platted and resubdivided so as to create one (1) or more lots which conform to the minimum lot width and area requirements of the district prior to use or transfer of ownership of such parcels.

506.02-2 Two or More Lots Zoned R-1. When two (2) or more adjoining and vacant lots with continuous frontage on land zoned R-1 are in single ownership at the time of enactment of this Ordinance or amendments thereto, such lots shall be platted and reparcelled so as to create one (1) or more lots which conform to a minimum frontage

at setback line of seventy-five (75) feet and a minimum area requirement of nine thousand seven hundred fifty (9,750) square feet prior to use or transfer of ownership of such parcels.

506.02-3 Single Nonconforming Lots. Where a single non-conforming lot of record at the time of enactment or amendment of this Ordinance is not of continuous frontage with other lots in the same ownership, such lot may be used as a building site, provided notwithstanding the failure of the lots to meet frontage or lot size requirements, nevertheless yard dimensions, and requirements other than those applying to area or width of the lot shall conform to the regulation for the district in which such lot is located.

506.03 Nonconforming Structures. Where a lawful structure exists at the time of enactment or amendment of this Ordinance that could not be built in the district in which it is located by reason of restrictions on lot coverage, height, yard dimensions, or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the provisions of this article.

506.03-1 Nonconforming Unsafe Structures. Any structure or portion thereof declared unsafe by the Building Inspector may be restored to a safe condition, provided that the requirements of this section are met, and that the cost of restoration of the structure to a safe condition shall not exceed fifty (50) percent of its replacement cost at the time of the Building Inspector declaration.

506.03-2 Enlargement of Nonconforming Structures. No nonconforming structure may be enlarged or altered in any way which increases its non-conformity. Any structure or portion thereof may be altered to decrease its non-conformity.

506.03-3 Installation of Plumbing in Nonconforming Structure. Notwithstanding the provisions of Section 506.04-2 above, whenever repairs on or installation of plumbing fixtures in residential structures is required by law or administrative action of the Health Official or the Building Inspector, such alterations shall be permitted, provided that where such alterations require an addition to the structure, such addition shall be no nearer the lot line than permitted by the requirements of this Ordinance. If such addition cannot be made in accordance with the proceeding sentence, then the said addition shall extend no nearer the lot line than the existing building line.

506.03-4 Movement of Nonconforming Structures. If a nonconforming structure is moved, it shall be moved only to a location where it conforms to the yard dimension requirements of the district in which it is located after it is moved.

506.03-5 Damage or Destruction of Nonconforming Structure by Natural Disaster or Act of God. If a nonconforming structure or nonconforming portion of a structure is damaged or destroyed by natural disaster or other act of God, it shall be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features to the full extent possible. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of Section 641, which was adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired or rebuilt within two years of the date of the natural disaster or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of this Ordinance. However, if the nonconforming structure is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then this paragraph shall be read by substituting the term “four years” for the term “two years” in every place it occurs in this paragraph.

506.03-6 Damage or Destruction of Nonconforming Structure other than by Natural Disaster or Act of God. If a nonconforming structure is damaged or destroyed other than by a natural disaster or by Act of God, it shall be repaired, rebuilt, or replaced only in compliance with the provisions of this Ordinance.

506.04 Nonconforming Uses of Land. Where a lawful use of land (that is, a use not carried on inside a structure) exists at the time of enactment or amendment of this Ordinance that would not be permitted by the regulations imposed herein and where such is either (1) an accessory use involving the use of no separate accessory structure or (2) a principal use involving no individual structure, then such use may be continued as long as it remains otherwise lawful, subject to the provisions of this article.

- 506.04-1 Extension of Nonconforming Use. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the time of enactment or amendment of this Ordinance.
- 506.04-2 Return to Nonconforming Use Prohibited. Such nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use.
- 506.04-3 Relocation of Nonconforming Use on Same Lot. 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 time of enactment or amendment of this Ordinance.
- 506.04-4 Cessation of Nonconforming Use. In the event that such use, other than agriculture, ceases for a period of more than two years (including cessations by reason of a natural disaster or Act of God), any subsequent use shall conform to all requirements of this Ordinance for the district in which the land is located.
- 506.04-5 Additional Structures in Support of Nonconforming Use. No additional structure not conforming to the requirements of this Ordinance shall be constructed in connection with such nonconforming use.
- 506.04-6 Nonconforming Annexed Agricultural Land. To the extent that the Town annexes any land under its agreement with Rockingham County dated January 1, 1991, and such land is being used for agricultural purposes at the time of such annexation (“Nonconforming Annexed Agricultural Land”), such agricultural purposes are an existing nonconforming use of land pursuant to this section 506, and shall be subject to the provisions herein. Notwithstanding the foregoing, such Nonconforming Annexed Agricultural Land shall be subject to the following provisions:
- (a) Nonconforming Annexed Agricultural Land shall be eligible for land use taxation.
  - (b) Crop fields and grazing areas on Nonconforming Annexed Agricultural Land shall be exempt from general ordinances of the Town regarding mowing.
  - (c) Owners of agricultural operations on Nonconforming Annexed Agricultural Land shall be permitted to erect,

rebuilt, repair, and replace farm outbuildings so long as the use does not increase any nuisance to neighboring permitted uses.

506.05 Nonconforming Uses of Structure. Where a lawful use involving an individual structure or structures in combination, exists at the time of enactment or amendment of this Ordinance, that would not be permitted in the district in which it is located under the requirements of this Ordinance, such use may be continued as long as it remains otherwise lawful, subject to the provisions of this article.

506.05-1 Expansion of Structure. No structure existing at the time of enactment or amendment of this Ordinance devoted to a nonconforming use shall be enlarged, extended, moved, or structurally altered, except repairs on or installation of plumbing fixtures required by law or administrative action of the Health Official or the Building Official, or the changing of interior partitions or interior remodeling; or in changing the use of the structure to a conforming use.

506.05-2 Expansion Within Structure. A nonconforming use of a structure may be extended to include use of the entire structure, but shall not be extended to include either additional structures or land outside the structure.

506.05-3 Discontinuance of Use. When a nonconforming use of a structure or structures and premises in combination is discontinued or abandoned (including by reason of the destruction of such structure by natural disaster or Act of God) for two years the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.

506.05-4 Return to Nonconforming Use Prohibited. When a nonconforming use of a structure is changed to a conforming use, such use shall not thereafter be changed back to any nonconforming use.

506.05-5 Change from Nonconforming Use of Structure to Another Nonconforming Use. Upon the issuance of a Special Use Permit, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use if the Town Council finds that the proposed use is equally appropriate or more appropriate to the district than the existing use. The Town Council may impose such conditions relating to the proposed use as it may deem necessary in the public interest and may require a cash bond or equivalent, a surety bond of a surety company, or a certified

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check payable to the Treasurer of the Town of Broadway, be supplied in an amount equal to the estimated cost of complying with the conditions imposed to insure that the conditions imposed are being and will continue to be met.

506.06 Nonconforming Manufactured Homes. Notwithstanding any other provision herein, the land owner or home owner of any manufactured home that is an existing nonconforming structure, or is an existing nonconforming use in the zoning district in which it is located, may remove a valid nonconforming manufactured home from a mobile or manufactured home park and may replace that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid existing nonconforming status of the prior home.

506.07 Condominium Conversions. When a landowner proposes to convert an existing nonconforming structure, or an existing structure with a nonconforming use, to condominium status, the landowner shall obtain a Special Use Permit before such conversion. Notwithstanding any other provision herein, the Town Council shall grant the Special Use Permit if the applicant can demonstrate to the reasonable satisfaction of the local authority that the nonconformities are not likely to be adversely affected by the proposed conversion. No action on any such request shall be unreasonably delayed. In the event of an approved conversion to condominium ownership, the Town will impose such charges and fees as it lawfully imposes as a result of construction of new structures to the extent that such charges and fees, or portions of such charges and fees, imposed upon property subject to such conversions may be reasonably related to greater or additional services provided by Town as a result of the conversion.

## **507.00 PRIVATE ACCESS EASEMENTS**

Each lot in use shall abut on a developed public street, except lots used as a townhouse, which may employ a private access easement in accordance with Section 708.03. If a lot presently in use does not abut on a developed public street, any use of such lot is an existing nonconforming use of the land and is subject to the provisions of Section 506.04. Provided, however, that notwithstanding the foregoing sentence, when the use of a lot is an existing nonconforming use of the land because of this Section 507 and the landowner proposes to convert the lot to a different use for which the lack of frontage on a developed public street will cause no greater disruption to the orderly development of the Town than the previous use, such landowner may apply for a Special Use

Permit to allow the new use. The Town Council shall adjudicate such request in accordance with the other provisions of this Ordinance regarding Special Use Permits.

## **ARTICLE 6 USES IN DISTRICTS**

### **601.00 CONSERVATION DISTRICT C-1**

601.01 Intent of the Conservation District C-1. This district covers portions of the Town which are occupied by various open uses such as agriculture, National Forests and Parks, state owned forest and park lands, and local government owned lands. This district is established for the specific purpose of providing recreation and open space uses, conservation of water and other natural resources, reducing soil erosion, protecting watersheds, and reducing hazards from flood and fire.

601.02 Permitted Uses. Within the Conservation District C-1, the following uses are permitted as of right:

601.02-1 Wildlife areas or game refuges;

601.02-2 Flood control and watershed structures;

601.02-3 Parks, playgrounds, and outdoor recreation areas;

601.02-4 Public utilities;

601.02-5 Public service or storage buildings;

601.02-6 Nursery or tree farms;

601.02-7 Fish hatcheries;

601.02-8 Cemeteries;

601.02-9 Timber production, forests;

601.02-10 Agriculture uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting. General farming includes the raising of livestock and field crops. However, poultry houses and hog pens are prohibited.



601.02-11 Public water and sewage systems.

601.03 Permitted Accessory Uses in C-1 District. The following accessory uses are permitted in the C-1 District:

601.03-1 Off street parking for uses permitted in this district, subject to the regulations of Article 7.

**611.00 LOW DENSITY RESIDENTIAL DISTRICT R-1**

611.01 Intent of the Low Density Residential District R-1. This district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life. To these ends, development is limited to relatively low concentration and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches, and certain public facilities that serve the residents of the district.

611.02 Permitted Uses. Within Low Density Residential District R-1 the following uses are permitted as of right:

611.02-1 Single-family dwellings;

611.02-2 Public parks, playgrounds, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreational activities, all of a noncommercial nature;

611.02-3 Public utility transmission systems;

611.02-4 Raising and keeping of livestock, including private stables, provided that the following conditions are met:

- (a) Such use shall take place only on a lot that is not less than two (2) acres in area;
- (b) Such use shall involve the keeping of not more than one animal per acre on the premises;
- (c) In any such use no pen or structure for the keeping or livestock (other than grazing areas) and no area for the

storage of manure or other odor or dust causing materials, shall be located within 100 feet of any side or rear lot line.

611.02-5 Group Home, as defined herein

611.02-6 Bed and Breakfasts or Short Term Rentals

**Ordinance of December 6, 2011** added Section 611.02-5.

**Ordinance of May 2, 2023** added Section 611.02-6.

611.03 Special Uses. The following uses are permitted in an R-1 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

611.03-1 Child care centers and family day care homes, provided that for any such use the main structure shall not be located closer than fifty (50) feet from any residential lot;

611.03-2 Public utilities (other than transmission systems);

611.03-3 Public elementary, middle, and high schools and private schools having substantially the same curriculum as such public schools;

611.03-4 Public service or storage buildings;

611.03-5 Public Assembly Hall, provided, however, that no such facilities shall be located closer than one hundred (100) feet from any other residential lot;

611.03-6 **Repealed by Ordinance of May 2, 2023**

611.03-7 Agricultural and forestry uses and stands for seasonal retail sale of agricultural products produced on the property;

611.03-8 Cemeteries;

611.03-9 Fire stations and rescue squad facilities

611.03-10 **Repealed by Ordinance of May 2, 2023**

**Ordinance of December 6, 2011** amended Section 611.03-5 to replace “Churches and other places of worship with attendant educational and recreational facilities” with “Public Assembly Hall”, and deleted the phrase “church or attendant” before the word “facilities”, and added the word “such” before the word “facilities”

**Ordinance of March 4, 2014** added Section 611.03-10 to permit Inns as a special use in the R-1 zoning district.

**Ordinance of May 2, 2023** repeated 611.03-6 and 611.03-10, which had provided that Bed and Breakfasts and Inns were used permitted by Special Use in the R-1 zoning district.

- 611.04      Accessory Uses. The following accessory uses are permitted in the R-1 zoning district:
- 611.04-1      Home occupations in accordance with the provisions of § 705;
  - 611.04-2      Living quarters in main building for persons employed on the premises;
  - 611.04-3      Travel trailers in accordance with the provisions of § 707;
  - 611.04-4      Temporary buildings for uses incidental to construction work; provided that such buildings shall be removed upon completion or abandonment of the construction work;
  - 611.04-5      Parking in accordance with § 703;
  - 611.04-6      Private parking garage;
  - 611.04-7      Shelter for house pets, but not exceeding two (2) shelters, to house not more than one (1) adult per shelter plus dependent animals of up to six (6) months of age;
  - 611.04-8      Private swimming pool;
  - 611.04-9      Fences in accordance with § 709;
  - 611.04-10      Satellite receivers or dishes.
- 611.05      Lot Area Requirements. Lots in the R-1 district shall not be less than 15,000 square feet in area.
- 611.06      Lot Width Requirements. The minimum lot width at the setback line in an R-1 district shall be 100 feet. If the lot is located in a cul-de-sac, than the minimum lot width at the setback line in an R-1 district shall be 75 feet.
- 611.07      Setback Requirements. Primary structures in an R-1 district shall be located 35 feet or more from any street right-of-way.
- 611.08      Yard Requirements. The following yard requirements shall be applicable in the R-1 District:
- 611.08-1      Rear Yard. Each rear yard shall be a minimum of 30 feet.

611.08-2 Side Yard. Together the side yards shall be a minimum of 25 feet. Each side yard shall not be less than 10 feet.

611.09 Height Requirements. Buildings may be erected up to 35 feet in height from grade.

611.10 Accessory Structure Requirements. No accessory structure shall be nearer than 5 feet to any lot line. If an accessory structure is over one story in height, such accessory structure shall not be nearer than 10 feet to any lot line. No accessory building shall be nearer a principal building than 10 feet. No accessory structure shall exceed 15 feet above grade height. No accessory building shall be larger than two hundred fifty (250) square feet in area without a special use permit; and such an accessory building shall be a permissible special use in the R-1 zoning district.

## **612.00 RESIDENTIAL DISTRICT R-2**

612.01 Intent of Residential District R-2. The intent of the R-2 Residential District is to encourage residential neighborhoods and to stabilize and protect the essential character of such neighborhoods. The regulations for this district tend to protect against encroachment of commercial or industrial uses and other uses likely to generate noise, crowds, concentrations of traffic, light, dust, odors, smoke, or other obnoxious influences.

612.02 Permitted Uses. Within Residential District R-2 the following uses are permitted as of right:

612.02-1 Single-family dwellings;

612.02-2 Two-family dwellings where each living unit contains a minimum of nine hundred (900) square feet;

612.02-3 Public parks, playgrounds, recreational buildings, and grounds, tennis courts, swimming pools, and outdoor recreational activities, all of a noncommercial nature. No swimming pool or structure shall be located closer than one hundred (100) feet from any residential lot;

612.02-4 Public utility transmission systems;

612.02-5 Buildings originally constructed as bona fide single family dwellings that have been converted into two family dwellings.

612.02-6 Group Home, as defined herein

612.02-7 Bed and Breakfasts or Short Term Rentals

**Ordinance of December 6, 2011** added Section 612.02-6.

**Ordinance of May 2, 2023** added Section 612.02-7.

612.03 Special Uses. The following uses are permitted in an R-2 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

612.03-1 Public utilities;

612.03-2 Child care centers and family day care homes; provided that the main structure shall not be located closer than fifty (50) feet from any residential lot;

612.03-3 Homes for adults;

612.03-4 Schools;

612.03-5 Public service or storage buildings;

612.03-6 Public Assembly Hall, provided, however, that no attendant recreational facility shall be located closer than one hundred (100) feet from any other residential lot.

612.03-7 **Repealed by Ordinance of May 2, 2023**

612.03-8 Cemeteries;

612.03-9 Dwellings constituting a Zero Lot Line Development under the provisions of § 714.

612.03-10 **Repealed by Ordinance of May 2, 2023**

**Ordinance of December 6, 2011** amended Section 612.03-6 to replace “Churches and other places of worship with attendant educational and recreational facilities” with “Public Assembly Hall” and to add the word “attendant” before the words “recreational facility”.

**Ordinance of March 4, 2014** added Section 612.03-10 to permit Inns as a special use in the R-2 zoning district. **Ordinance of May 2, 2023** repeated 612.03-7 and 612.03-10, which had provided that Bed and Breakfasts and Inns were used permitted by Special Use in the R-2 zoning district

612.04 Accessory Uses. The following accessory uses are permitted in the R-2 zoning district:

612.04-1 Home occupations in accordance with the provisions of § 705;

- 612.04-2 Living quarters in main building for persons employed on the premises;
- 612.04-3 Travel trailers in accordance with the provisions of § 707;
- 612.04-4 Temporary buildings for uses incidental to construction work; provided that such buildings shall be removed upon completion or abandonment of the construction work;
- 612.04-5 Parking in accordance with § 703;
- 612.04-6 Private parking garage;
- 612.04-7 Shelter for house pets, but not exceeding two (2) shelters, to house not more than one (1) adult per shelter plus dependent animals of up to six (6) months of age;
- 612.04-8 Private swimming pool;
- 612.04-9 Fences in accordance with § 709;
- 612.04-10 Satellite receivers or dishes.

612.05 Lot Area Requirements. The following lot area requirements shall be applicable in the R-2 District: All such lots shall be at least 12,500 square feet in area. Provided, however, that a lot upon which is sited one-half of a duplex may be a minimum of 6,250 square feet, provided that the other half of such dwelling is also on a lot with a minimum size of 6,250 square feet, such that the structure sits on lots that total a minimum of 12,500 square feet in area. Notwithstanding the foregoing, in any lot that is part of a Zero Lot Line Development under the provisions of Section 714, the minimum lot size shall be 6,250 square feet.

**Ordinance of April 6, 2010**, added the final sentence of this section.

612.06 Lot Width Requirements. In the R-2 district, the minimum lot width at the setback line shall be 75 feet. . Notwithstanding the foregoing, in any lot that is part of a Zero Lot Line Development under the provisions of Section 714, the minimum lot width at the setback line shall be 60 feet.

**Ordinance of April 6, 2010**, added the final sentence of this section.

612.07 Setback Requirements. In the R-2 district primary structures shall be located 30 feet or more from any street right-of-way.

612.08 Yard Requirements. The following yard requirements shall be applicable in the R-2 District:

612.08-1 Rear Yard. Each rear yard shall be a minimum of 25 feet.

612.08-2 Side Yard. Each side yard be a minimum of 10 feet.

612.09 Height Requirements. Primary buildings may be erected up to 35 feet in height from grade.

612.10 Accessory Structure Requirements. No accessory structure shall be nearer than 5 feet to any lot line. If an accessory structure is over one story in height, such accessory structure shall not be nearer than 10 feet to any lot line. No accessory building shall be nearer a principal building than 10 feet. No accessory structure shall exceed 15 feet above grade height. No accessory building shall be larger than two hundred fifty (250) square feet in area without a special use permit; and such an accessory building shall be a permissible special use in the R-2 zoning district.

### **613.00 MEDIUM DENSITY RESIDENTIAL DISTRICT R-3**

613.01 Intent of Medium Density Residential District R-3. The intent of the Medium Density Residential District is to provide for a range of development densities in accordance with the Broadway Comprehensive Plan. The regulations for this district provide for development which is not completely residential because it includes public and semipublic, institutional and other related uses. However, it is basically residential in character, and as such, is protected against encroachment of heavy commercial, industrial, and other uses likely to generate noise, crowds, large concentrations of traffic, light, dust, odors, smoke, and other obnoxious influences. This District is also intended to help to implement the Urban Development Areas as shown in the Town Comprehensive Plan, to provide compact, interconnected, pedestrian-friendly areas.

**Ordinance of December 6, 2011** added the final sentence to this section.

613.02 Permitted Uses. Within Medium Density Residential District R-3, the following uses are permitted as of right:

613.02-1 Single-family dwellings;

613.02-2 Two-family dwellings;

613.02-3 **[Repealed by Ordinance of July 7, 2015]**

- 613.02-4 Public utility transmission systems;
- 613.02-5 Public parks, playgrounds, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreational activities, all of a noncommercial nature; provided, however, that no swimming pool or structure shall be located closer than one hundred (100) feet to any other residential lot;
- 613.02-6 Professional offices in structures similar in character with surrounding neighborhoods;
- 613.02-7 Bed and Breakfasts or Short Term Rentals;
- 613.02-8 Libraries.
- 613.02-9 Group Home, as defined herein.

**Ordinance of December 6, 2011**, added Section 613.02-9 but originally numbered it as Section 613.02-8. The Town Attorney corrected this typographical error by letter to the Town Clerk dated January 3, 2012, under the authority provided in Section 810.05.

**Former Section 613.02-3** read as follows: “Multi family dwellings, apartments, townhouses, (as regulated in Section 708 of this Ordinance) and condominiums;” **Ordinance of May 2, 2023** removed references to Tourist Homes and Inns in 613.02-7, and added the reference to Short Term Rentals.

613.03 Special Uses. The following uses are permitted in an R-3 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

- 613.03-1 General hospitals;
- 613.03-2 Public utilities;
- 613.03-3 Commercial operations that: (1) will not adversely affect the health or safety of persons residing in the neighborhood of the proposed use; (2) will not be detrimental to the public welfare or injurious to property or improvements; (3) will not be in conflict with the intent of this district; and (4) will comply with all other provisions regulating such uses;
- 613.03-4 Boarding houses;
- 613.03-5 Family day care homes, foster homes or group homes serving the mentally retarded, developmentally disabled or others, rest homes, homes for adults, or nursing homes;
- 613.03-6 Townhouses (as regulated in Section 708 of this Ordinance)



- 613.03-7 Schools;
- 613.03-8 Public service or storage buildings;
- 613.03-9 Public Assembly Hall, provided, however, that no attendant recreational facility shall be located closer than one hundred (100) feet from any other residential lot.

**Former Section 613.06-6** read as follows: “Clubs, fraternities, lodges and meeting places of other organizations, provided that the buildings in which such meetings are housed shall be located at least fifty (50) feet from any other lot;” This section was repealed by **Ordinance of December 6, 2011**.

**Ordinance of December 6, 2011** amended Section 613.03-9 to replace “Churches and other places of worship with attendant educational and recreational facilities” with “Public Assembly Hall” and to add the

word “attendant” before the words “recreational facility”. The Ordinance originally referred to that section as “Section 613.03-8”, but the Town Attorney corrected this typographical error by letter to the Town Clerk dated January 3, 2012, under the authority provided in Section 810.05.

**Ordinance of July 7, 2015** added current § 613.03-6.

613.04 Accessory Uses. The following accessory uses are permitted in the R-3 zoning district:

- 613.04-1 Home occupations in accordance with the provisions of § 705;
- 613.04-2 Living quarters in main building for persons employed on the premises;
- 613.04-3 Travel trailers in accordance with the provisions of § 707;
- 613.04-4 Temporary buildings for uses incidental to construction work; provided that such buildings shall be removed upon completion or abandonment of the construction work;
- 613.04-5 Parking in accordance with § 703;
- 613.04-6 Fences in accordance with § 709;
- 613.04-7 Satellite dishes;
- 613.04-8 Garages;
- 613.04-9 Pools.

613.05 Lot Area Requirements. The following lot area requirements shall be applicable in the R-3 District:

613.05-1 Area. Lots shall not be less than 10,000 square feet in area, plus an additional 2,000 square feet per unit.

613.05-2 Maximum Density. A maximum density of (10) ten units per every (1) one acre shall be permitted.

613.06 Lot Width Requirements. The minimum lot width at the setback line in the R-3 district shall be 50 feet for single family dwellings and two family dwellings and 75 feet for three family (or greater than three family) dwellings.

613.07 Setback Requirements. In the R-3 District structures shall be located 20 feet or more from any street right-of-way however, covered porches may encroach into the front yard to within 10 feet of the front lot line.

**Ordinance of December 6, 2011** amended this section by changing “30” to “20” and by added the phrase “however, covered porches may encroach into the front yard to within 10 feet of the front lot line”.

613.08 Yard Requirements. The following yard requirements shall be applicable in the R-3 District.

613.08-1 Rear Yard. Each rear yard shall be a minimum of 25 feet.

613.08-2 Side Yard. Each side yard shall not be less than 10 feet.

613.09 Height Requirements. Buildings may be erected up to 35 feet in height from grade.

613.10 Accessory Structure Requirements. No accessory structure shall be nearer than 5 feet to any lot line. If an accessory structure is over one story in height, such accessory structure shall not be nearer than 10 feet to any lot line. No accessory building shall be nearer a principal building than 20 feet. No accessory structure shall exceed 15 feet above grade height. No accessory building shall be larger than two hundred fifty (250) square feet in area without a special use permit; and such an accessory building shall be a permissible special use in the R-3 zoning district.

613.11 Street Design. The street system within the project area shall be designed: (a) According to functional street purposes and projected traffic flow; (b) To distribute traffic; (c) To assure safe and convenient sight distances; (d) To complement the natural topography; (e) In coordination with existing and planned streets; (f) To accommodate and promote pedestrian convenience and safety through appropriate sidewalks, buffers, curve radii, and pavement widths, and (g) In accordance with State standards.

**Ordinance of December 6, 2011** added this section.

613.12 Street Lighting. The developer shall provide street lighting on all streets in the development and shall be built to the current requirements of the utility company.

**Ordinance of December 6, 2011** added this section.

613.13 Pedestrian Circulation. The developer shall provide for sidewalks and pedestrian walkways that will enable residents, visitors and patrons to walk safely and conveniently between the various functional areas of the project and adjacent circulation systems. Sidewalks contiguous and parallel to streets shall be the primary pedestrian circulation mode; trails and walkways not associated with streets may supplement the sidewalk system.

**Ordinance of December 6, 2011** added this section.

613.14 Parking. In addition to the regulations of § 703 for providing off-street parking in adequate amounts and in convenient locations, parking areas shall be located to the rear of principal structures, designed to preserve natural amenities and provide a safe pedestrian movement in and around the site, and should avoid excessive concentrations of pavement by scattered landscaping and tree planting. Alleys providing rear access to lots are permitted and encouraged. On-street parking contiguous to the lot may be used to meet the total parking requirements for the site.

**Ordinance of December 6, 2011** added this section.

**614.00 RESIDENTIAL DISTRICT R-4**

614.01 Intent of the Residential District R-4. The intent of the Residential District R-4 is to allow low cost residential development in the form of manufactured home parks and manufactured home subdivisions.

614.02 Permitted Uses. Within Residential District R-4 the following uses are permitted as of right:

614.02-1 Manufactured home parks in accordance with § 706;

614.02-2 Manufactured home subdivisions in accordance with § 706 and meeting the requirements of Article 9;

614.02-3 Permanent buildings housing management offices, child care centers, laundry facilities, or indoor recreational facilities or other service facilities, provided that: (a) parking requirements for such facilities are met; and (b) such uses are subordinate to the residential use and character of the park.

612.02-4 Group Home, as defined herein

**Ordinance of December 6, 2011** added Section 612.02-4.

614.03 Special Uses. The following uses are permitted in an R-4 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

614.03-1 Neighborhood Commercial uses that are designed and intended to meet the service needs of persons residing in the park or subdivision and its immediate neighborhood.

614.04 Accessory Uses. The following accessory uses are permitted in the R-4 zoning district:

614.04-1 Home occupations in accordance with the provisions of § 705;

614.04-2 Living quarters in main building for persons employed on the premises;

614.04-3 Travel trailers in accordance with the provisions of § 707;

614.04-4 Temporary buildings for uses incidental to construction work; provided that such buildings shall be removed upon completion or abandonment of the construction work;

614.04-5 Parking in accordance with § 703;

614.04-6 Fences in accordance with § 709;

614.04-7 Satellite dishes;

614.04-8 Garages;

614.04-9 Pools.

614.05 Lot Area Requirements. In any manufactured home park in the R-4 zoning district, the total area of the park shall be at least 3 acres, and the minimum area of any individual stand within the park shall be 4,000 square feet. In any manufactured home subdivision in the R-4 zoning district, the aggregate area of the lots in the subdivision shall be at least 4 acres, and the minimum area of any individual lot within the park shall be 7,000 square feet.

- 614.06 Lot Width Requirements. In any manufactured home park in the R-4 zoning district, minimum lot width at the setback line shall be 150 feet, and the minimum width of each individual stand within the park shall be 50 feet. In any manufactured home subdivision in the R-4 zoning district, the minimum aggregate width of the lots within the subdivision shall be at least 150 feet at the setback line, and the minimum lot width of each lot within the subdivision shall be 50 feet.
- 614.07 Setback Requirements. In any manufactured home park in the R-4 zoning district, structures shall not be located within 25 feet of any street right of way, and each individual stand shall be set back at least ten (10) feet from the stand line. In any manufactured home subdivision in the R-4 zoning district, no structure shall be located within 20 feet of the location of any street right of way, and, further, no structure shall be located within 25 feet of the location any street right of way computed without regard to the internal lot lines of the subdivision.
- 614.08 Yard Requirements. The following yard requirements shall be applicable to in the R-4 District.
- 614.08-1 Rear Yard. In a manufactured home park, the rear yard of the park shall be a minimum of 25 feet and the rear yard of each stand within the park shall be a minimum of 10 feet. In a manufactured home subdivision, the rear yard of the subdivision (computed without regard to internal lot lines) shall be 25 feet, and the rear yard of each lot within the subdivision shall be 25 feet.
- 614.08-2 Side Yard. In a manufactured home park, the side yard of the park shall be a minimum of 25 feet, the two side yards of each stand within the park shall be a minimum of 25 feet combined and a minimum of 10 feet on each side. In a manufactured home subdivision, the side yard of the subdivision (computed without regard to internal lot lines) shall be 25 feet, and the side yard of each lot within the subdivision shall be 11 feet.
- 614.09 Height Requirements. Buildings may be erected up to 35 feet in height from grade.
- 614.10 Accessory Structure Requirements. No accessory structure shall be nearer than 5 feet to any lot line. If an accessory structure is over one story in height, such accessory structure shall not be nearer than 10 feet to any lot line. No accessory building shall be nearer a principal building than 10 feet. No accessory structure shall exceed 15 feet above grade height. No accessory building shall be larger than two hundred fifty (250) square feet in area without a special use permit, and such an accessory building shall be a permissible special use in the R-4 zoning district.

614.11 Density Requirement. In any manufactured home park in the R-4 district, the overall density shall not exceed seven (7) units per gross acre. The density of any particular acre within such park shall not exceed eight (8) units per gross acre.

**615.00 PLANNED UNIT DEVELOPMENT DISTRICT R-5**

615.01 Intent of Planned Development District R-5. The intent of the Planned Development District R-5 is to provide for larger scaled development and clustering of single-family residential dwelling units through design innovation to provide for a neighborhood with a variety of housing types and densities, neighborhood shopping facilities, schools, parks, playgrounds, off-street parking and, where necessary, land reserved to provide local employment opportunities.

615.02 Permitted Uses. Within Planned Development District R-5 the following uses are permitted as of right:

- 615.02-1 Single-family dwellings;
- 615.02-2 Two-family dwellings;
- 615.02-3 Multi-family dwellings, apartments, townhouses;
- 615.02-4 Neighborhood shopping facilities.
- 615.02-5 Group Home, as defined herein

**Ordinance of December 6, 2011** added Section 615.02-5.

615.03 Other Uses. In addition to the principal uses, other commercial or non-commercial service uses may be permitted provided: (a) that such uses are intended primarily to serve the needs of the project area residents; (b) that such uses are designed and located for the convenience of project area residents and to protect the character of the district; (c) that all subsequent changes in use shall be approved by the Zoning Administrator; (d) that construction of commercial facilities shall not begin until twenty-five (25) percent of the residential units or two hundred fifty (250) dwelling units, whichever is less, of the total planned development has been completed.

615.04 Uses Permitted by Approval. The development authorized within this district is regulated by a comprehensive development and management plan proposed by the developer and where the Town declines to impose certain general zoning restrictions applicable in other districts because of its ability to examine and approve a detailed site plan and dedication of common open space. No use shall be permitted except uses in an approved development plan, and no change of use shall occur except in accordance with the procedures described herein.

615.05 Qualifying Requirements. No land shall be zoned R-5 unless it meets the following requirements:

615.05-1 Ownership Requirements. The project area must be owned by one person or the application must be filed jointly by the owners of all land and within the project area. The holder of a written option to purchase land shall, for the purposes of such application, be deemed to be an owner of such land; however, each and every project area in a Planned Residential District must be owned by one person or by individuals holding a single common law joint tenancy before the final development plan is approved.

615.05-2 Availability of Public Utilities. The project area must be located where public water and sewer systems are available or where a community water and sewer system can be developed as part of the project.

615.05-3 Land Suitability. The land must not be inappropriate for such development because of inadequate road access, inadequate community facilities, excessive distance to employment area, non-conformity to city development plans, or other public health, welfare or safety objectives. The Zoning Administrator may obtain opinions from any other government agency concerning the suitability of proposed development.

615.06 Site Design Requirements. The following are the site design requirements for the R-5 Residential District:

615.06-1 Maximum Density. The gross residential density shall not exceed ten (10) dwelling units per acre.

615.06-2 Common Open Space. Minimum open space shall be not less than thirty (30) percent of the total area exclusive of buildings, streets, alleys, roads, parking areas, walks, patios, and other similar improvements but inclusive of swimming pools and other active and passive recreational areas. At least 15% of the site shall be usable open space, including squares, greens and plazas. Areas used for low-impact stormwater management facilities can be credited toward meeting the minimum 30% total open space.

**Ordinance of December 6, 2011** added the final sentence of Section 615.06-2.

615.06-3 Functional Relationships. The site development plan shall be designed for convenient relationships between the various functional areas of the project such as residential, recreational, shopping, etc.

615.06-4 Lot Design. The lot design, arrangement, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and provide convenient and safe access.

615.06-5 Street Design. The street system within the project area shall be designed:

- (a) According to functional street purposes and projected traffic flow;
- (b) To distribute traffic;
- (c) To assure safe and convenient sight distances;
- (d) To complement the natural topography;
- (e) In coordination with existing and planned streets; and
- (f) To accommodate and promote pedestrian convenience and safety through appropriate sidewalks, buffers, curve radii, and pavement widths, and
- (g) In accordance with State standards.

**Ordinance of December 6, 2011** replaced the phrase “discourage through” with the word “distribute” in Section 615.06-5(b),

added present Section 615.06-5(f), and renumbered former Section 615.06-5(f) as new Section 615.06-5(g).

615.06-6 Street Names and Signs. The name of proposed streets shall not duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane or court. Proposed streets that are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. Street names shall be indicated on the preliminary plan and final subdivision plat. The developer shall provide street signs at all intersections.

615.06-7 Street Lighting. The developer shall provide street lighting on all streets in the development and shall be built to the current requirements of the utility company.



615.06-8 Pedestrian Circulation. The developer shall provide for sidewalks and pedestrian walkways that will enable residents, visitors and/or patrons to walk safely and conveniently between the various functional areas of the project and adjacent circulation systems. Sidewalks contiguous and parallel to streets shall be the primary pedestrian circulation mode; trails and walkways not associated with streets may supplement the sidewalk system.

**Ordinance of December 6, 2011** added the final sentence of this section.

615.06-9 Parking. The regulations of § 703 shall not apply in an R-5 zoning district. The developer shall nevertheless provide off-street parking in adequate amounts and in convenient locations. Wherever feasible, parking areas should be located to the rear of principal structures, designed to preserve natural amenities and provide a safe pedestrian movement in and around the site, and should avoid excessive concentrations of pavement by scattered landscaping and tree planting. Generally, two parking spaces should be provided for each dwelling unit. Alleys providing rear access to lots are permitted and encouraged. On-street parking contiguous to the lot may be used to meet the total parking requirements for the site.

**Ordinance of December 6, 2011** added the phrase “located to the rear of principal structures,” after the word “be” in the second sentence, added the phrase “and provide a

safe pedestrian movement in and around the site,” after the word “amenities” in the second sentence, and added the final two sentences of the section.

615.06-10 Water and Sewer. All R-5 zoning districts shall be served by collective water and sewer systems as follows:

- (a) Wherever feasible the project area water and sewer lines shall be connected to existing public systems.
- (b) Where connection to existing public water or sewer systems are not feasible, the developer shall provide community water or sewer systems.

615.06-11 Community Facilities. The developer shall reserve or dedicate land for community facilities if the need is created by the project area development or if proposed on the Town development plan.

615.06-12 Fire Hydrants. The developer shall provide fire hydrants throughout the project area in such locations to provide adequate fire protection.

- 615.06-13     Drainage. The site development plan shall include a plan for adequate drainage. The street and lot plan shall be designed to avoid drainage problems. Where storm drains or drainage ditches are required, or where an existing waterway or drainage way traverses the project area, an easement or right-of-way shall be provided with adequate improvements to contain the drainage flows from the tributary area upstream of the watershed.
- 615.06-14     Floodways. Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life, or property, or aggravate erosion or flood hazard. Such land within the project area shall be used as common open space or other uses which would not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.
- 615.06-15     Easements. The developer shall provide easements through the project area for water, sewer, gas, telephone, power and other utilities as required by the respective utility departments, agencies or companies.
- 615.06-16     Grading. The site development plan shall be designed to minimize the amount of grading required for development. To the extent feasible, the natural lay of the land shall be maintained except where grading is required for public health or safety.
- 615.06-17     Natural Amenities. The developer shall make every reasonable effort to protect and preserve the natural amenities of the site such as tree cover, waterways, scenic overlooks, etc. The site development plan shall be designed to maximize the use and enjoyment of natural amenities by project residents.
- 615.06-18     Landscaping and Screening. The developer shall provide landscaping and screening to improve the project appearance or to provide a buffer between potentially conflicting uses.
- 615.07         Data to Accompany Application. In an application to zone or rezone land to an R-5 zoning district, the applicant shall submit a tentative, overall development plan which shall include:
- 615.07-1       Scale accurate proposed development plan mapping of the project to include:

- (a) Proposed land uses including residential types, commercial types, recreation and any other proposed use;
- (b) Proposed street system including public and private right-of-way;
- (c) Proposed parking areas and parking space delineations;
- (d) Proposed plat showing subdivision lot lines;
- (e) Proposed utility rights-of-way or easements including water, sewer, gas, power, and telephone;
- (f) Proposed drainage plan;
- (g) Proposed location of buildings, structures, and improvements;
- (h) Property lines of proposed common property;
- (i) Proposed pedestrian circulation system;
- (j) Proposed landscaping plan;
- (k) Proposed treatment of the project perimeter such as screening or landscaping;
- (l) Relationships and tie-ins to adjacent property.

615.07-2 Supporting documentation including the following minimum data:

- (a) A legal description of the project boundaries;
- (b) A statement of existing and proposed property owners;
- (c) Names and addresses of all adjacent property owners;
- (d) A statement of project development objective and character to be achieved;
- (e) An approximate development schedule including dates of proposed construction beginning and completion and staging plan, if appropriate;
- (f) A statement of intent regarding future selling or leasing of land areas, dwelling units, commercial area, etc.;

- (g) Quantitative data including the number and type of dwelling units; parcel sizes, gross and net residential densities, total amount and percentage of open space, residential, commercial, and other land use types;
- (h) Proposed building types including architectural style, height, and floor area;
- (i) Approvals from the Virginia Department of Highways and the Health Official (if appropriate);
- (j) Proposed agreements, provisions, or covenants which govern the use, maintenance, and continued protection of property to be held in common ownership;
- (k) A statement of proposed temporary and permanent erosion and sedimentation control measures to be taken.

615.08 Application. An applicant for R-5 zoning shall file ten (10) copies of its preliminary plan application with the Zoning Administrator. The Zoning Administrator shall forward the application and data to the Planning Commission for its review and recommendation. The Planning Commission shall consider the general plan for the community, the location, arrangement and size of lots, parks, school sites and other reservations of open space; the location, width and grade of streets; the location and arrangement of parking spaces; the location, arrangement and height of buildings; the location, arrangement and design of neighborhood business areas and accessory parking spaces; the gross densities proposed for the area; and such other features as will contribute to the orderly and harmonious development of the area, with due regard to the type and the character of adjoining neighborhoods and the peculiar suitability of the proposed uses.

615.09 Processing Fee. At the time of filing the preliminary development plan application, the applicant shall deposit with the Zoning Administrator a check payable to the Treasurer in the amount of the application fee prescribed in Article 10.

615.10 Preliminary Plan Approval.

615.10-1 By Planning Commission. Within sixty (60) days after the filing of the preliminary development plan, the Planning Commission shall report to Town Council giving its recommendation to approve the plan as presented, to approve the plan as revised by the concurrence of the developer, or to disapprove the plan. The Planning Commission may not make its formal, final recommendation to the Town Council before holding any public hearing that Virginia law requires.

- 615.10-2 By Town Council. The Town Council shall consider the application after holding any public hearings that Virginia law requires. If the preliminary development plan is approved, or approved with modifications by the Town Council, the Zoning Map shall be amended to show the R-5 Planned Unit Development. If the preliminary development plan is approved with modifications, the Town Council shall not amend the Zoning Map until the applicant has filed with the Zoning Administrator written consent to the plan as modified.
- 615.11 Status of Approval. No building permits shall be issued within the project area until the Town has approved the final development plan under the procedures in the following sections and until the required bond is posted to the Zoning Administrator's satisfaction.
- 615.12 Final Plan Application. Within six (6) months following the approval of the preliminary development plan, the applicant shall file with the Zoning Administrator ten (10) copies of a final development plan containing in final form, the information required in the preliminary plan, including but not limited to, final maps and documents specified above. In its discretion and for good cause, the Zoning Administrator may, upon receipt of a written application, extend for six (6) months the period for filing of the final development plan.
- 615.13 Phasing Plan. If the project area is to be developed in stages, a phasing plan shall be submitted with the final development plan. The phasing plan shall delineate the areas to be developed in each phase and the approximate development schedule of each phase.
- 615.14 Compliance with Preliminary Plan. The final development plan shall be in substantial compliance with the preliminary development plan. The final development plan shall not be deemed in substantial compliance if modification does involve any of the following or if such modification exceeds the limitations of this District's regulations:
- (a) Variation of the proposed residential density or intensity of use by more than ten (10) percent;
  - (b) Reduction of more than ten (10) percent of the area reserved for common open space;
  - (c) Increase of the floor area proposed for nonresidential use by more than ten (10) percent; and

- (d) Increase of the total ground area covered by buildings by more than five (5) percent.

- 615.15 Final Plan Approval. The Town Council shall review the final development plan and shall approve the final development plan if it is in substantial compliance with the preliminary development plan. The Clerk of the Circuit Court of Rockingham County will record the final development plan in the manner provided for recording plats or subdivisions.
- 615.16 Subdivision Plat Requirements. Final subdivision plats shall be submitted and recorded before the granting of building permits or before the sale of any lots. Subdivision plats may be submitted for portions of the project area in accordance with the phasing plan. Subdivision plats shall be drawn according to the specifications contained in Article 9.
- 615.17 Required Improvements. All improvements shown on the final development plan shall be installed by the developer at his cost. In cases where specifications have been established by state departments or local ordinances, such specifications shall be followed. The developer's performance bond shall not be released until construction has been inspected and approved by the appropriate official. The bonding requirements of Article 9 shall apply to development within an R-5 district.
- 615.18 Monuments. Monuments shall be provided to identify lot and right-of-way lines permanently.
- 615.19 Plans and Specifications of Physical Improvements. Two (2) blue or black line prints of the plans and specifications of all required physical improvements to be installed shall be prepared by a licensed engineer as certified by the Commonwealth of Virginia and shall be submitted to the Zoning Administrator for review. The Zoning Administrator shall approve or disapprove of the construction plans within forty-five (45) days of submission. If approved, one (1) copy bearing certification of such approval shall be returned to the developer. If disapproved, all papers shall be returned to the developer with the reason for disapproval stated in writing.
- 615.20 Maintenance of Common Property. The developer shall create a property owners association to be responsible for maintaining all common property. The cost of maintaining common property shall be paid by property owner assessments and such assessments shall constitute a lien upon the individual properties in accordance with restrictive covenants that the developer prepares and causes to be recorded with the subdivision plat.
- 615.21 Advertising and Sale. The developer shall not advertise for sale or sell any tract or lot within the project area until any required surety bond has been posted with the Town and an approved plat has been properly recorded.

615.22 Changes in Final Development. No changes may be made in the approved final plan during the construction of the Planned Development except upon application under the procedures provided below:

615.22-1 Minor changes in the location, setting, and character of buildings and structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved. No changes authorized by this section may increase the cubic volume of any building or structure by more than ten (10) percent.

615.22-2 All other changes in use, and rearrangement of lots, blocks, and buildings tracts, any changes in the provisions of common open spaces, and all other changes in the approved final plan by the developer or any succeeding owner, or agent must be made by application to the Town Council. In considering such amendment, the Town Council may refer such application to the Planning Commission for a recommendation and may consider whether such changes are required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the Town. The Town Council may call for an additional public hearing if Virginia law requires it or if the Town Council deems it appropriate.

615.23 Development Schedule and Review. The construction and provision of all facilities and improvements on common property, which are shown on the final development plan, must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan the Zoning Administrator shall review all of the building permits issued for the Planned Development and examine the construction which has taken place on the site. If he shall find that the rate at which facilities and improvements on common property have been constructed and provided, is not in accordance with the original development schedule, he may withhold additional building permits until the scheduled facilities and improvements on common property have been provided.

615.24 **Repealed by Ordinance of December 6, 2011**

**Former Section 615.24 read:** "Failure to Begin Development. If no construction has begun or no use established in the Planned Development within one year from the approval of the final development plan, the final development plan shall lapse and be of no further effect. For good cause, the Town Council may, upon receipt of written application, extend for one additional year the period for the beginning of construction or the

establishment of a use. If a final development plan lapses under the provisions of this section, the Zoning Administrator shall record a notice of revocation with the recorded subdivision plat, the rezoning shall be null and void, and the zoning regulations applicable before the final development plan was approved shall then be in effect."

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**621.00 GENERAL BUSINESS DISTRICT B-1**

621.01 Intent of the General Business District B-1. Generally, this district covers that portion of the Town intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, and garages and service stations.

It is the further intent of the B-1 district to foster a streetscape that is oriented to pedestrian use of the sidewalks for shopping and interactions within the community. It shall be a continuous driving experience for residents and tourists, so as to make travel into and through the Town a safe and scenic experience. The streetscape shall maintain and enhance the current historical character of the corridor, so as to increase the town's pride and its attractiveness as a primary tourist destination in Rockingham County. Buildings within this district are encouraged to be multiuse. Uses, such as commercial on the first floor and residential or offices on the second floor, will help to provide activity in the downtown area throughout the day. This District is also intended to help to implement the Urban Development Areas as shown in the Town Comprehensive Plan, to provide compact, interconnected, pedestrian-friendly areas.

**Ordinance of December 6, 2011** capitalized the word "Town" in the second sentence of the second paragraph and added the final sentence of the second paragraph.

621.02 Permitted Uses. Within the General Business District B-1 the following uses are permitted as of right:

- 621.02-1 Animal hospitals or clinics;
- 621.02-2 Apartments in existing structures;
- 621.02-3 Auto accessory stores (but not servicing);
- 621.02-4 Automobile sales;
- 621.02-5 Automobile service stations and public garages (with major repair under cover);
- 621.02-6 Bakeries with total building square footage devoted to such use not to exceed five thousand (5,000) square feet;



- 621.02-7 Banks and loan and finance offices, including drive in types;
- 621.02-8 Barber and beauty shops (not including tattoo parlors);
- 621.02-9 Boardinghouses, rooming houses, nursing homes;
- 621.02-10 Bookstores;
- 621.02-11 Bus stations and taxi stands;
- 621.02-12 Business and professional offices;
- 621.02-13 Business and vocational schools;
- 621.02-14 Carpenter, electrical, plumbing, heating, appliance, bicycle, watch and shoe repair, residential painting, publishing, lithographing, upholstering, gunsmith or similar shops provided that any use shall be conducted within a completely enclosed building and provided that no part of a building for such use shall have any opening other than stationary windows or required fire exits within one hundred (100) feet of any Residential District;
- 621.02-15 Cemeteries;
- 621.02-16 Child care centers;
- 621.02-17 Churches and other places of worship, and church school buildings;
- 621.02-18 Clubs and lodges;
- 621.02-19 Department stores, variety stores, specialty shops, discount pawn shops, and appliance stores;
- 621.02-20 Drugstores;
- 621.02-21 Fences as provided in § 709;
- 621.02-22 Florist shops;
- 621.02-23 Fraternal and auxiliary organizations;
- 621.02-24 Funeral home and/or mortuary;

- 621.02-25 Greenhouses;
- 621.02-26 Hospitals;
- 621.02-27 Hotels, and Bed and Breakfasts or Short Term Rentals, provided that any Bed and Breakfast or Short Term Rental that is constructed as a one or two family Dwelling must receive a Special Use Permit under Section 621.03-13, or be part of a Dwelling that is an existing nonconforming use;
- 621.02-28 Household electrical appliance repair and services;
- 621.02-29 Job trailer;
- 621.02-30 Laundries, dry cleaning shops, and clothes dyeing establishments;
- 621.02-31 Libraries;
- 621.02-32 Massage Establishments;
- 621.02-33 Mini storage facilities;
- 621.02-34 Museums;
- 621.02-35 Newspaper offices and printing shops;
- 621.02-36 Off street parking;
- 621.02-37 Office buildings;
- 621.02-38 Parking garages and parking lots;
- 621.02-39 Personal and professional services;
- 621.02-40 Pet shops (excluding boarding kennels);
- 621.02-41 Police, fire, and rescue squad stations;
- 621.02-42 Post offices;
- 621.02-43 Power equipment, power lawn and garden equipment repair (under cover);

- 621.02-44 Printing shops, sign shops;
- 621.02-45 Public buildings and properties of a cultural, administrative, or service type;
- 621.02-46 Public service and storage buildings;
- 621.02-47 Public utilities;
- 621.02-48 Public utility transmission systems;
- 621.02-49 Radio and television broadcasting studios;
- 621.02-50 Recording studios, dance studios, and other music related instructional facilities;
- 621.02-51 Restaurants including dairy product stores and soda fountains, and drive in restaurants;
- 621.02-52 Retail stores and shops;
- 621.02-53 Theaters, assembly halls, playhouses and dinner theaters.

**Ordinance of May 2, 2023** amended Section 621.02-27 to remove the reference to Inns, to add the reference to Short Term Rentals, and to add the text that appears after “Short Term Rentals”.

621.03 Special Uses. The following uses are permitted in a B-1 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

- 621.03-1 Wholesale and processing not objectionable because of dust, noise, or odors;
- 621.03-2 Public billiard parlors and pool rooms, bowling alleys, dance halls, and similar forms of public amusement;
- 621.03-3 Athletic fields, stadiums, and arenas;
- 621.03-4 Beverage manufacturing, bottling or distribution stations and food processing, packaging, or distribution stations;
- 621.03-5 Circuses, carnivals, fairs, and sideshows;

- 621.03-6 Drive in theaters provided all parts of such drive in shall be distant at least two hundred (200) feet from any Residential District and provided that the screen shall be located as not to be visible from adjacent streets or highways and it shall be set back not less than two hundred (200) feet from the established right of way of said street or highway;
- 621.03-7 Livestock market and sales pavilions;
- 621.03-8 Overnight recreational vehicle park;
- 621.03-9 Shooting range or gallery;
- 621.03-10 Wholesale business, storage or warehouse provided that any such use shall be distant at least fifty (50) feet from any Residential District;
- 621.03-11 Kennels and animal hospitals provided that any structure or premise used for such purposes shall be located at least two hundred (200) feet from any residential lot;
- 621.03-12 Swimming pools, skating rinks, golf driving ranges, miniature golf courses, or similar recreational use or facility if located at least two hundred (200) feet from any residential lot;
- 621.03-13 One or two family dwellings on a lot that meets the same requirements that would be necessary for such use in the R-2 zoning district;
- 621.03-14 Lumber and building supply (with storage under cover or concealed from public view);
- 621.03-15 Plumbing and electrical supply (with storage under cover or concealed from public view);
- 621.03-16 Automobile painting, upholstering, rebuilding, reconditioning, and body and fender works;
- 621.03-17 Wholesale businesses, and storage warehouses;
- 621.03-18 Electronic assembly and repair;
- 621.03-19 Auction house;

621.03-20 Tattoo parlor.

621.03-21 Mobile Food Service Establishment

**Ordinance of December 6, 2011** added Section 621.03-21.

621.04 Accessory Uses. The following accessory uses are permitted in the B-1 zoning district:

621.04-1 Living quarters in the main building of persons employed on the premises;

621.04-2 Private parking garage;

621.04-3 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

621.04-4 Parking under the regulations of § 703.

621.05 Lot Area Requirements. No lot area requirements apply to lots in the B-1 district.

621.06 Lot Width and Setback Requirements. In the absence of a sidewalk, buildings shall be located at least (5) five feet from the edge of any street right-of-way and at least 30 feet from the center line of any street right-of-way less than 50 feet in width. There shall be no setback for buildings in this district adjoining a sidewalk. In addition, any business adjoining a residential district must have a setback equal to half of the residential requirement for the residential district that it adjoins. No minimum lot width is required.

621.07 Yard Requirements. The following yard requirements shall be applicable in the B-1 district:

621.07-1 Rear yard. All lots located in the B-1 district must have a rear yard of 20 feet.

621.07-2 Side yard. Property located in the B-1 district that adjoins any residential district, or is separated from any residential district only by a public street or way, shall have a 10-foot side yard on the side or sides adjoining or adjacent to the residential district. Otherwise, no side yard is required.

621.08 Height Requirements. Buildings may be erected up to 35 feet in height from grade.

621.09 Accessory Structure Requirements. No accessory structure shall be nearer than 10 feet to any lot line. No accessory building shall be nearer than 20 feet to any principal building. No accessory building shall be larger than two hundred fifty (250) square feet in area without a special use permit; and such an accessory building shall be a permissible special use in the B-1 zoning district.

621.10 Additional Parking Requirements. Wherever feasible, parking areas should be located to the rear of principal structures, designed to preserve natural amenities and a safe pedestrian movement in and around the site, and should avoid excessive concentrations of pavement by scattered landscaping and tree planting.

Ordinance of December 6, 2011 added this section.

## 622.00 **PLANNED BUSINESS DISTRICT B-2**

622.01 Intent of the Planned Business District B-2. The B-2 Planned Business District is intended to permit the development of neighborhood business areas under one ownership or control in those areas of the Town where there are areas of sufficient size in heavily populated sections and where sanitary sewers, street access, and public water supply are adequately provided. Within this district the location of buildings, design of buildings, parking areas, and other open spaces shall be controlled in such a manner that it will not be a detriment to adjoining residential property or to the neighborhood in general. This District is also intended to help to implement the Urban Development Areas as shown in the Town Comprehensive Plan, to provide compact, interconnected, pedestrian-friendly areas.

Ordinance of December 6, 2011 added the final sentence of this section.

622.02 Permitted Uses. Within the B-2 district, no building, structure, or premises shall be used and no building or structure shall be erected or altered until and unless the Planning Commission has considered the same and the Town Council has approved the same in accordance with the conditions herein. The following rules apply to such consideration:

622.02-1 Uses permitted in the B-2 district as of right will be the same as those permitted as of right in the B-1 Zone, except that residential uses are not permitted in the B-2 district.

622.02-2 No building permit shall issue in the B-2 district, no construction shall commence, and no zoning permit shall issue for a new use that did not previously involve a building permit, unless the applicant thereof shall file with the Zoning Administrator a written application

for approval of a contemplated development plan within said district, which application shall be accompanied with the following information:

- (a) A plot plan indicating the location of present and proposed buildings, driveways, parking lots, landscaping, screening, and other necessary uses;
- (b) Preliminary architectural plans for the proposed building or building;
- (c) A description of the business operations proposed in sufficient detail to indicate the effects of those operations in producing excessive auto or traffic congestion or problems of noise, glare, odor, fire, or safety hazards, or other factors detrimental to the health, safety, and welfare of the area;
- (d) Engineering or architectural plans for the handling of any of the problems of the type outlined in the paragraph above, including the handling of storm water and sewers and necessary plans for the controlling of smoke or other nuisances such as those enumerated under Item (c) above;
- (e) Any other information the Planning Commission or Town Council may need to adequately consider the effect that the proposed uses may have upon the area, and/or the cost of providing municipal services to the area.

622.03 Special Uses. Any use permitted by Special Use Permit in the B-1 district shall also be permitted in the B-2 district if the Town Council concludes that such use is appropriate after applying the factors normally considered in the consideration of Special Use Permits.

622.04 Procedures for Consideration. The Planning Commission and Town Council shall consider the application under the same procedures that apply to the consideration of Special Use Permits. In reviewing and acting upon the application, the Planning Commission and Town Council shall consider the factors enumerated in §§ 611.01 and 611.02.

622.05 Various Regulations. In the B-2 district the area regulations, yard requirements, accessory building requirements, and height regulations shall generally comply with the requirements of the B-1 District unless the Town Council expressly approves the variation thereof in its approval of the site plan.

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622.06 Setback Requirements. There shall be a twenty five (25) foot setback from all adjoining residential property and from streets that front residential property contiguous to the site. This setback shall act as a buffer between the business and residential uses. It shall be fully landscaped and maintained with grass and with trees or shrubbery of sufficient height and density to serve as a screen between the business zone and the residential zone. The buffer zone shall not constitute a site-distance obstruction at street intersections. The buffer zone shall be considered as part of the lot area but shall not be used for any business purpose such as buildings, parking lots, signs, or any accessory use. The buffer zone upon completion of development of the project shall be at or near the same grade or plane which existed prior to the development of the planned business district property, unless the Town Council expressly approves the variation thereof in its approval of the site plan. These restrictions shall not apply to that portion of the lot fronting on a major business thoroughfare or thoroughfares. Entrances to the property will be allowed from such arterial streets only.

**Ordinance of December 6, 2011** deleted the phrase “all streets and” after the word “from” in the first sentence and added the phrase “and from streets that front residential property contiguous to the site” after the word “property” in the first sentence.



**631.00 LIGHT INDUSTRIAL DISTRICT M-1**

631.01 Intent of Light Industrial District M-1. The intent of the M-1 Industrial District is to accommodate industrial uses that provide desirable employment, are consistent with the goal of maintaining environmental quality, and are not likely to create offensive noise, vibrations, dust, heat, smoke, odor, safety hazard, glare or other objectionable influence to adjacent zoning districts. The uses permitted in the M-1 District are those light industries that manufacture, process, store, and distribute goods and materials and are, in general, dependent upon previously prepared materials refined elsewhere, and must be conducted within a completely enclosed structure, unless hereinafter excepted.

631.02 Permitted Uses. Within the M-1 Light Industrial District the following uses are permitted as of right:

- 631.02-1 Assembly of electrical appliances, electronic instruments and devices, and radios, and the manufacture of small parts, such as coils, condensers, transformers, and crystal holders;
- 631.02-2 Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet soap, toiletries and food products when conducted within a completely enclosed building;
- 631.02-3 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, shell, straw, textiles, tobacco, wood (excluding sawmills), yam, and paint, not including a boiling process;
- 631.02-4 Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;
- 631.02-5 Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;
- 631.02-6 Carpenter, electrical, plumbing, heating, appliance, bicycle, watch and shoe repair, residential painting, publishing, lithographing, cabinet, furniture, upholstery, gunsmith, or similar shops;

- 631.02-7 Public service or storage buildings;
- 631.02-8 Public utilities;
- 631.02-9 Public utility transmission systems;
- 631.02-10 Animal hospital, kennels;
- 631.02-11 Building material sales yards, plumbing supplies storage;
- 631.02-12 Coal and wood yards, lumber yards, feed and seed stores;
- 631.02-13 Contractor's equipment storage yards or plants, or rental of equipment commonly used by contractors;
- 631.02-14 Wholesale businesses, storage warehouses;
- 631.02-15 Laboratory operation, including pharmaceutical, medical, dental, research, or development.

631.03 Special Uses. The following uses are permitted in an M-1 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

- 631.03-1 Mining operations;
- 631.03-2 Manufacture, compounding, processing, packaging, or treatment of drugs or pharmaceuticals;
- 631.03-3 Poultry hatcheries;
- 631.03-4 Automobile reconditioning, including such activities as painting, upholstering, and body and fender work;
- 631.03-5 Manufacture of meat or other food or beverage products not enumerated in § 631.01-2;
- 631.03-6 Feed mills;
- 631.03-7 Any use permitted in B-1 Business District as of right or by Special Use Permit;
- 631.03-8 Storage trailer;

631.03-9 Light fixtures exceeding 16 feet in height.

631.04 Accessory Uses. The following accessory uses are permitted in the M-1 zoning district:

631.04-1 Living quarters in the main building of persons employed on the premises;

631.04-2 Private parking garage;

631.04-3 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

631.04-4 Parking under the regulations of § 703;

631.04-5 Lighting fixtures under 16 feet or under in height.

631.05 Submission of development plan. Before a building permit shall be issued or construction commenced on any permitted use in the M-1 district, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for recommendation, and may require modifications to comply with the provisions of this ordinance. The Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the Administrator may extend the time for action for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the approved time limit shall be deemed to constitute approval of the application. The Administrator shall ensure that the proposed development complies with all aspects of this Ordinance.

631.06 Lot Area Requirements. Lots in the M-1 zoning district shall be no smaller than one-half acre.

631.07 Setback. When the use is adjacent to a residential district, a setback of up to 100 feet is required. When the use is not adjacent to a residential district, no setback is required.

631.08 Yard Requirements. The following yard requirements shall be applicable in the M-1 district:

631.08-1 Rear yard. All lots located in the M-1 district must have a rear yard of 25 feet.

631.08-2 Side yard. Property located in the M-1 district must have a minimum side yard of 25 feet.

631.09 Height Requirements. Buildings may be erected up to 45 feet in height from grade.

631.10 Accessory Structure Requirements. Any accessory structure exceeding one story shall be at least 20 feet from any lot line.

631.11 Residential Zone Buffer. All property lines in the M-1 zoning district that abut a residential district shall be appropriately screened, fenced, walled, or enclosed with a suitable enclosure of a minimum height of 4 feet, unless natural vegetation or wooded areas are used as buffer strips. All buffer strips must be at least 4 feet in height.

**632.00 GENERAL INDUSTRIAL DISTRICT M-2**

632.01 Intent of General Industrial M-2 District. The intent of the M-2 Industrial District is to accommodate, in a manner consistent with the goal of maintaining environmental quality, the more intensive industrial and commercial uses that provide desirable employment. To the extent that these uses should be located near an adequate labor supply, the regulations herein are designed to protect adjacent residential and other districts from adverse effects.

632.02 Permitted Uses. Within the General Industrial District M 2 the following uses are permitted as of right:

632.02-1 Any use permitted as of right in the M-1 zoning district;

632.02-2 Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping or battery manufacture;

632.02-3 Blacksmith shop, welding or machine shop;

632.02-4 Boat building;

632.02-5 Monumental stone works;

632.02-6 Sawmills and planing mills;

632.02-7 Brick manufacture;

632.02-8 Poultry hatcheries.

632.03 Special Uses. The following uses are permitted in an M-2 zoning district after the issuance of a Special Use Permit in accordance with § 501.02:

- 632.03-1 Mining operations;
- 632.03-2 Manufacture, compounding, processing, packaging, or treatment of drugs or pharmaceuticals;
- 632.03-3 Manufacture or production of aluminum;
- 632.03-4 Airports;
- 632.03-5 Truck terminals;
- 632.03-6 Sand and gravel operations;
- 632.03-7 Petroleum storage;
- 632.03-8 Junk yards and automobile graveyards;
- 632.03-9 Manufacture, production, or processing of asphalt;
- 632.03-10 Manufacture of meat or other food or beverage products not enumerated in § 631.02-2.

632.04 Accessory Uses. The following accessory uses are permitted in the M-2 zoning district:

- 632.04-1 Living quarters in the main building of persons employed on the premises;
- 632.04-2 Private parking garage;
- 632.04-3 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;
- 632.04-4 Parking under the regulations of § 703.

632.05 Submission of Development Plan. Before a building permit shall be issued or construction commenced on any permitted use in the M-2 district, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study. The Administrator may

refer these plans to the Planning Commission for recommendation, and may require modifications to comply with the provisions of this ordinance. The Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the Administrator may extend the time for action for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the approved time limit shall be deemed to constitute approval of the application. The Administrator shall ensure that the proposed development complies with all aspects of this Ordinance.

- 632.06 Lot Area Requirements. Lots in the M-2 zoning district shall be no smaller than one-half acre.
- 632.07 Setback. When the use is adjacent to a residential district, a setback of up to 200 feet is required. When the use is not adjacent to a residential district, no setback is required.
- 632.08 Yard Requirements. The following yard requirements shall be applicable in the M-2 district:
- 632.08-1 Rear yard. All lots located in the M-2 district must have a rear yard of 25 feet.
- 632.08-2 Side yard. Property located in the M-2 district must have a minimum side yard of 25 feet.
- 632.09 Height Requirements. Buildings may be erected up to 45 feet in height from grade.
- 632.10 Accessory Structure Requirements. Any accessory structure exceeding one story shall be at least 20 feet from any lot line.
- 632.11 Residential Zone Buffer. All property lines in the M-1 zoning district that abut a residential district shall be appropriately screened, fenced, walled, or enclosed with a suitable enclosure of a minimum height of 6 feet, unless natural vegetation or wooded areas are used as buffer strips. All buffer strips must be at least 6 feet in height.

## **640.00 FLOOD HAZARD DISTRICTS**

### **641.00 FLOOD HAZARD OVERLAY DISTRICT FH- I**

- 641.01 Purpose of Flood Hazard District. 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:

- 641.01-1 Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- 641.01-2 Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;
- 641.01-3 Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood proofed against flooding and flood damage;
- 641.01-4 Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

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

641.03 Compliance and Liability. 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. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Broadway or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

641.04 Abrogation and Greater Restrictions. The provisions of this Section 641 shall prevail over other provisions of this Zoning Ordinance that are less restrictive than the provisions of this Section 641. However, the remaining provisions shall remain in full force and effect to the extent that such provisions are more restrictive than the provisions of this Section 641.

641.05 Definitions. For the purposes of this Section 641 only, the following definitions shall apply:

641.05-1 Base Flood/One Hundred (100) Year Flood. A flood that, on the average, is likely to occur once every 100 years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year);

641.05-2 Base Flood Elevation (BFE). The Federal Emergency Management Agency designated 100 year water surface elevation;

641.05-3 Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials;

641.05-4 Flood. (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; (3) mudslides (i.e. mudflows) which are proximately caused by flooding as defined herein and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined herein;

641.05-5 Floodplain. (a) A relatively flat or lowland area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) An area subject to the unusual and rapid accumulation or runoff of surface water from any source;

641.05-6 Flood-Prone Area. Any land area susceptible to being inundated by water from any source;

641.05-7 Floodway. The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this Section 641, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude;



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- 641.05-8 Historic Structure. Any structure that is (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs;
- 641.05-9 Manufactured Home. A structure subject to Federal Regulations, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure;
- 641.05-10 New Construction. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures;
- 641.05-11 Recreational Vehicle. A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use;
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641.05-12 Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building;

641.05-13 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 fifty (50) percent of the market value of the structure before the damage occurred;

641.05-14 Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either: (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.”

641.06 Description of Districts.

641.06-1 Basis of Districts. The FH-1 Flood Hazard Districts shall include areas subject to inundation by waters of the one hundred (100)-year flood, and shall be divided into a Floodway District and a Flood-

Fringe District. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and accompanying maps for the Town of Broadway prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 2, 2008 as amended.

641.06-2 Floodway District. 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 one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

641.06-3 Flood-Fringe District. The Flood-Fringe District shall be that area of the one hundred (100)-year floodplain not included in the Floodway District. The basis for the outermost boundary of the District shall be the one hundred (100)-year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.

641.07 Overlay Concept.

641.07-1 The Flood Hazard 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 Flood Hazard Districts shall serve as a supplement to the underlying district provisions.

641.07-2 Any conflict between the provisions or requirements of the Flood Hazard Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the Flood Hazard districts shall apply.

641.08 Official Zoning Map. The boundaries of the Flood Hazard Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this Ordinance and which shall be kept on file at the Zoning Administrator's office.

641.09 District Boundary Changes. The delineation of any of the Flood Hazard Districts may be revised where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for

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such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration and, further, such change must comply with the procedures for amendment of the Zoning Map under Virginia law.

641.10 Interpretation of District Boundaries. Initial interpretations of the boundaries of the Flood Hazard Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, an appeal shall lie to the Board of Zoning Appeals as provided by Virginia law. 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.

641.11 District Provisions. All uses, activities, and development occurring within any Flood Hazard 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 Ordinance and with all other applicable codes and ordinances such as the Virginia Uniform Statewide Code, and *the Code of Federal Regulations*. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include evidence of compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or flood ways of any watercourse, drainage ditch, or any other drainage facility or system. 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 State Water Control Board, 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 Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration. Flood carrying capacity within an altered or relocated portion of any watercourse must be maintained.

641.12 Applications for Zoning Permit. All applications for a Zoning Permit in a Flood Hazard District and all building permits issued for the floodplain shall be reviewed to assure that the following information is incorporated. A record of all such information shall be recorded by the Zoning Administrator including a record of such certificates which includes the specific elevation (in relation to sea level) to which such structures are flood proofed.

641.12-1 For structures to be elevated, the elevation of the lowest floor (including basement);

641.12-2 For structures to be flood proofed (non-residential only), the elevation to which the structure will be flood proofed;

- 641.12-3 The elevation of the one hundred (100)-year flood;
- 641.12-4 Topographic information showing existing and proposed ground elevations;
- 641.12-5 Information and certifications demonstrating that all new structures and substantial improvements will be constructed with materials resistant to flood damage;
- 641.12-6 Information and certifications demonstrating that all new structures and substantial improvements will be constructed by methods and practices that minimize flood damages;
- 641.12-7 Information and certifications demonstrating that all such proposals are consistent with the need to minimize flood damages within the flood-prone area;
- 641.12-8 All new subdivision proposals and other proposed developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include within such proposals base flood elevation data;
- 641.12-9 Information and certifications demonstrating that for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- 641.12-10 A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with acceptable standards of practice.

- 641.13 Manufactured Homes. In any Flood Hazard District manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads.
- 641.14 Recreational Vehicles. Recreational vehicles placed on sites in any Flood Hazard District shall either (a) be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use; or (b) meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as specified above. 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.
- 641.15 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 one hundred (100)-year flood elevation.
- 641.16 Permitted Uses in Floodway District. In the Floodway District, the following uses and activities are permitted as of right 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:
- 641.16-1 Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
  - 641.16-2 Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas;
  - 641.16-3 Individual septic drain fields serving on site sewage disposal systems for single-family homes, not including septic tanks, pumps, or pretreatment facilities, provided that (a) no other site for a septic drain field can be found on the lot outside the floodplain district that meets the requirements of the Commonwealth health department's sewage handling and disposal regulations; and (b) the septic drain

field is designed and installed to meet the design criteria of the Town Code.

641.17 Special Uses. The following uses are permitted in a FH-1 zoning district after the issuance of a Special Use Permit in accordance with § 501.02 and the provisions of this Section 641, and provided further that that are in compliance with the regulations of the underlying district:

- 641.17-1 Structures accessory to the use and activities in Section A above;
- 641.17-2 Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses;
- 641.17-3 Water-related uses and activities such as marinas, docks, wharfs, piers, etc.;
- 641.17-4 Extraction of sand, gravel, and other materials (where no increase in level of flooding or velocity is caused thereby);
- 41.17-5 Temporary uses such as circuses, carnivals, and similar activities;
- 641.17-6 Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning;
- 641.17-7 Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances;
- 641.17-8 Other similar uses, encroachments, and activities that would result in an increase in base flood elevations within the adopted regulatory floodway, provided that an application for a conditional FIRM and floodway revision is completed and fulfills the requirement for such revisions.

641.18 Accessory Uses. The following accessory uses are permitted as of right in a Floodway Portion of a FH-1 Flood Hazard District, but are the only accessory uses so permitted; and provided, further, that no such accessory use shall contain an

accessory structure without the issuance of a Special Use Permit in accordance with § 641.16-1:

641.18-1 Accessory residential uses such as yard areas, gardens, play areas, and pervious loading areas;

641.18-2 Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

641.19 Prohibited Uses. The following uses and activities are prohibited from any Floodway District:

641.19-1 All dwellings and all manufactured homes;

641.19-2 All businesses and industries;

641.19-3 Any use where people congregate in permanent structures, e.g., churches, schools, institutional uses, etc;

641.19-4 Any agricultural buildings housing animals;

641.19-5 Filling of land, except for restoration or reclamation purposes;

641.19-6 Individual onsite waste disposal systems (septic tanks, etc.).

641.20 Flood-Fringe. In the Flood-Fringe portion of the Flood Hazard District, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances, including the applicable portions of this Section 641.

641.21 Design Criteria for Utilities and Facilities. The following design criteria shall apply to any of the following facilities in any Flood Hazard District:

641.21-1 Sanitary Sewer Facilities. All new or replacement sanitary sewer facilities shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

641.21-2 Water Facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into



the system and be located and constructed to minimize or eliminate flood damages.

641.21-3 Drainage Facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties. The Zoning Administrator may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods.

641.21-4 Utilities. All utilities, such as gas lines, electrical and telephone systems being placed in a Flood Hazard District should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

641.21-5 Streets and Sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

641.22 Special Use Permits and Variances: Additional Factors to be Satisfied. In passing upon applications for Special Use Permits in the Flood Hazard District, the Town Council shall consider the following factors. In considering the issuance of a variance, the Board of Zoning Appeals shall also consider the following factors. These factors are in addition to the relevant factors and procedures specified in other sections of the zoning ordinance and Virginia law:

641.22-1 The danger to life and property due to increased flood heights or velocities caused by encroachments. No Special Use Permit or variance shall permit any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100) -year flood elevation;

641.22-2 The danger that materials may be swept on to other lands or downstream to the injury of others;

641.22-3 The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

- 641.22-4 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- 641.22-5 The importance of the services provided by the proposed facility to the community;
- 641.22-6 The requirements of the facility for a waterfront location;
- 641.22-7 The availability of alternative locations not subject to flooding for the proposed use;
- 641.22-8 The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- 641.22-9 The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- 641.22-10 The safety of access by ordinary and emergency vehicles to the property in time of flood;
- 641.22-11 The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- 641.22-12 Whether such Special Use Permit or variance is necessary to preserve the historic character and design of a historic structure, when the proposed repair or rehabilitation of such structure 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.

641.23 Special Procedures of Special Use Permits and Variances. The Town Council and Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a Special Use Permit or 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 protection and other related matters. The expenses thereof shall be chargeable to the applicant. Special Use Permits and variances in the Flood Hazard District shall be issued only after the factfinder 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; (d) nuisances; (e) fraud or victimization of the public; or (f) conflict with local laws or ordinances (other than the law or ordinance from which any variance is being sought). A variance shall be issued only after the Board of Zoning Appeals has determined that a variance will be the minimum required to provide relief from any

exceptional hardship to the applicant. Upon the issuance of a variance, the Zoning Administrator shall notify the applicant thereof, in writing, that the issuance of the variance to construct a structure below the one hundred (100)-year flood elevation: (a) increases the risks to life and property; and (b) will result in increased premium rates for flood insurance as much as \$25 for \$100 of 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.

641.24 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 and the other conditions of this Ordinance:

641.24-1 Existing structures in the Flood Hazard 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 one hundred (100)-year flood elevation.

641.24-2 Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, located in any floodplain area shall be elevated and/or flood proofed to the greatest extent possible and shall be constructed according to the Virginia Uniform Statewide Building Code.

641.24-3 The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code. The entire structure must be brought to current code.

641.25 Violations and penalties. In addition to any other penalty prescribed by this zoning ordinance, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Section 641. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by the Town Council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this Section 641.

## ARTICLE 7 USE REGULATIONS

### 701.00 AREA REGULATIONS

701.01 Additional Regulations Regarding Yard and Setback Requirements. The yard and setback requirements contained in Article 6 are subject to the following additional regulations:

701.01-1 Signs. Except as expressly provided in § 705, yard and setback requirements shall not apply to signs permitted under § 705 or excluded from the operation of § 705 by the terms therein.

701.01-2 Party Walls. Minimum side yard requirements of this Ordinance shall not be applicable to a property line upon which rests the common or party wall of any building (including a townhouse). For the purposes of determining compliance with lot area and lot width requirements (other than the specific requirements for townhouses contained in Section 708), the property lines upon which rests the common or party wall of any building shall be ignored.

701.01-3 Encroachments Permitted into Front Yards. The following structures shall be permitted to encroach into any yard, including front yards, provided applicable sight distance and fire safety requirements are met and maintained:

- (a) Fences pursuant to section 709.00;
- (b) Ground level terraces, patios, decks, and porches, which do not include a permanently roofed-over terrace or porch, porch except as permitted in the R-3 and R-5 Districts and which do not project into a required yard for a distance exceeding ten (10) feet;
- (c) Awnings or canopies, provided they do not project more than eight feet from the existing building face;
- (d) Bay windows, chimneys, and overhanging eaves or gutters projecting no more than three feet into the yard, and in the case of overhanging having a vertical surface whose area is more than twenty five (25) percent of the area obtained by multiplying the mean height of the structure by the length of the structure along the yard which is violated;

- (e) Arbors and trellises not exceeding ten feet in height, provided that such structures do not reduce the width of the yard to less than three feet;
- (f) Flag poles that do not exceed 25 feet in height;
- (g) Recreational equipment;
- (h) Non-enclosed steps;
- (i) Landscape features and planting boxes.

**Ordinance of December 6, 2011** added the phrase “porch except as permitted in the R-3 and R-5 Districts” after the word “porch” in Section 701.01-3(b).

**Ordinance of July 7, 2015** added the phrases “(including a townhouse)” and “(other than the specific requirements for townhouses contained in Section 708)” to § 701.01-2.

701.01-4      Accessory Structures and Yards. Accessory structures may encroach into the side or rear yards of any lot, but no accessory structure other than structures described in § 701.01-3 shall encroach into the front yard of a lot. Accessory structures shall not be located nearer to the lot lines than permitted under the terms of Article 6 for the zoning district in which the accessory structure is located. In the event that this Section 701 requires a greater distance between an accessory structure and a lot line than the provisions of Article 6 require, or otherwise imposes a more restrictive requirement on an accessory structure that encroaches into a yard, the more restrictive provisions of this Section 701 shall apply.

701.01-5      Decks. Decks not on the ground level are permitted to encroach into rear and side yards only. All decks must be no closer than 10 feet to a property line.

701.01-6      Compliance with Average Setback. Minimum setback requirements of this Ordinance (included modified corner setbacks under § 701.03 herein) for yards facing streets shall not apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the existing developed lots.

701.02      Special Provisions for Corner Lots in Residential Districts. In residential districts, the following rules shall govern corner lots:

- 701.02-1 Of the two (2) sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.
- 701.02-2 The side yard on the side facing the side street shall be twenty-five (25) feet or more for both main and accessory buildings and structures, subject to encroachments permitted under other terms of this Ordinance. Notwithstanding the provisions of § 701.06, no accessory structure shall be located in the side yard of a corner lot on the side facing the street in a residential district.
- 701.02-3 For subdivisions platted after the enactment of this Ordinance, each corner lot shall have a minimum lot width equal to twenty-five (25) feet greater than the minimum lot width requirement for other lots within the applicable residential zoning district.

701.03 Conditional Height Regulation.

- 701.03-1 The height limits applicable to any dwelling may be increased to forty-five (45) feet or three stories, whichever is less, provided that each side yard is the sum of twenty (20) feet plus one (1) foot for each foot or portion thereof by which the building height exceeds thirty-five (35) feet.
- 701.03-2 A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot or portion thereof by which the building height exceeds thirty-five (35) feet.
- 701.03-3 Church spires, belfries, cupolas, monuments, water, silo, barns, towers, chimneys, flues, flag poles, television and radio antenna are exempt, except for those structures exceeding two hundred (200) feet in height where written approval from the Federal Aviation Administration is necessary. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

701.04 Existing Lots Shall Abut on a Developed Street. Each lot (except lots for townhouses) shall abut on a developed public street. Development on said existing lot shall not be construed as creating an obligation upon the Town to pay for grading, paving, or for sidewalks, sewers, curb and guttering improvements, or construction.

**702.00            ADDITIONAL BUILDINGS ON A SINGLE LOT**

702.01            Additional Dwellings. Additional dwellings on a single lot may be permitted provided that such additional dwellings are arranged in such a manner so that if the lot or parcel of land is ever subdivided to place each dwelling on a separate lot no substandard lots or violations of this Ordinance would be created.

702.02            Temporary Buildings. Temporary buildings used in conjunction with construction work only may be permitted in any district but shall be removed immediately upon completion or abandonment of construction.

702.03            Additional Rules for Accessory Structures. Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building shall be an integral part of the main buildings or such accessory building shall be attached to the main building in a substantial manner by a roof, and therefore such attached accessory building shall be considered part of the main building and shall comply in all respects with the requirements applicable to the main building. All accessory structures must be on the same lot at the main building.

**703.00            OFF-STREET PARKING**

703.01            Requirement for Off-Street Parking. Off-street automobile storage or parking space shall be provided on every lot on which any permitted or special use is established in accordance with this Ordinance.

703.02            General Requirements. For the purpose of this Ordinance, the following general requirements are specified:

703.02-1            Definitions. The term “off-street parking space” shall mean a space at least ten (10) feet wide and twenty (20) feet in length with a minimum net area of two hundred (200) square feet, excluding area for egress and ingress and maneuvering of vehicles. A minimum of twenty-two (22) feet between parking rows back-to-back shall be clear for maneuvering into and out of parking spaces.

703.02-2            To Be Located on Same Lot. Parking spaces for all dwellings shall be located on the same lot with the main buildings to be served.

703.02-3            Permissible Off-Lot Locations. If an off-street parking space cannot be reasonably provided on the same lot on which the main use is conducted, such space may be provided on other off-street property,

provided such space lies within six hundred (600) feet of the property line of such main use.

703.02-4 Multiple Uses. The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time.

703.02-5 Change in Use. Area reserved for off-street parking in accordance with the requirements of this Ordinance shall not be reduced in the area, encroached upon or changed to any other use unless the use which it serves is discontinued or modified.

703.02-6 Existing Nonconformities. Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building shall not be reduced to an amount less than hereinafter required for a similar new building. Existing off-street parking which is provided in an amount less than the requirements stated hereinafter shall not be further reduced. The violation of the parking requirements contained herein shall not itself render any existing structure that those parking areas serve a nonconforming structure or use.

703.03 Site Requirements. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements:

703.03-1 Any off-street parking areas for more than five (5) vehicles shall be surfaced with an asphaltic, bituminous, cement or other properly bound pavement so as to provide a durable and dustless surface.

703.03-2 Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in a residential district. Excluded from this requirement are private driveways and parking lots which have five (5) or less parking spaces.

703.03-3 Off-street facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.



703.03-4 Off-street parking spaces in commercial and industrial districts, and in lots in residential districts with more than five (5) spaces, shall be clearly marked by painted lines, curbs, or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation.

703.03-5 Access to the parking lot from adjacent streets shall be provided in accordance with the following requirements or as required by the Virginia Department of Transportation.

- (a) Access shall be provided by means of not more than two (2) driveways for the first 120 feet of frontage along any one (1) street and shall have not more than one (1) additional driveway for each additional 150 feet of street frontage.
- (b) Entrances or exits shall have access widths along the edge of the street pavement of not more than forty (40) feet as measured parallel to the street, and shall be located not closer than twenty (20) feet to street intersections nor ten (10) feet to adjoining property lines.
- (c) Access driveways shall not be closer than twenty (20) feet from adjacent driveways at any point from the edge of the pavement to the right-of-way line.

703.04 Parking Space Requirements for All Districts. In all districts, there shall be provided off-street automobile storage or parking space with vehicular access to a street or alley, and shall be equal in area to at least the minimum requirement for the specific land use set forth.

## 703.04-1 Dwellings:

Land Use	Parking Requirements
(a) One (1) and two (2) families	Two (2) spaces for each dwelling unit.
(b) Multi-family, townhouses	Two (2) spaces per dwelling unit.
(c) Hotels	One (1) space for each bedroom plus one (1) additional space for each two (2) employees.
(d) Manufactured home parks/subdivisions	Two (2) spaces per manufactured home.
(e) Travel trailer parks	One (1) space for each travel trailer, motor home, or camper.
(f) Boarding and rooming houses, dormitories	One (1) space for each bedroom.
(g) Bed and Breakfasts and Short Term Rentals	Two (2) spaces for the proprietor. One (1) for each two (2) employees plus another if there is an odd number of employees. One (1) for each guest room. Provided, however, that the Zoning Administrator may reduce the required number of spaces by two (2) during any period in which the Zoning Administrator determines that the proprietor is not residing at the location, and may subsequently require such spaces if the Zoning Administrator determines that the proprietor is residing at the location.
(h) Group Housing Project for Older Persons	One and one-half (1/2) spaces per dwelling unit.

**Ordinance of May 2, 2023** removed the references to motels, inns, and bed and breakfasts from Section 703.04-1(c), added a reference to Short Term Rentals in Section 703.04-1(g), and added the final sentence to the "Parking Requirements" of Section 703.04-1(g).

## 703.04-2 Public Assembly:

Land Use	Parking Requirements
(a) <b>Repealed by Ordinance of December 6, 2011</b>	

(b) Private clubs, lodges and fraternal or sororal buildings not providing overnight accommodations	One (1) space for each ten (10) seats or six hundred (600) square feet, whichever is greater.
(c) Theaters, churches and other places of worship, auditoriums, coliseums, stadiums, and similar places of assembly	One (1) space for each ten (10) seats.
(d) Schools, including kindergartens, playschools, and day care centers	One (1) space for each four (4) seats in assembly hall, or one (1) space for each employee, including teachers and administrators, plus five (5) spaces per classroom for high schools and colleges, whichever is greater.
(e) Skating rinks, dance halls, exhibition halls, pool rooms, and other places of amusement or assembly without fixed seating arrangements	One (1) space for each two hundred (200) square feet of floor area.
(f) Bowling alleys	Two (2) spaces for each alley.
(g) Libraries, museums	One (1) space for each five hundred (500) square feet of gross floor area.

**Former Section 703.04-2(a)** provided the following parking regulation for “churches and religious assemblies”: “One (1) space for each ten (10) seats in the main auditorium or sanctuary.”

**Ordinance of December 6, 2011** added the phrase “ten (10) seats

or” after the word “each” in Section 703.04-2(b), and added the phrase “whichever is greater” at the end of the same section. The same ordinance added the phrase “churches and other places of worship,” after the word “theaters” in Section 703.04-2(c).

703.04-3 Health Facilities:

Land Use	Parking Requirements
(a) Hospitals and similar uses	One (1) space for each two (2) beds, plus one (1) space for each staff doctor, plus one (1) space for each four (4) employees, on the maximum working shift.
(b) Kennels and animal hospitals	A net parking area equal to thirty (30) percent of the total enclosed or covered area.
(c) Medical, dental, and health offices and clinics	At least ten (10) spaces. Three (3) additional parking spaces shall be furnished for each doctor and dentist having office in such clinics in excess of three (3) doctors or dentists plus one (1) space per each two (2) staff and employees.

(d) Homes for adults and similar uses	One (1) space for each four (4) beds plus one (1) space for every three (3) employees.
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## 703.04-4 Businesses:

Land Use	Parking Requirements
(a) Automobile repair establishments	One (1) space for each three hundred (300) square feet, with a minimum of ten (10) spaces.
(b) Food stores	One (1) space for each two hundred (200) square feet of floor area designated for retail sales only.
(c) Restaurants, including bars, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments	One (1) space for each four (4) seats provided for patron use, plus one (1) space per employee on average shift.
(d) Office buildings, including banks, business, commercial and professional offices and buildings but not including medical, dental, and health offices and clinics	One (1) space for each three hundred (300) square feet of ground floor area, plus one (1) space for each five hundred (500) square feet of upper floor space.
(e) General business, commercial or personal service establishments catering to the retail trade	One (1) space for each three hundred (300) square feet of floor area designated for retail sales.
(f) Governmental Offices	One (1) space for each three hundred (300) square feet of ground floor area, plus one (1) space for each five hundred (500) square feet of upper floor area, and one (1) space for each governmental vehicle.
(g) Shopping Centers	One (1) space per two hundred (200) square feet of retail sales area.
(h) Furniture stores	One (1) space for each one thousand (1,000) square feet of gross floor area.
(i) Public utilities such as telephone exchanges and substations, radio and television stations, and electric power and gas substations	One (1) space for each employee on the maximum shift plus a parking area equal to twenty-five (25) percent of the gross floor area.
(j) Mortuaries and funeral parlors	Five (5) spaces per parlor unit or chapel unit, or one (1) space per four (4) seats, whichever is greater.
(k) Auction House	One (1) space per one hundred (100) square feet of building space that is open to the public.

**Ordinance of December 6, 2011** amended Section 703.04-4(e) to change the phrase “two hundred (200)” to “three hundred (300)”.

## 703.04-5 Industries:

Land Use	Parking Requirements
(a) Manufacturing and industrial establishments not catering to the retail trade	One (1) space for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle or manufactured equipment operating from the premises.
(b) Wholesale establishments	One (1) space for every fifty (50) square feet of customer service area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.

703.04-6 Downtown Business Overlay District. Notwithstanding the foregoing provisions relating to parking, any business located within the Downtown Business Overlay District shall be exempt from the provisions of this Ordinance relating to parking. The Downtown Business Overlay District shall consist of all property north of Broadway Avenue, east of the Southern Railroad right of way, south of Lee Street, and west of Central and High Streets. Any business within the above described Overlay District shall restrict the parking of its employees to privately or Town owned areas.

703.05 Off-Street Loading and Unloading Space. Off-street loading and unloading spaces shall be provided as hereinafter required by this Ordinance.

703.05-1 Floor area over ten thousand (10,000) square feet. There shall be provided for each hospital, hotel, commercial, or industrial building, or similar use requiring the receipt or distribution of materials or merchandise, and having a floor area of more than ten thousand (10,000) square feet, at least one off-street loading space for each ten thousand (10,000) square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley.

703.05-2 Floor area less than ten thousand (10,000) square feet. There shall be provided for each hospital, hotel, commercial, or industrial building requiring receipt or distribution of materials or merchandise and having a floor area of less than ten thousand (10,000) square feet, sufficient off-street loading space (not necessarily a full space if shared by an adjacent establishment) so

located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley.

703.05-3 Size. Size of off-street loading spaces shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty (50) feet in length.

703.05-4 Connection to Road or Alley. Each required off-street loading space shall have direct access to a road or alley or have a driveway which offers satisfactory ingress and egress for trucks.

703.05-5 Permanent Reservation. Area reserved for off-street loading in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the use which is served is discontinued or modified, except where equivalent loading space is first provided that meets the requirements herein.

703.06. Shared Parking. For uses located on contiguous but separate sites, the number of required parking spaces may be reduced in accordance with the following provisions:

- (a) The uses are contiguous uses.
- (b) Parking areas of the respective uses are connected by safe and convenient pedestrian access, as well as by automobile access.
- (c) A shared parking agreement is submitted and approved by the Zoning Administrator. The agreement will be binding on the current and future property owners as long as the permitted uses remain substantially the same, and shall be in a form suitable for recordation among the land records of Rockingham County.
- (d) Reductions in required parking may be approved by the Zoning Administrator, at the request of the applicant, in accordance with the following calculation provided by the applicant:
  - i. The total number of parking spaces required for each land use is determined in accordance with Sec. 703.04.
  - ii. Determine the number of spaces needed by each use for each of four time periods, by multiplying the parking required for each use by the corresponding percentage of that use for that time period. The time

periods are: (1) weekdays 8:00 a.m. to 6:00 p.m.; (2) weekdays 6:00 p.m. to 11:00 p.m., (3) weekend days 8:00 a.m. to 6:00 p.m., and (4) weekend days 6:00 p.m. to 11:00 p.m.

- iii. Calculate the total number of spaces needed for all uses for each time period.
- iv. The time period with the highest number of parking spaces required for the sum of all uses shall be the number of parking spaces required.

**Ordinance of December 6, 2011** added this section.

## **704.00 HOME OCCUPATIONS**

704.01 Purpose. The purposes of the home occupation supplemental regulations and performance standards of this section are to:

- 704.01-1 Establish criteria for the operation of home occupations in dwelling units;
- 704.01-2 Permit and regulate the conduct of home occupations as accessory use in a dwelling unit, whether owner or renter-occupied;
- 704.01-3 Ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- 704.01-4 Ensure that public and private services such as streets, sewer, water, or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
- 704.01-5 Allow residents of the community to use their residences as places to enhance or fulfill personal economic goals under certain specified standards, conditions, and criteria;
- 704.01-6 Enable the fair and consistent enforcement of these home occupation regulations; and
- 704.01-7 Promote and protect the public health, safety, and general welfare.



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- 704.02      Applicability. Regulations of this section shall apply to all home occupations initiated or established after the date of the enactment of this section. No home occupation may be initiated or established after the date of the enactment of this section except in conformance with the regulations and performance standards set forth in this section. Existing home occupations may continue as a nonconforming use of a structure under the regulations in effect the day before the enactment of this section, and subject to the regulations of Section 506.06.
- 704.03      Permitted Districts; Permits. Home occupations shall be permitted only in residential zoning districts, as an accessory use to a dwelling, and only in accordance with the regulations contained herein. No person shall operate a home occupation without first obtaining either (a) a permit therefore from the Zoning Administrator, who shall issue such a permit when the requirements of this Section 704 are met, or (b) a Special Use Permit in accordance with Section 501.02 of this Ordinance. All such permits shall expire at the earlier of (a) when the applicant ceases to occupy the premises for which the home occupation permit or the conditional use permit was issued; or (b) when such applicant ceases to conduct the home occupation for a period of six (6) months.
- 704.04      Exclusions from Operation of Section. Notwithstanding any other provision of this Ordinance, the following uses shall be specifically excluded from the definition of home occupation, and no home occupation permit shall issue for such uses: motor vehicle repair or service; appliance repair, machine shop, welding shop, escort service, medical services, tattoo parlors, body piercing establishments, bookstore, movie theater or arcade, or storage yard. Such uses shall be permitted only where otherwise authorized in this Ordinance. Notwithstanding any other provision in this Section 704, tutoring services and art or music lessons provided on a part-time basis by the occupant of a dwelling shall not be considered home occupations subject to this chapter, and no permit shall be required to engage in such activities.
- 704.05      General Standards for all Home Occupations. Any home occupation shall be subordinate, secondary, and incidental in both character and scale to the use of a dwelling unit for residential purposes. Home occupations shall not compromise the residential character of an area, shall not generate traffic that is conspicuous or at a nonresidential level, shall not visually call unusual attention to the home, and shall not generate noise of a nonresidential level. There shall be no limit to the number of home occupations permitted per dwelling unit, provided that any home occupation, including a personal service home occupation, shall be subject to all of the following standards:
- 704.05-1      The home occupation shall be conducted entirely within the interior of the principal residential structure or within an accessory structure located on the same lot.
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- 704.05-2 There shall be no change in the outside residential appearance of any structure for the purpose of the establishment of the home occupation.
- 704.05-3 There shall be no addition of parking spaces to accommodate the home occupation.
- 704.05-4 Home occupations shall not occupy more than a cumulative total of two hundred fifty (250) square feet of the finished floor area of any dwelling unit or accessory structure in which the home occupations are located.
- 704.05-5 There shall be no outdoor storage of goods, products, equipment, or other materials associated with the home occupation.
- 704.05-6 There shall be no display of goods, merchandise, or products visible from the street or any adjoining property.
- 704.05-7 No equipment or processes not normally associated with a dwelling unit or which cannot be accommodated on existing utility or standard electrical services shall be permitted.
- 704.05-8 No commercial motor vehicle shall be used, parked, or stored on the site in connection with the home occupation.
- 704.05-9 Mechanized equipment shall be used only in a completely enclosed building.
- 704.05-10 No equipment or process which generates dust, odors, noise of a nonresidential level, vibration, or electrical interference or fluctuation that is detectable beyond the property line or through common walls shall be used in a home occupation.
- 704.05-11 Deliveries related to a home occupation shall be limited to the United States Postal Service, parcel delivery services, and messenger services. The home occupation or personal service home occupation shall not involve the commercial delivery by tractor trailer of materials or products to or from the premises.
- 704.05-12 A home occupation shall comply with all local, state, or federal regulations pertinent to the activity pursued, and the requirements of or authorization granted by this section shall not be construed as an exemption from such regulations.

704.05-13 Notwithstanding any provision of Section 705, no sign may be placed on the property advertising the home occupation.

704.06 Home Occupations Not Personal Service Home Occupations. No Special Use Permit shall be necessary to conduct a home operation that is not a personal service home occupation, but the applicant seeking to engage in such a home occupation shall obtain a home occupation permit from the Zoning Administrator. The Zoning Administrator may revoke such a permit when, after notice to the holder thereof, he finds that the holder has materially violated the applicable terms of this Section 704. Home occupations that are not personal service home occupations shall be subject to the following requirements:

704.06-1 No more than a total of one (1) person other than family members residing on the premises shall be engaged in or employed by such home occupations, regardless of the number of home occupations associated with the dwelling unit.

704.06-2 No customer or client shall travel to the dwelling in connection with the home occupation.

704.07 Personal Service Home Occupations. A Special Use Permit issued in accordance with Section 501.02 of this Ordinance is necessary to conduct a personal service home occupation. Such personal service home occupations shall be subject to the following regulations, and to such other conditions as the Town Council may prescribe when issuing the permit:

704.07-1 No persons other than family members residing on the premises shall be engaged in or employed by such personal service home occupation.

704.07-2 Not more than one (1) separate entrance or exit to the residence or accessory structure solely for the purpose of the personal service home occupation shall be permitted. The creation of any such separate entrance shall not be permitted on the front facade of the residential dwelling.

704.07-3 The number of clients or customers who may visit the personal service home occupation at any one (1) time may be established by the Town Council as a condition of the approval of a Special Use Permit.

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**705.00 SIGNS**

705.01 Intent; Exclusion. The purpose of the following sign requirements is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the scenic and natural beauty of the Town. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public right-of-way, provide more open space, curb the deterioration of the natural environment, and enhance community development. Any sign of one (1) square foot or less in sign area is excluded entirely from the operation of this Section 705.

705.02 General Requirements. Signs shall be a permitted accessory use in all zoning districts, but shall in every case comply with the requirements of this Section 705. Except as provided herein no outdoor advertising sign or advertising structure shall be erected without a Sign Permit that permits such sign. The following general requirements shall be applicable to all signs:

705.02-1 For the purpose of computing sign area only one side of a “V-Type” or double-faced sign shall be considered.

705.02-2 No sign or sign structure shall be located in such a manner as to materially impede the view of any road intersection; or in such a manner as to materially impede the view of the intersection of a road with a railroad grade crossing, or be located as to impede the safe flow of traffic.

705.02-3 No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape.

705.02-4 No portion of any sign structure except official road markers, (which shall adhere to the applicable state and local laws) shall be less than eight (8) feet above the level of an adjacent sidewalk or other pedestrian thoroughfare or less than sixteen (16) feet above the level of an adjacent public driveway, alley or street.

705.02-5 All signs shall comply with the applicable requirements of the Building Code.

705.02-6 In the event any sign that requires a Sign Permit is to be relocated, the owner of said sign shall obtain a new Sign Permit.

- 705.02-7 All signs that are a structure may be erected up to a height of thirty-five (35) feet from grade, and no higher.
- 705.02-8 All signs coming within the jurisdiction of State and Federal Laws along Interstate Highway and Federal-aid primary highway systems shall conform to said laws in lieu of any other sign regulations in this Ordinance.
- 705.02-9 All signs in existence at the time of the passage of this Ordinance, which do not conform to this Ordinance, shall be classified as nonconforming, but may be continued providing they are property maintained during the life of such advertisement or advertising structure.
- 705.02-10 All signs shall be placed so that they do not obstruct signs lawfully placed on adjacent properties.
- 705.02-11 No business shall maintain more than two permanent signs at any one location, regardless whether such signs are wall-mounted, freestanding, or hanging. A business may maintain one additional sign for each secondary entrance, provided that such sign is located near such secondary entrance. For shopping centers consisting of five (5) or more separate businesses and having a continuous street frontage of two hundred feet (200') or more, one of the two permanent signs shall be located on the identification sign that identifies the businesses in the shopping center.
- 705.02-12 Sign Permits. Except as otherwise provided herein, a sign permit shall be required before the erection, alteration, or relation of a sign. The following rules are applicable:
- (a) Each application for such permit shall be accompanied by plans showing the area of the sign, the size, character, and design proposed, the method of illumination, if any, the exact location proposed for such sign, the method of fastening such sign, the name and address of the sign owner and of the sign erector.
  - (b) The fee for a sign permit shall be as shown on the schedule of fees that accompanies this Ordinance.
  - (c) A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months after the date of the issuance of the permit.

- (d) A permit shall not be required for the repainting of a sign without changing the sign's wording, composition, or color; for minor nonstructural repairs to a sign; or per changing the advertising copy or message on any approved painted or printed sign or on a theater marquee and similarly approved signs which are specifically designed for the use of replaceable copy.
- (e) An application for a sign permit may be combined with an application for a zoning permit if the applicant includes the information necessary for a sign permit. In such event only the zoning permit fee shall be due, and the zoning permit issued shall note the signs permitted.

705.03 Permissible Signs in All Districts. The following signs are allowed in all districts and do not require any permit, but shall be subject to the general requirements of §§ 705.02-1 through 705.02-12:

- 705.03-1 Signs advertising sale, rental, or lease of the land or building upon which signs are located, provided that:
  - (a) In residential districts, real estate signs shall not be in excess of six (6) square feet, and there shall be no more than one (1) such sign on any single lot.
  - (b) In business districts, there shall be no sign in excess of thirty-two (32) square feet and no more than three (3) such signs on any single lot.
  - (c) In industrial districts, there shall be no sign in excess of ninety (90) square feet and no more than three (3) such signs on any single lot.
- 705.03-2 Directional signs for parks and playgrounds and other permitted nonresidential uses, provided that such signs shall not exceed four (4) square feet in area, shall be within one (1) mile of the use, and shall not be illuminated;
- 705.03-3 Professional name plates not exceeding two (2) square feet in area; such signs to be non-illuminated.
- 705.03-4 One sign or bulletin board indicating the name of the institution or civic association not exceeding ten (10) square feet in area on premises of public or semi-public facilities.

- 705.03-5 Signs located on the premises relating to active construction projects.
- 705.03-6 Memorial signs or tablets, including names of buildings and date of erection when cut into masonry, bronze, or other materials.
- 705.03-7 Traffic or other public signs or notices posted or erected by or at the direction of a governmental agency.
- 705.03-8 Customary signs, in conjunction with residential usage, including mailbox lettering, names of residents, house number, names of farms and estates, and other similar usage not exceeding ten (10) square feet.
- 705.03-9 One subdivision identification sign at the main entrance or entrances to the subdivision provided that such sign shall not exceed one hundred (100) square feet, may be illuminated, and shall make no reference to the sale or lease of the lots or houses located within said identified subdivision.
- 705.03-10 Temporary signs, including political advertisements, that are:
- (a) Not in place for longer than sixty (60) days;
  - (b) Are removed by sign owner within five (5) days after the date of the event or activity to which the sign makes reference, or if he fails to do so, by the Zoning Administrator at the owner's expense, five (5) days following registered notification of the owner;
  - (c) No temporary sign shall exceed thirty (30) square feet per sign in area;
  - (d) All portable and vehicular signs shall adhere to the requirements set forth herein except for those signs not exceeding forty (40) square feet that are attached to vehicles which are used primarily for other purposes than displaying an outdoor advertising sign.
- 705.03-11 Informational signs of a public or quasi-public nature identifying or locating civic, educational or cultural purposes, and signs drawing attention to public parking lots, rest rooms, or to other public convenience relating to such places or activities. Such signs shall not exceed an area of six (6) square feet, shall not be illuminated,

shall contain no advertising matter, and shall be set back not less than five (5) feet from the fronting highway.

705.03-12 Official notices or signs posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments. Such signs shall not exceed an area of two (2) square feet, shall not be illuminated and shall contain no advertising matter, other than that which may be required by law.

705.03-13 Trespassing signs, signs indicating the private nature of a road, driveway, or premises, and signs controlling hunting and fishing on the premises, provided that the area of any such sign shall not exceed four (4) square feet.

705.03-14 Signs advertising yard or garage sales.

705.03-15 Temporary exterior banner signs applying to season or other brief activity including special sales, “grand opening,” “under new management,” or “going out of business” events to be held within the premises. An exterior banner sign may be displayed for fourteen (14) days not more than four (4) times per calendar year. A total maximum of fifty (50) square feet shall be permitted for banner signs, with no more than two (2) signs being displayed at any one time. Banner signs must be attached flush to the building.

705.04 Signs as Permitted Uses. The following signs are permitted after the issuance of an appropriate sign permit identifying the sign:

705.04-1 Residential Districts. Within any residential district the following signs are permitted:

(a) One (1) sign for each subdivision relating to the sale of property within said subdivision, provided that such sign shall be within said subdivision, shall not exceed thirty (30) square feet per sign area, shall not be illuminated, shall be maintained at subdivider’s expense, and shall be removed by subdivider when eighty (80) percent of the lots in said subdivision are sold.

(b) Where multi-family dwellings are a permitted use, one (1) sign for identifying multi-family dwellings of more than six (6) units, provided that such sign shall be located only on the premises of the multi-family dwellings, shall not exceed nine



(9) square feet in area, shall indicate nothing other than the name and/or address of the premises, and the name of the management, and may be illuminated only by indirect illumination.

705.04-2 Business Districts. The following signs are permitted within a commercial district, shall be erected or displayed only upon such walls of a building as face a street, alley, or parking area, or as freestanding signs upon the lot, and are subject to the following provisions as to size and location. Such signs shall also be subject to other applicable provisions of this Ordinance, including § 705.02-12.

(a) One-Story Buildings. The total area of all signs facing a street, alley, or parking area shall not exceed two (2) square feet for each foot of building width facing such street, alley, or parking area.

(b) First Floor Businesses in Multi-Story Buildings. The total area of all signs facing a street, alley, or parking area shall not exceed two (2) square feet for each foot of building width facing such street, alley, or parking area; and further provided that all such signs shall be kept within a height of twenty (20) feet above the sidewalk.

(c) Upper Stories of Multi-Story Buildings Containing One (1) or More Businesses Above the First Floor. The total area of all signs facing a street, alley, or parking area on any wall above the twenty (20) foot height specified in § 705.04-2(b) above shall not exceed forty (40) square feet or one-fortieth (1/40) of the area of that wall above such twenty (20) foot height, whichever is greater.

(d) Multi-Story Buildings Occupied by One (1) Business Only. Where entire buildings over one (1) story in height are occupied by one (1) business, a total sign area of one hundred (100) square feet facing any street, alley, or parking areas, or of one-fortieth (1/40) of the wall area facing such street alley, or parking area, whichever is greater, may be substituted for the allowable sign areas specified in (b) and (c) above, and in such case, the sign may be located without regard to the twenty (20) foot height provisions contained in (b) above.

- (e) Signs Hung on Marquees. No sign shall be hung on a marquee, canopy, or portico if said sign shall extend beyond the established setback line. The area of any such sign shall be included in determining the total area of signs erected or displayed.
- (f) Projection and Height of Signs. A sign may be erected or displayed flat against a wall or at an angle thereto, but no sign shall project beyond the established setback line. The bottom of a sign that is six (6) square feet in size and that is erected flat against a wall shall not be less than eight (8) feet above the sidewalk, alley, or parking area. The bottom of a sign projecting from a wall shall not be less than ten (10) feet above a walkway or parking area, nor less than fourteen (14) feet above an alley.
- (g) Freestanding Signs. Freestanding signs upon a lot may be erected or displayed only where drive-in service or parking is provided. Such signs shall be no closer than ten (10) feet of any building or any side lot line, and not encroach on any setback line. No more than two (2) such freestanding signs shall be permitted on any lot. No signs other than those indicated on the Sign Permit shall be attached to a freestanding sign. Freestanding signs shall not be erected more than thirty (30) feet above grade and shall not exceed one hundred (100) square feet in area. Where signs are erected as freestanding signs upon the lot, the total area of all signs permitted by this section shall be two (2) square feet for each foot of lot frontage.
- (h) Identification Signs for Shopping Centers. Identification signs for shopping centers consisting of five (5) or more separate businesses and having a continuous street frontage of at least two hundred (200) feet shall be permitted, and the area of such signs shall not be included in the total area of signs otherwise permitted in this section for the separate businesses. The total area of such identification signs for any shopping center shall not exceed one (1) square foot for each foot of street frontage, nor shall the total area of such signs facing any street, alley, or parking area exceed one hundred fifty (150) square feet. This identification sign shall be one of the two signs permitted under § 705.02-12 for all business identified therein, and the other sign shall not be a freestanding sign.

- (i) Advertising Theatre Acts, etc. Signs advertising the acts or features to be given in a movie theatre or theatres may be displayed on permanent frames erected on theatre buildings in accordance with the provision of this section as to size and location; provided that the bottom of any such frame erected flat against a wall may be less than eight (8) feet above the sidewalk, alley, or parking area; provided further that when the area of any such frame facing a street, alley, or parking area does not exceed twenty-four (24) square feet and the area of any such frames facing such street, alley, or parking area does not exceed forty-eight (48) square feet, the area of the signs displayed thereon shall not be included in determining the total area of signs erected or displayed.
- (j) Window Signs. For any window sign, the maximum area shall not exceed 20 percent of the total window area in which that sign is to be displayed or six square feet, whichever is less. Such signs shall be located no less than five feet from grade in order to create good pedestrian visibility.
- (k) Wall Signs. Wall signs shall be permitted.
- (l) Hanging Signs. Hanging signs shall be mounted perpendicular to the facade of the building and shall project no more than four feet from the building and no closer than one foot to the back of the curb. Such signs shall be no less than eight feet in height from grade to the lowest part of the sign. There shall be no more than one projecting sign per business. Hanging signs shall not exceed six square feet in area.
- (m) Individual Letter Signs. Signs made up of letters only that are attached directly to the building are individual letter signs. Individual letter signs (and the type) shall be no larger than 12 inches in height and shall not exceed the height of the building.
- (n) Portable Signs. A portable sign is a non-illuminated or illuminated self-contained sign, not permanently attached to the ground, including those signs commonly known as “trailer signs” or “spider signs” but not including signs painted or otherwise inscribed on a self-propelled vehicle. For purposes of this Ordinance, portable signs are freestanding signs and shall be considered in the total allowable square footage for freestanding signs and must

meet the setback regulations set forth herein for freestanding signs.

(o) Roof Signs. Roof signs, not exceeding a total area of one hundred (100) square feet, may be erected or displayed; provided that the area of any roof sign shall be included in the total area of signs permitted herein. Roof top signs or roof top sign structures shall not extend more than twenty (20) feet above the roof line. Roof top signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured.

705.04-3 Industrial Districts. Any sign permitted in a commercial district shall be permitted in an industrial district also. The allowable area of any such sign shall be one and one-half times the allowable area of such sign if such sign were in a commercial district.

705.05 Temporary Window Signs. A temporary window sign is a sign describing a brief commercial activity. A temporary window sign is permissible in a commercial district without a sign permit. The size of a temporary window sign shall not be included in the aggregated signage permitted in this section. If a temporary window sign becomes work, tattered, or illegible, it must be removed upon five days' written notice by the Zoning Administrator. The sign must in any even be removed within five (5) days of the conclusion of the advertised event.

705.06 Signs as Special Use. The following signs may be permitted in conjunction with an approved Special Use:

705.06-1 Signs related to special use. Except as hereinafter provided, within any residential district, signs otherwise illegal but relating to buildings and uses permitted under a valid Special Use Permit are permitted, provided that they shall not exceed twenty (20) square feet per sign area, shall indicate nothing other than the activity engaged in, the name of the owner, firm, organization, or agency, and the hours of activity, shall be limited to two (2) signs per use, shall not encroach on any yard or setback, and, if stipulated by the Town Council as part of the Special Use Permit, shall be only indirectly illuminated. In business and industrial districts, signs relating to buildings and uses permitted under a valid Special Use Permit shall be permitted, provided that all requirements of sign area and character for permitted signs are met.

705.06-2 Directional signs related to special use. Within any residential district, directional signs for uses and buildings permitted under a valid Special Use Permit are permitted, provided that they shall not

exceed four (4) square feet per sign area; shall be within one (1) mile of the use; and shall not be illuminated.

705.07 Signs Prohibited in all Districts. The following signs are prohibited in all districts:

- 705.07-1 Any sign erected or painted upon a fence, tree, fire escape, or utility pole.
- 705.07-2 Any sign which uses the work “Stop” or “Danger” prominently displayed or which is a copy or imitation of official traffic control signs.
- 705.07-3 Any sign which contains flashing or intermittent illumination, or scrolling text.
- 705.07-4 Any sign which is manufactured and is designed to and effectively does distract the attention of passing motorists on any highways by loud and blatant noises, movable objects or flashing lights.
- 705.07-5 Billboards or general advertising signs unrelated to the use of the property.

705.08 Maintenance and Removal of Signs:

- 705.08-1 All signs and sign structures shall be kept in repair and in proper state of preservation. All signs must adhere to the provisions of the Building Code.
- 705.08-2 Signs which are no longer functional, or are abandoned, shall be repaired, removed, or relocated at the owner’s expense in compliance with the provisions of this Ordinance within thirty (30) days following dysfunction.
- 705.08-3 After a reasonable attempt to notify the owner of the premises, the Zoning Administrator may order or cause the removal of any nonconforming sign that has been abandoned. The Zoning Administrator may presume that such sign has been abandoned if the business that such sign advertises has been closed for at least two (2) years.

**706.00 MANUFACTURED HOMES**

706.01 Any manufactured home placed in the Town of Broadway after the date of enactment or amendment of this Ordinance, shall meet the following requirements:

706.01-1 No manufactured home shall be placed in any zoning district that does not specifically allow manufactured home parks or manufactured home subdivisions as a permitted use. The allowance of “single family dwellings” as a permitted use shall not be deemed to allow the placement of manufactured homes.

706.01-2 All manufactured homes shall meet the plumbing requirements and the electrical wiring and connection, construction, blocking, and anchoring requirements of the Virginia State Building Code and shall display the seal of a testing laboratory approved by the Commonwealth of Virginia.

706.01-3 All manufactured homes shall be completely skirted; such that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the Building Official.

706.01-4 All manufactured homes shall be supplied with public water and wastewater disposal or such individual service evidenced by permits from the Health Department.

706.01-5 All required off-street parking area shall be paved or graveled and have unobstructed access to either a public or private street.

706.02 Timing of Occupancy. In any manufactured home park, a minimum of three (3) spaces shall be completed and ready for occupancy before the first occupancy is permitted.

706.03 Inspections. All manufactured home parks for which permits are granted under this section will be subject to periodic inspection to ensure that the parks are meeting the requirements of this Ordinance.

706.04 Manufactured Home Accessory Structures. All manufactured home accessory structures erected or constructed after the date of enactment or amendment of this Ordinance must meet the following requirements:

706.04-1 All manufactured home accessory structures must meet the plumbing, electrical connection, wiring, construction, and other applicable requirements of the Building Code.

706.04-2 Except in the case of an awning, ramada, or other shade structure, where a manufactured home accessory structure is attached to the manufactured home unit, a substantial part of one wall of the accessory structure shall be flush with part of the manufactured home unit, or such accessory structure shall be attached to the manufactured home unit in a substantial manner by means of a roof. All manufactured home accessory structures, whether attached or detached, shall be designed and constructed as free standing structures. No detached manufactured home accessory structure, except ramadas, shall be erected closer than seven and a half (7½) feet to a manufactured home.

706.04-3 Manufactured home accessory structures, except ramadas, shall not exceed the height of the manufactured home.

706.04-4 No manufactured home accessory structure shall be erected or constructed on any manufactured home lot or stand except as an accessory to a manufactured home.

706.05 Manufactured Home Park Application and Site Plan. Applicants for manufactured home parks shall meet the following special requirements:

706.05-1 Site plans shall be legibly drawn at a scale consistent with its purpose.

706.05-2 The following information shall be required of site plans:

- (a) The date of the site plan, the name of the surveyor and the number of sheets comprising the site plan;
- (b) The scale and the north designation;
- (c) The name and signature of the owner, and the name of the proposed park; said name shall not closely approximate that of any existing manufactured home park or subdivision in the Town of Broadway;
- (d) A vicinity map showing the location and area of the proposed park;
- (e) The boundary lines, area, and dimensions of the proposed park, with the locations of property line monuments shown;
- (f) The names of all adjoining property owners;

- (g) Proposed layout, including interior streets with dimensions and such typical street cross sections and centerline profiles as may be required in evaluating the street layout; water, sewer, drainage, and utility lines, facilities and connections, with dimensions shown; location and type of solid waste collection facilities; interior monuments and lot lines, dimensions, and areas of manufactured home lots, common open space and recreation areas, common parking areas, and other common areas; locations and dimensions of manufactured home stands and parking spaces, management offices, laundry facilities, recreation buildings, and other permanent structures; location and nature of fire-fighting facilities, including hydrants, fire extinguishers, and other fire fighting equipment; location of fuel storage facilities and structure of high flammability; and location and dimensions of landscaping amenities, including street lights, sidewalks, planted areas, significant natural features to be retained, and fencing and screening.

706.05-3 The site plan shall be accompanied by a narrative statement describing how the standards and requirements set forth herein are to be met; a statement from the Health Official certifying approval of the proposed site plan; and where appropriate, statements from the Highway Engineer certifying approval of the street and drainage; water and sewer, or utility system layouts by the owner/operator.

706.06 Manufactured Home Park Design Standards. The following standards shall be applicable to manufactured home parks:

706.06-1 Streets. An internal street system shall be provided to furnish convenient access to manufactured home stands and other facilities in the park, shall be designed such that connection to existing drainage and utility systems is convenient, and shall meet the following requirements:

- (a) All internal streets shall be permanently paved with a durable, dust-proof, hard surface. Minimum pavement widths shall be twenty-four (24) feet for streets providing access to forty (40) or more manufactured home stands, and eighteen (18) feet for streets providing access to less than forty (40) manufactured home stands. Widths shall be measured from curb face to curb face. Curbs and gutters shall be provided and built to Town standards;
- (b) Dead end streets shall be limited in length to 600 feet, shall be provided with cul-de-sacs with turning areas of not less than forty (40) feet in radius;



(c) Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grades and alignments; and

(d) Driveway entrances to manufactured home parks from any public street or road shall conform to the current construction standards of the Department of Highways and Transportation.

706.07 Vehicle Parking. Off-street parking shall be provided for the use of occupants at the minimum ratio provided in § 703 for each manufactured home. Each off-street parking space shall be paved or graveled and have unobstructed access to either a public or private street. On street parking is prohibited unless the paved street on which the manufactured home fronts is expanded to accommodate additional parking lanes or parking bays.

706.08 Lighting. All streets and walkways within the manufactured home development shall be lighted.

706.09 Disposition of Garbage and Rubbish. It shall be the responsibility of the manufactured home park to collect or cause to provide for adequate collection containers for park residents.

706.10 Installation of Storage Tanks. Gasoline, liquefied petroleum, gas, or oil storage tanks shall be so installed as to comply with all County, State, and Federal fire prevention and protection regulations.

706.11 Record of Tenants for Manufactured Home Parks. The operator of a manufactured home park shall keep an accurate register of all tenants occupying manufactured homes located in the park. The register shall show the name and permanent residence address of the owner and occupants of any manufactured home located in the park, the make and registration of any manufactured home, the time and date of arrival and departure, and such other information as might be necessary to provide information about the occupants of the manufactured home. These records shall be open to the law enforcement officers and public officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.

706.12 Certificate of Use and Occupancy Required. No manufactured home or accessory structure shall be occupied in any manufactured home park until a certificate of occupancy shall have been issued by the county building inspector to the effect that the manufactured home park or the portion thereof for which such certificate is requested is in compliance with all applicable provisions of this chapter and the Uniform Building Code. Such certificate shall not be issued until after the same has

been approved by the health department, zoning administrator, and other agencies concerned.

**707.00        PARKING OR STORAGE**

707.01        Abandoned Vehicles. No abandoned vehicles are permitted within the Town of Broadway.

707.02        Storage of Vehicles. In residential and commercial zones, the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, and tent trailers, shall be permitted only subject to the following rules:

707.02-1        No such vehicle shall be stored in any required yard or setback, except that such vehicles may be stored in a driveway or parking area with an all weather surface, even within such yard or setback.

707.02-2        In residential districts, or on commercial lots adjacent to residential districts, such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot for more than fourteen (14) consecutive days or for more than twenty-one (21) days per calendar year. In other commercial districts, such vehicles shall not be used for living, housekeeping, or business purposes when parked or stored on the lot for more than ninety (90) days in a calendar year.

707.02-3        Wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

707.02-4        A maximum of three such vehicles shall be permitted for each lot.

707.02-5        No such vehicle may be parked or stored on any public right-of-way, except that such vehicles may be so parked or stored for a period not exceeding 72 hours while in process of loading or unloading.

707.02-6        Any person may apply for a special use permit to allow any parking or storage not permitted by this Section 707, and such parking or storage is a use permitted by special use permit in all residential and commercial districts.

707.03        Movable Storage Boxes. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a property in a residential zone for loading or unloading. The following rules are applicable:

- 707.03-1 Setbacks and Yards. Such units shall not be placed in a front yard area, except on a driveway. Such units shall, at all times, be stored at least 20 feet from a front property line and at least 5 feet from a side or rear property line.
- 707.03-2 Temporary Placement. For the purposes of this Section 707.03, temporary placement shall mean no more than 14 consecutive days at a time, and with at least one year between successive placements. Not more than one unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the fourteen-day limit shall apply to all cumulatively.
- 707.03-3 Natural Disasters. The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding 14 days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a certificate of occupancy for the principal structure or 12 months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend administratively the authorization for as much as an additional twelve-month period or until a certificate of occupancy is issued, whichever occurs first.

## **708.00 SPECIAL REGULATIONS FOR TOWNHOUSES**

### **708.01 Purpose and Intent.**

- A. It is the purpose and intent of this article to accommodate various types of unique and innovative housing forms which are usually based upon a concept of reducing the area of individually owned lots, and grouping such lots together to more efficiently utilize the total space within the subdivision by creating common open spaces, scenic and recreational areas, and other spaces which would compensate for the reduction of land area contained within the individually owned lot. The following standards have been developed and apply to a variety of such attached and semi-detached single-family housing forms including but not limited to townhouses or any other similar designation that meets the definition of

“townhouse” under these Land Development Regulations. Except as varied in this section 708, all other provisions contained in the town zoning code (including specific provisions applicable to the zoning district in which a townhouse development is located) are applicable to these types of housing forms unless specifically noted.

- B. Specifically, this chapter is designed to allow the grouping of separately owned one-family dwelling units into a group of townhouses in such a manner as to make efficient, economical and aesthetically pleasing use of land so restricted that the same will be continually well maintained in order to preserve the health, welfare, safety and convenience of the surrounding neighborhood and insure a reasonable amount of open space and architectural variety.

**Ordinance of July 7, 2015**, added this section and renumbered former § 708.01 to § 702.02-1.

708.02 Regulations Regarding Construction and Siting of Townhouses.

- 708.02-1 Groupings. No more than six (6) and no less than four (4) townhouses shall be included in any townhouse grouping.
- 708.02-2 Fire Walls. Attached dwellings shall be separated by a noncombustible party wall to the roof line, with a fire resistance of not less than two hours duration.
- 708.02-3 Dwelling Unit Access. No two townhouse dwelling units shall be served by the same interior or exterior stairway or by the same exterior door.
- 708.02-4 Height. The maximum height for any townhouse shall not exceed that allowed in the district in which the development is located.
- 708.02-5 Lot Area for Each Townhouse Unit. No townhouse lot shall contain an area of less than two thousand (2,000) square feet and a minimum lot and building width of not less than twenty feet
- 708.02-6 Hydrants. Townhouse developments shall provide fire hydrants on or adjacent to the area to be developed as required by the County fire department or the County Building Code.
- 708.02-7 Special Regulations for Accessory Buildings. In addition to any other requirements for accessory buildings imposed in these Land Development Regulations, no accessory building in a townhouse development shall be erected in any side or front yard. An accessory building may be located in a rear yard and shall occupy not over

twenty-five percent of the rear yard area and shall be set back at least ten feet from any alley or rear service line.

708.02-8 Landscaping. Notwithstanding any other provision in these Land Development Regulations, in townhouse developments no less than seventy-five percent of all yards on either public or grandfathered private streets shall be landscaped with pervious surfaces.

708.02-9 Walls. Each one-dwelling unit shall be attached by not more than two party walls. Where units are offset from one another and a common party wall is used, the wall may be placed equidistant on each side of the lot line not exceeding the length of the offset.

**Ordinance of July 7, 2015** recodified former § 708.01 as new § 708.02-1, changing the maximum permitted number of units in a

building from ten (10) to six (6); recodified former § 708.02 to new § 708.02-2, and added §§ 708.02-3 through -9.

708.03 Streets. A well-defined system shall be designed to allow free movement throughout the development while discouraging excessive speeds, and shall structure the development in clearly defined clusters and/or groups of townhouses. Where dwelling units are located on residential service streets or courts, the street system must be designed to discourage all traffic except that of owner/occupants, their guests, and their services. The right-of-way width of public streets serving a group of townhouses and the improvements therein shall conform to all applicable town standards and requirements for such streets. Each townhouse shall front on a dedicated public street constructed to the standards generally applicable to streets in the Town. . No townhouse shall be constructed so as to provide direct vehicular ingress or egress from a particular townhouse lot to any controlled access highway, major thoroughfare, arterial, or collector street. Further, notwithstanding any standard generally applicable to streets in the Town, streets in a Townhouse development shall have:

708.03-1 Concrete curb and gutter on both sides of street easement.

708.03-2 Sidewalk four (4) feet in width on at least one (1) side of the easement, constructed on concrete, brick, stone, gravel, or some other material of reasonable durability and safeness.

**Ordinance of December 6, 2011** added the phrase “except as provided in Sec. 905.02-1.” to the end of the first sentence of Section 703.03.

of streets used to access a townhouse, repealed former § 703.03-3, which provided a minimum radius for cul-de-sacs.

**Ordinance of July 7, 2015** rewrote the language of the initial paragraph to prohibit private access easements, and to limit the types

708.04 Common Areas.

708.04-1 Maintenance of Common Areas. Common areas shall be maintained by and be the sole responsibility of the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to homeowner's association whose members shall be all the individual owners of the townhouses in the townhouse development. Said land shall be conveyed to and be held by said homeowner's association solely for recreational and parking purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a homeowner's association, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro-rata lien upon the individual townhouse lots. Such assessments shall be a lien superior to all other liens save and except tax liens and mortgage liens, provided the mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness which are amortized in monthly or quarter-annual payments over a period of not less than ten years. Other methods may be acceptable if the same positively provide for the proper and continuous payment of taxes and maintenance without expense to the general taxpayers. The instrument incorporating such provisions shall be approved by the Town Council and shall be recorded in the public records of the County. Maintenance of townhouse exteriors, lawns, refuse handling, taxes, lighting, and drainage shall be provided in a similar manner so as to discharge any responsibility from the Town of Broadway. In the event that such association or a similar entity fails to maintain the common area in accordance with the landscaping plan approved by the Town Council as part of the Special Use Permit or the R-5 site plan approval, or should the entity fail to maintain the common area in a reasonable condition and state of repair, the determination of such failure to be made by the zoning administrator, then and in that event the Town Council, may at its option through its own agents or by independent contractor, enter the common area for purposes of maintenance thereof, and assess such charges, together with an additional charge of twenty-five percent of the costs for management fees, to such association. Such charges shall constitute a lien upon each and every lot in the project.

708.04-2 Common Area Open Space. A minimum of thirty percent (30%) of the townhouse project site shall be provided as common open space. At least fifty percent (50%) of such space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery. The remaining

space may be used for other common purposes, including recreational or maintenance purposes.

**Ordinance of July 7, 2015** renumbered former § 708.04 as new § 708.04-1, added provisions to that section to give homeowners association liens the same status as tax liens, provide for Town

Council approval of the instrument requiring liens for maintenance, and added § 708.04-2, providing for open space requirements.

**708.05**      Facades. Facades of dwelling units in a townhouse development shall be varied by changed front yards of not less than two (2) feet and variations in materials or design, so that no more than two (2) abutting units will have the same front yard depth or essentially the same architectural treatment of facades and roof lines.

**Ordinance of July 7, 2015**, amended this section to provide that not more than two (2) abutting units will have the same front yard depth, rather than four (4) as under former § 708.05.

**708.06**      Utilities. Any utility entering a unit must do so on the property of that unit. All townhouses must be connected to public water and sewer lines, and all electrical and telephone lines in a townhouse development site shall be placed underground. Property and adequate access for firefighting purposes and access to service areas to provide garbage and waste collection, and for other necessary services, shall be provided.

**Ordinance of July 7, 2015** added the second and third sentences of this section and changed the section title to "Utilities".

**708.07**      Lighting. Lighting of buildings, accessways, and parking areas shall be provided for the safety and convenience of all residents but it shall be so arranged as not to reflect toward public streets or cause disturbance to building occupants or surrounding landowners.

**708.08**      Storage of Trash and Rubbish. Exterior storage areas shall be provided for trash and rubbish. Such storage areas shall be screened on at least three sides and contain vermin-proof containers.

**708.09**      Parking. Section 613.14 of the Land Development Regulations shall not apply to townhouse developments located in an R-3 zoning district.

**Ordinance of July 7, 2015** added this section.

**709.00      FENCES**

**709.01**      Material. No fragile, readily flammable material such as paper, cloth or canvas shall constitute a part of any fence, nor shall any such material be employed as an adjunct or supplement to any fence.

- 709.02 Corner Lots. In the case of corner lots in residential districts, there shall be no planting, fence or obstruction to vision more than three (3) feet high, less than twenty (20) feet from the intersection of two street lines.
- 709.03 Height Limit: Residential and Commercial. Fences shall not exceed a height of six (6) feet on any other size, as measured from the top most point thereof to the ground or surface, along the center line of the fence, in a commercial or residential zone. Notwithstanding the foregoing, in any residential district, fences parallel to a street right of way abutting the front yard of a lot shall not exceed four (4) feet.
- 709.04 Height Limit: Industrial and Public Buildings. Fences surrounding industrial sites, public playgrounds, institutions, or schools may not exceed a height of fourteen (14) feet.
- 709.05 No Setback Applicable; Not Accessory Structure. A fence is not an accessory structure. Notwithstanding any other provision of this Ordinance, a fence may be located along or parallel to a property line without regard to any setback or yard regulation in this Ordinance, whether applicable to accessory structures or otherwise.

## **710.00 TELECOMMUNICATIONS TOWERS**

- 710.01 Purposes. It is the purpose of this section to: (a) provide adequate sites for the provision of telecommunications services with minimum negative impact on the citizens and resources of the Town; (b) encourage the location of Telecommunications Towers in non-residential areas and minimize the total number of Telecommunications Towers in the Town; (c) encourage strongly the joint use of new and existing Telecommunications Towers and the use of Alternative Telecommunications Structures; (d) to encourage the configuration of such Towers in a way that minimizes the burdens created by them; and (e) to treat providers of functionally equivalent services in a reasonably like manner.
- 710.02 Definitions. For purposes of this Section 710, the following terms shall carry the meaning assigned in this section:
- 710.02-1 Antenna. A structure or device used to collect or radiate electromagnetic waves.
- 710.02-2 Telecommunications Antenna. Any exterior apparatus designed for telephonic, radio, or television communications through the sending, or receiving or both of electromagnetic waves.



710.02-3 Telecommunications Tower. Any structure that is designed and constructed primarily for the purpose of supporting and including one or more Telecommunications Antenna or microwave dishes, including but not limited to, self-supporting lattice towers, guyed towers, man-made trees, monopole towers, telephone, radio and television transmission towers.

710.02-4 Alternative Telecommunications Structure. Buildings, clock towers, bells, steeples, electric poles, utility poles, water storage tanks, and other similar alternative design mounting structures that are used for the purpose of supporting and obscuring the presence of antennas.

710.02-5 Height. When referring to a Telecommunications Tower or similar structure, the distance measured from ground level to the highest point on the Telecommunications Tower, even if the highest point is an antenna.

710.03 Applicability. This Section 710 shall not govern any television reception antennae under twenty-five (25) feet in height and used exclusively for non-commercial purposes, or any amateur radio antenna under seventy-five (75) feet in height, or its installation, if it is owned and operated by a federal licensed amateur radio station operator and used exclusively for non-commercial purposes. This Section 710 shall apply in lieu of other setback or height requirements normally applicable to accessory structures.

710.04 Special Use Permit Required. No Telecommunications Tower or Antenna shall be located within the Town without the issuance of a Special Use Permit. A telecommunications tower shall be a use expressly permitted by Special Use Permit in all zoning districts. In approving or denying Special Use Permit applications for Telecommunications Towers or Antennas, the Council will consider the character of the neighborhood, conformity with the comprehensive plan, the guidelines of this Ordinance, the purposes of this Ordinance, the public's needs for the facility, and any other issues bearing on the propriety of the application. The Zoning Administrator may require the submission of whatever information he reasonably deems necessary to enable the Town Council to evaluate such applications.

710.05 Siting Requirements. The following rules shall be applicable to Telecommunications Towers and Antennae:

710.05-1 A new Telecommunications Tower shall not be permitted unless the applicant demonstrates to the reasonable satisfaction of the Council that existing Telecommunications Towers or Alternative

- Telecommunications Structures cannot accommodate the applicant's proposed antenna.
- 710.05-2 A Telecommunications Tower shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority.
- 710.05-3 No signs, letters, symbols, or trademarks, or advertising of any type may be placed on the Telecommunications Towers or Antenna, other than as required by Federal Communications Commissioner (FCC) of Regulations or other applicable law.
- 710.05-4 All Telecommunications Towers and Antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency or the federal or state government with the authority to regulate such facilities.
- 710.05-5 Telecommunications Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted, so as to reduce visual obtrusiveness. Dish antennas will be of a neutral, nonreflective color with no logos.
- 710.05-6 At the Telecommunications Tower, the design of the buildings and related structures used in conjunction with telecommunications facilities shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facilities to the natural setting and the built environment.
- 710.05-7 If an antenna is installed on an Alternative Telecommunications Structure, the antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the alternative telecommunications structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- 710.06 Setbacks. Telecommunications Towers must be set back a distance equal to three hundred percent (300%) of the height of the Telecommunications Tower from any off-site structures used for human habitation. Any Antenna mounted on an Alternative Telecommunications Structure need not comply with the setback requirements of this section if its height is no more than one hundred ten percent (110%) of the height of the structure on which it is mounted.
- 710.07 Co-location. All Telecommunication Towers shall be designed and built to accommodate a minimum of three (3) or more Telecommunications Antennae. The

tower must be available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis, and the owner thereof must certify so to the Zoning Administrator from time to time upon request. All Telecommunications Tower applications shall include a complete and accurate inventory and map of the applicant's and other known existing and proposed Telecommunications Towers and other structures on which a Telecommunications Antenna could be located or co-located within five (5) miles of the proposed Telecommunications Tower.

710.08 Abandonment. Any Telecommunications Antenna or Telecommunications Tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and its owner shall remove it within sixty (60) days notice from the Town. The owner of the land upon which the Tower sits and the owner of the tower shall be jointly and severally liable for the expenses of such removal. Removal includes the removal of the Antennas, Telecommunications Tower, and associated facilities, fence footers, underground cables, and support buildings.

710.09 Security Requirements. The following requirements shall govern the securing of Telecommunications Antennae and Telecommunications Towers:

710.09-1 Telecommunications Antennae or Towers, that include buildings or added structures, shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device unless the Town Council determines, in issuing its Special Use Permit, that one is not required.

710.09-2 If a Telecommunications Tower or Antenna is mounted on an alternative telecommunications structure, the security fencing shall not be required unless the Town Council specifies so in a condition to its Special Use Permit.

710.09-3 Monopole towers and other single-pole structures, standing alone, shall be secured by anti-climbing devices.

**711.00 NONCOMMERCIAL RADIO OR TELEVISION ANTENNAE OR DISHES**

711.01 Antenna structures including guy wires for radio, television, and other noncommercial communication purposes, including freestanding satellite dishes, which do not exceed twenty-five feet in height (or, in the case of amateur radio antennae, do not exceed seventy-five feet in height), are permitted notwithstanding the requirements of Section 710, and subject to the following rules:

711.01-1 A freestanding antenna covered under this Section 711 is an accessory structure, and all regulations applicable to accessory

structures shall apply, except that a freestanding antenna may be located as close to a principal structure as the owner of the antenna wishes, and except for height regulations applicable to accessory structures. Guy wires shall not be permitted in the front setback areas.

711.01-2 The measurement of height for the purposes of this section shall include the antenna, any ancillary antennae, and any support structure.

711.01-3 Reasonable and customary engineering practices shall be followed in the placement of all antennae.

711.01-4 If it is not possible to receive an adequate satellite signal except through a placement of a freestanding satellite dish or dish antennae that violates the provisions of this ordinance, the party desiring to place the dish may apply for a Special Use Permit to permit such placement, describing in such application the location of the desired placement of the satellite antenna or dish. The Town Council shall consider such application in accordance with the procedures of Section 501.02. Such placement is an authorized Special Use for all zoning districts.

**712.00 SPECIAL RULES FOR BED AND BREAKFAST ESTABLISHMENTS AND INNS**

712.01 Structure. A bed and breakfast establishment must appear to be an ordinary dwelling.

712.02 Sign. Notwithstanding the provisions of Section 705, a bed and breakfast or an inn in a residential district shall display no other than a single sign no larger in surface area three (3) square feet.

712.03 Meals; Duration of Stay. Guests in a bed and breakfast establishment or an inn may be provided with morning meals only and may lodge no more than fourteen (14) consecutive days. If guests are provided with more than morning meals, the establishment shall be considered a restaurant in addition to being an inn or bed and breakfast, and shall be permissible only if restaurants are a legal use in the district in which the establishment is located.

**713.00 ADULT USES**

713.01 Findings. The Town Council finds that:

713.01-1 Statutory Authorization. The Town is empowered by Va. Code §§ 15.2-2280(1) and 2281 to regulate the use of land within its boundaries in order to promote the creation of a convenient, attractive, and harmonious community.

713.01-2 Effect of Adult Businesses. The Town Council is aware of and has taken into consideration numerous scholarly studies showing the secondary effects of adult businesses on the community, which effects include increased crime in the vicinity of such businesses and decreased property values in such areas.

713.01-3 Goals. The Town Council has determined that the goals of Va. Code § 15.2-2280(1) will be furthered by the regulation of adult businesses as contemplated herein, consistent both with the Town’s responsibilities to its citizens and with its responsibilities under the Fourteenth Amendment to the Constitution of the United States as a political subdivision of the Commonwealth of Virginia.

713.02 Adult Uses in Districts. In any district in which a use is otherwise permitted, if such use constitutes an “adult use,” as defined herein, the minimum requirements and standards set out in this Section 713 shall apply to such use, in addition to the other standards of this Ordinance. Where this Section 713 imposes a conflicting but more restrictive standard than the other provisions of this Ordinance, this Section 713 shall prevail.

713.03 Definitions. In this Section 713, unless the context otherwise requires, the following words and terms are defined as set out herein:

713.03-1 *Adult bookstore:* An establishment that devotes more than fifteen (15) percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

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An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen (15) percent of the total floor area of the establishment to the sale of books and periodicals.

- 713.03-2 *Adult use:* Any adult book store, adult motion picture theatre, adult mini-motion picture theatre, adult motion picture arcade, or adult drive-in theatre, as defined herein.
- 713.03-3 *Adult motion picture theatre:* An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.
- 713.03-4 *Adult mini-motion picture theatre:* An establishment, with a capacity of more than five (5) but less than fifty (50) persons, where, for any form of consideration, films, motions pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.
- 713.03-5 *Adult motion picture arcade:* Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
- 713.03-6 *Adult drive-in-theatre:* An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to

“specific sexual activities” or “specified anatomical areas” for observation by patrons.

713.03-7 *Specified anatomical areas:*

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

713.03-8 *Specified sexual activities:*

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy; and
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

713.04 Requirements and Standards for Adult Uses. The following rules shall be applicable to adult uses:

713.04-1 No adult use may be established within one thousand (1,000) feet of any other adult use in any zoning district.

713.04-2 No adult use may be established within five hundred (500) feet of a residentially zoned district, or a school, educational institution, church, public park, playground, playfield or day care center.

713.04-3 No adult use shall be established without a Special Use Permit. Such use shall be an authorized Special Use in any district where a similar commercial establishment not constituting an adult use would be permitted.

713.04-4 The “establishment” of an adult use as referred to herein shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion, in whole or part, of an existing business to any adult use.

713.05 Measurement of Distance. All distances specified in this Section 713 shall be measured from the property line of one (1) use to the property line of another, at

the shortest point. The distance between an adult use and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

**714.00 ZERO LOT LINE DEVELOPMENTS**

714.01 General Provisions. In any district in which a Zero Lot Line Development is a Special Use, the following provisions shall apply to lots constituting a Zero Lot Line Development, in addition to the normal regulations applicable under the other provisions of this Ordinance. To the extent of any conflict between another Section of this Ordinance and this Section 714, this Section 714 shall prevail.

714.02 Building Setbacks. In any lot that is part of a Zero Lot Line Development, a dwelling unit may be placed on one interior side property line, giving it one zero side setback. The setback on the other side property line shall be twice the setback normally required in the zoning district in which the lot is situated. These side setback reductions shall not apply to side setbacks adjacent to lots that are not part of the Zero Lot Line Development, or to side setbacks adjacent to streets; in both instances, the setbacks applicable to the lot shall apply.

714.03 Accessory Structures. Accessory buildings and structures shall conform to the setbacks set or required for the primary dwelling unit.

714.04 Privacy. In order to maintain privacy, no windows, doors, air conditioning units, or any other types of openings in the walls along a zero lot line shall be allowed except where such openings do not allow for visibility into the side yard of the adjacent lot, such as a clerestory skylight or opaque window.

714.05 Eaves. Eaves along a zero lot line may project a maximum of 18 inches over the adjacent property line.

714.06 Maintenance and Drainage Easements. A perpetual easement related to maintenance, eaves and drainage of at least five feet shall be provided on the lot adjacent to the zero lot line property line which, with the exception of walls and/or fences, shall be kept clear of structures. Such easement shall further provide that building wall along the zero lot line shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two affected lot owners. Before any zero lot line lot is first conveyed after the construction of a zero lot line dwelling, the Zoning Administrator shall review and approve a substantially final form of such easement and shall ensure that such easement complies with the requirements of this Section 714.06.



714.07 Platting Requirements. In connection with the application for a Special Use Permit for a Zero Lot Line Development, the applicant shall submit a plat showing the approximate proposed location of all buildings situated on a zero lot line lot, and the location of the easements described in Section 714.06.

714.08 Special Rules for Special Use Permits. To the extent that a Special Use Permit is required to create a Zero Lot Line Development, Section 804.10 shall not apply. Any such Special Use Permit shall expire in accordance with its terms, in accordance with with other law, upon a change in location of the improvements on the property, or upon the construction of additional buildings (not accessory structures) on the property.

**Ordinance adopted April 6, 2010**, added this section in its entirety.

## **ARTICLE 8 ADMINISTRATION**

### **801.00 ZONING ADMINISTRATOR**

801.01 Appointment and Removal of Zoning Administrator; Vacancies; Inability to Act. The Town Council shall appoint the Zoning Administrator, who shall serve at the pleasure of the Town Council. The Town Council may determine the Zoning Administrator's compensation directly, or may permit the Town Manager to determine such compensation. The Zoning Administrator may simultaneously hold another office in the Town government. When the office of Zoning Administrator is vacant, the Town Manager shall serve as Zoning Administrator. When the office of Zoning Administrator is not vacant, but the Zoning Administrator is absent from the Town Office or otherwise unable to act, the Town Manager may exercise all the powers and discharge all the functions of the Zoning Administrator (including, without limitation, those functions of the Zoning Administrator in his capacity as Subdivision Administrator under Section 912.01 of these Land Development Regulations).

**Ordinance of February 7, 2023** rewrote this section to clarify that the Town Council appoints the Zoning Administrator and can remove him, and generally made provisions for a person other than the Town Manager to serve as Zoning Administrator. The amended section also provides the Town Manager with authority to act when the Zoning Administrator is absent or unable to act.

801.02 Powers and Duties Relating to Zoning. The Zoning Administrator is authorized and empowered on behalf of and in the name of the Broadway Town Council to administer and enforce the provisions set forth herein to the full extent permitted

by Virginia law. Such authority includes, but is not limited to, receiving applications, inspecting premises, issuing Zoning Permits and Certificates of Occupancy for uses and structures which are in conformance with the provisions of this Zoning Ordinance; ordering, in writing, the remedy for any condition found in violation of this Zoning Ordinance; and the bringing of legal actions, including injunction, abatement, or other appropriate action or proceeding, to insure compliance with this Zoning Ordinance. The Zoning Administrator does not have the authority to take final action on applications or matters involving variances or modifications nor on Special Use Permits.

801.03 Engineering Report. Whenever any provision of this Zoning Ordinance requires or permits the submission of a site plan, plat, or sketch of any type, the Zoning Administrator may, at his option, submit such site plan, plat, or sketch to a professional engineer of his choice, retained by the Town, to obtain review of the plat by such engineer and such engineer's advice thereon. The proponent of the site plan, plat, or sketch shall bear all fees associated with such engineer's review, regardless whether the request land development action is ultimately approved.

801.04 Warrants. After reasonably but unsuccessfully attempting to reach agreement with a property owner or tenant of property that the Zoning Administrator reasonably wishes to inspect for the purpose of determining such property's compliance with any provision of this Ordinance, the Zoning Administrator may seek a warrant authorizing such an inspection from any magistrate with due jurisdiction, from the General District Court of Rockingham County, or from the Circuit Court of Rockingham County.

801.05 Copies of Ordinance. The Zoning Administrator shall maintain a copy of this Ordinance in his office.

## **802.00 ZONING AND BUILDING PERMIT PROCEDURES**

802.01 Requirement for Permit. No buildings or structures shall be constructed, repaired, reconstructed, enlarged, or altered, until after the Zoning Administrator has issued a Zoning Permit.

802.02 Application. An application for a Zoning Permit for a permitted use shall be made in duplicate and accompanied by two (2) copies of an acceptable site plan with such reasonable information shown thereon as shall be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses; fences; street names and street

right-of-way lines; the proposed use of the site; and such other information regarding abutting property as directly affects the application.

802.03 Fee. Each application for a Zoning Permit shall be accompanied by payment of the fee indicated on the fee schedule of this Ordinance.

802.04 Issuance of Permit. If the proposed building or use is in conformity with the provisions of this Ordinance and all other applicable law, the Zoning Administrator shall sign and return one (1) copy of the application to the applicant and shall issue a Zoning Permit. The permit shall indicate whether it is based on a use as of right, a Special Use Permit, or a variance. The Zoning Administrator shall retain the application and one (1) copy of the site plan for his records. If the application and site plan submitted does not conform to the requirements set forth in this Ordinance, the Zoning Administrator shall not issue a Zoning Permit, but shall return one (1) copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this Ordinance with which the submitted plan does not comply. The Zoning Administrator shall retain one copy of the site plan and one (1) copy of the refusal.

802.05 Delinquent Taxes. The Zoning Administrator shall not act on any application for a Zoning Permit if Town property taxes on the property that is the subject of the Zoning Permit application have not been paid.

802.06 Lapse. Any Zoning Permit shall automatically expire six (6) months from the date of issuance if the person to which the permit has issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year.

## **803.00 CERTIFICATES OF OCCUPANCY**

803.01 Certificate of Occupancy Required. A Certificate of Occupancy shall be required in advance of occupancy or use of a building hereafter erected; a building hereafter altered so as to affect height, or the side, front, or rear yard dimensions, or a change of type of occupancy or use of any building or premises.

803.02 Issuance of Certificate of Occupancy. The Rockingham County Department of Building shall sign and issue a Certificate of Occupancy, as stated on the application for such certificate and signed thereto by the owner or his appointed agent, is found to conform to the applicable provisions set forth herein and if the building, as finally constructed, complies with the sketch or plan submitted for the Zoning Permit.

803.03 Denial of Certificate of Occupancy. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provision set forth herein.

**804.00 SPECIAL USE PERMITS**

804.01 Application Procedures for Special Uses. Any party in interest may apply for a Special Use Permit to allow any use that this Ordinance specifically authorizes as a Special Use in a particular zoning district. No other Special Uses are permissible. Applications for a Special Use Permit for a Special Use shall be submitted to the Zoning Administrator, who shall refer the application to the Planning Commission for a recommendation to the Broadway Town Council. Applications for Special Use Permits must contain the same information required by an application for a Zoning Permit, along with any other information that the Zoning Administrator may reasonably require.

804.02 Fee. Each application for a Special Use Permit shall be accompanied by payment of a fee as set forth in the fee schedule of this Ordinance. In addition, upon subsequent invoice, the applicant shall be liable for the cost of any public notice that Virginia law requires in connection with the consideration of the Special Use Permit.

804.03 Planning Commission Consideration. The application shall be sent to the Planning Commission for review and recommendation, including the reporting of any conditions that the Planning Commission believes should attend a Special Use Permit. If the Commission fails to submit a report within a sixty (60) day period, the Town Council shall consider the application without the Planning Commission's recommendation.

804.04 Town Council Consideration. The Town Council reserves to itself (and not to the Board of Zoning Appeals) the right to consider and adjudicate applications for Special Use Permits. Before adjudicating such application, the Town Council shall hold any public hearing that Virginia law requires. No Special Use Permit shall issue unless the Town Council finds that the proposed special use is in accordance with the Comprehensive Plan, is in harmony with the general purposes and intent of this Ordinance and the other policies of the Town, and does not adversely affect the character of the zoning district, the conservation of property values, or the health and safety of residents and workers in the general neighborhood. The Town Council shall also consider the current and future need for the proposed use in the Town, whether the proposes Special Use is of such size, or so located and laid out in relation to access streets, that vehicular and pedestrian traffic to and from such use creates undue congestion or hazards prejudicial to the general neighborhood, and may consider any other factor that Virginia law permits. To the full extent that

Virginia law permits, the Town Council may stipulate such additional requirements as are necessary to protect the public interest. The Town Council may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the Town Council.

804.05 Approval. If the Town Council approves the application for a Special Use Permit, the Zoning Administrator shall issue a Zoning Permit, indicating the conditional nature of the use.

804.06 Disapproval. If the Town Council disapproves the application for a Special Use Permit, the Town Council shall cause the Zoning Administrator to inform the applicant of the decision in writing within thirty (30) days from the date of the disapproval, stating the reasons for disapproval. The Zoning Administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal, and shall keep them as a public record.

804.07 Repeated Applications. A property owner, or his appointed agent, shall not initiate a substantially similar application for a Special Use Permit relating to a rejected application more often than once every twelve (12) months.

804.08 Lapse of Permit. A Special Use Permit must be put into effect six (6) months after the date the permit is issued, unless otherwise provided in the permit itself. Expiration of a Special Use Permit shall occur with the discontinuance or suspension for a period of one (1) year of an activity that it authorized.

804.09 Renewal of Permit. Renewal of a Special Use Permit does not require a public hearing unless the original conditions in the permit are changed.

804.10 Change in Ownership. Upon a change in beneficial ownership, any Special Use Permit for the property shall expire. Provided, however, that this provision shall not apply to a Special Use Permit for a townhouse development.

**Ordinance of July 7, 2015** added the last sentence of § 804.10

## **805.00 AMENDMENT OF ORDINANCE**

805.01 Procedures for Amendment. This Ordinance may be amended by any procedure permitted under Virginia law for the amendment or Zoning or Subdivision ordinances.

805.02 Special Procedures for Citizen-Initiated Amendment. Applications for amendments initiated by any person, firm, or corporation owning the subject property shall be submitted in writing to the Zoning Administrator and shall be

accompanied by two (2) copies of an acceptable site plan, where applicable, of the proposed amendment with such reasonable information shown thereon as shall be required by the Zoning Administrator. Where site plans are required, they shall show, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures, yard dimension and the use of structures, easements (private and public) water courses, fences; street names and street right-of-way lines, and such other information regarding abutting property as directly affects the application. Proposals for amendments not initiated by either the Planning Commission or the Town Council shall be accompanied by payment of a fee as set forth in the fee schedule to this Ordinance.

805.03 Withdrawal of Citizen-Initiated Amendment. Any petition for an amendment may be withdrawn prior to action thereon by the Town Council at the discretion of the person, firm or corporation initiating such a request, upon written notice to the Zoning Administrator.

805.04 Repeated Applications. No more than one citizen application for any amendment affecting a specific parcel of land or specific changes to the text of the regulations may be initiated during any single twelve (12) month period.

805.05 Failure of Planning Commission to Submit Recommendation. The failure of the Planning Commission to submit a recommendation to the Town Council regarding a proposed amendment of this Ordinance or the zoning map within sixty (60) days after the first Planning Commission meeting following the referral of the same to the Planning Commission shall be deemed an approval by the Planning Commission of the proposed amendment.

## **806.00      CONDITIONAL ZONING**

806.01 Intent. The intent of this section is to provide for conditional zoning as part of the amendment of the zoning district map to the full extent permissible for the Town under Virginia law.

806.02 Proffer of Conditions. An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this Ordinance, as part of an amendment to the zoning district map. The proffered conditions shall be in writing and shall be made prior to the public hearing before the Town Council, except that conditions not materially affecting the proposal may be proffered after the public hearing. The conditions shall be subject to all requirements and limitations imposed by Virginia law.

806.03 Enforcement. The Zoning Administrator shall have full authority to enforce all duly adopted conditions to the maximum extent permissible under Virginia law.

**807.00 BOARD OF ZONING APPEALS**

807.01 Establishment; Membership. There is hereby established a Joint Board of Zoning Appeals for the Town of Broadway and the Town of Timberville. Such Board shall consist of five (5) members appointed as Virginia law requires. The persons who are members of the Board on the date of the enactment of this Ordinance shall continue in office for the terms to which they have been appointed.

807.02 Compensation. Members of the Board may receive compensation from funds appropriated for that purpose by the Town Council.

807.03 Rules of Procedure. Said Board is authorized to adopt rules that do not conflict with or vary the provisions of this Ordinance or other ordinances of the Town of Broadway or general laws of the Commonwealth for the conduct of its affairs.

807.04 Officers. Said Board shall elect a Chairman and a Vice Chairman from its own membership and a Secretary who may or may not be a member of the Board. Such officers shall serve annual terms as such and may succeed themselves.

807.05 Conflicts. Any member of said Board shall be disqualified to act upon a matter before said Board with respect to property in which the member has an interest.

807.06 Meetings. The meetings of said Board shall be held at the call of the Chairman and at such other times as said Board may determine.

807.07 Quorum. A quorum shall be at least three (3) members.

807.08 Powers of Board. The Board of Zoning Appeals shall have all powers required or permitted under Virginia law, including the power to issue variances to the provisions of the Zoning Ordinance (but not the Subdivision Ordinance) under the standards and conditions that Virginia law prescribes, to hear and adjudicate appeals from the actions of the Zoning Administrator or other Town zoning officials that Virginia law authorizes, to hear appeals regarding the interpretation of the boundaries of the districts on the Zoning Map as Virginia law authorizes, and all other powers expressly permitted to Boards of Zoning Appeals under Virginia law, excepting specifically the power to issue and revoke Special Use Permits or special exceptions, which power is reserved to the Town Council.

807.09 Procedures for Application for Variance. An application for a variance shall be made to the Zoning Administrator in accordance with the following procedures:

- 807.09-1 Submission of Application. The application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses; fences; road names and road right-of-way lines; and such other information regarding abutting property as directly affects the application. The Zoning Administrator shall transmit the application and accompanying maps, plans, or other information promptly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy of the application and materials to the Planning Commission which may send a recommendation to the Board or appear at the hearing at which the Board considers the application.
- 807.09-2 Posting and Land. The Zoning Administrator shall cause to have posted in a conspicuous place on the property in question one or more signs, each of which shall not be less than six (6) square feet in area, shall contain information as to the proposed change and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing. These signs shall be posted at least fifteen (15) days prior to the public hearing.
- 807.09-3 Action. Before adjudicating the application, the Board shall hold any public hearing that Virginia law requires on the application. The Board shall adjudicate the application within ninety (90) days from the date the Zoning Administrator receives the application unless the Board shall extend such deadline in its sole discretion.
- 807.09-4 Limitation of Repetitive Applications. A property owner or his appointed agent shall not initiate a substantially similar application for a variance more often than once every twelve (12) months without specific approval of the Board.
- 807.09-5 Withdrawal of Application. An application for a variance may be withdrawn prior to action thereon at the written request of the person, firm, or corporation initiating such application. Such request shall be delivered to the Zoning Administrator.
- 807.09-6 Fee. Each application for a variance shall be accompanied by payment of a fee as set forth in the fee schedule to this Ordinance. In addition, the applicant shall be required, upon invoice, to bear the



cost of the publication of any notice required under Virginia law. All fees are nonrefundable on the withdrawal of an application.

807.10 Procedures for Appeals. In any situation where an appeal lies to the Board of Zoning Appeals, the procedures for considering such appeal shall be the ones provided by Virginia law. In addition, the following rules are applicable:

807.10-1 Board May Issue Zoning Permit. In exercising the powers granted the Board under Virginia law to adjudicate appeals, the said Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination of the Zoning Administrator, and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a Zoning Permit.

807.10-2 Withdrawal of Application. Any application for appeal before the Board may be withdrawn prior to action hereon by said Board at the discretion of the person, firm, or corporation initiating such a request upon written notice to the Secretary of said Board and the Zoning Administrator.

807.10-3 Fee. Each application for an appeal shall be accompanied by payment of a fee as set forth on the fee schedule to this Ordinance. In addition, the applicant shall be required, upon invoice, to bear the cost of the publication of any notice required under Virginia law. All fees are nonrefundable on the withdrawal of an application.

807.10-4 Appeal Period. Any appeal from the decision of the Zoning Administration to the Board of Zoning Appeals shall be taken no later than thirty (30) days from the Zoning Administrator's written notification of his decision and the appeal rights of the recipient. Notwithstanding the foregoing, in the event of the Zoning Administrator's determination regarding a violation concerning temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, or similar short-term, recurring violations, such appeal shall be filed within ten (10) days of such decision.

807.11 Procedures for Application for Interpretation of Zoning Map. In any proceeding before the Board of Zoning Appeals for the resolution of uncertainty regarding the boundary lines of districts on the zoning map, the following procedures shall be applicable.

- 807.11-1 Submission of Application. The application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon, location and size of existing and proposed structures, yard dimensions and the use of structures, easements (private and public), water courses, fences, road names and road right-of-way lines, and such other information regarding abutting property as directly affects the application. The Zoning Administrator shall transmit the application and accompanying maps, plans, or other information promptly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy of the application and materials to the Planning Commission which may send a recommendation to the Board or appear at the hearing at which the Board considers the application.
- 807.11-2 Action. Before adjudicating the application, the Board shall hold any public hearing that Virginia law requires on the application. The Board shall adjudicate the application within ninety (90) days from the date the Zoning Administrator receives the application unless the Board shall extend such deadline in its sole discretion.
- 807.11-3 Withdrawal of Application. An application for an interpretation of the zoning map may be withdrawn prior to action thereon at the written request of the person, firm, or corporation initiating such application. Such request shall be delivered to the Zoning Administrator.
- 807.11-4 Fee. Each application shall be accompanied by payment of a fee as set forth in the fee schedule to this Ordinance. In addition, the applicant shall be required, upon invoice, to bear the cost of the publication of any notice required under Virginia law. All fees are nonrefundable on the withdrawal of an application.

## **808.00 TRANSITIONAL ZONING**

- 808.01 Areas unclassified by the zoning district map and areas newly added to the jurisdiction of the Town by annexation or other means shall be construed as being temporarily with the C-1 district until otherwise designated by action of the Town Council in accordance with the provisions of Virginia law.

**809.00 ENFORCEMENT OF ORDINANCE**

809.01 Officials to Follow Ordinance. All departments, officials, and public employees of the Town of Broadway which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes, and shall approve subdivisions, only when they are in harmony with the provisions of these regulations. Any such permit or approval, if issued in conflict with the provisions of these regulations shall be null and void.

809.02 Citizen Complaints. Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take any action thereon the he deems to be in the best interests of the Town or that the Town Council shall order.

809.03 Violations of Ordinance. Any person, firm, or corporation, whether as principal agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of the Zoning Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to one thousand dollars (\$1,000.00). If, at the time of conviction thereof, the violation has not been remedied, and a court of competent jurisdiction orders the remedy of such violation within a specified time frame, any person, firm, or corporation, whether as principal agent, employee, or otherwise, who fails to obey such order shall be guilty of a further misdemeanor and upon due conviction thereof shall be punishable by a fine of up to One Thousand Dollars (\$1,000.00). Such person, firm, or corporation shall be guilty of an additional misdemeanor for each ten (10) day period thereafter that such violation continues, and upon due conviction thereof shall be punishable by a fine of up to One Thousand Five Hundred Dollars (\$1,500.00). This section shall not limit any civil or other remedies available to the Town at law or in equity for the violation of this Ordinance.

**810.00 LEGAL STATUS PROVISIONS**

810.01 Conflict with Other Laws. Wherever the requirements or regulations of this Ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, or ordinances, the most restrictive or that imposing the higher standards, shall govern.

810.02 Severability. Each phrase, sentence, paragraph, section, or other provision of this Ordinance is severable from all other such phrases, sentences, paragraphs, sections, and provisions. Should any phrase, sentence, paragraph, section or provision of

these regulations be declared by the Courts to be unconstitutional, *ultra vires*, or otherwise invalid, such declaration shall not affect any other portion or provision of these regulations.

810.03 Repeal of Prior Land Development Regulations. This Ordinance is a comprehensive enactment of all of the resolutions and ordinances of the Town of Broadway relating to zoning and subdivision regulations. All prior ordinances affecting zoning and subdivision regulations are hereby repealed.

810.04 Effective Date. These regulations shall take effect and be in force from and after the date the Town Council approves them.

810.05 Table of Contents; Typographical Errors. The Town Attorney is authorized to create and maintain a table of contents for these Land Development Regulations, and to publish the same as part of the codification thereof. The Town Attorney is further authorized to correct obvious typographical errors in these Land Development Regulations when such correction involves no change in the substance thereof. In no event shall any such correction change the meaning or effect of these Land Development Regulations. Any such corrections shall be made by delivering a notice of such correction to the Town Clerk.

Ordinance of December 6, 2011 added this section.

## **811.00 ATTENDANCE OF APPLICANTS AT MEETINGS**

811.01 Attendance. The applicant or proponent of any land development action, or an authorized representative of such applicant or proponent, shall appear at and attend (a) all public hearings, if any are required under this Ordinance or under Virginia law, and (b) the consideration of such land development action by a public body of the Town.

811.02 Failure to Attend. In the event such proponent, applicant, or representative fails to so appear and attend, the public body may deny, dismiss, or defeat such land development action without prejudice to the right of such proponent or applicant to refile or reapply for such land development action; or, the public body may adjourn the public hearing or defer the consideration of such action until the next regularly scheduled meeting of the public body; provided, however, that the public body shall not adjourn the public hearing or defer consideration of any land development action if deferral would result in the approval of the land development action by virtue of inaction by the public body within the time provided by law for the approval or denial of such land development action.

811.03 Notice of Deferral. If the public body defers a land development action or adjourns a public hearing in connection with one under this Section 811, it shall cause written

notice of the time and place of its next regularly scheduled meeting to be mailed, first class, postage prepaid, to the proponent or applicant at the address indicated on the application form, not less than ten (10) days in advance of the date of such meeting, and the applicant, proponent, or his representative shall appear and attend at the time and place designated in such notice. In the event the applicant, proponent, or his representative fails to appear and attend the reconvened public hearing or deferred consideration of such land development action, the application shall be denied and dismissed by the public body, and the subject matter thereof shall not be considered by the public body for a period of six (6) months from the date of such denial and dismissal.

811.04 Notice. The Town Manager shall append a statement setting forth the provisions of this section to all application forms to which this section is applicable.

811.05 Definitions. For the purposes of this Section 811, the term “public body” means the Town Council and the Planning Commission. The term “land development action” means a request for a rezoning or change in zone boundaries, a request for a variance, an application for a special use permit, a request for a subdivision, and a request for any vacation of or encroachment upon any public right of way

## **ARTICLE 9 SUBDIVISION REGULATIONS**

### **901.00 SUBDIVISION REQUIREMENTS**

Under the authority to establish subdivision regulations under Virginia law, the regulations established herein constitute minimum requirements which shall apply to all subdivisions, except as hereinafter provided. This Subdivision Ordinance is part of a long range plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, and general welfare, and to implement the Town’s Comprehensive Plan. More specifically, the purposes of the standards and procedures in this chapter are to provide a guide for the change that occurs when land becomes urban in character as a result of development for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use, and to make possible the provision of public services in a safe, adequate, and efficient manner.

**Ordinance of December 6, 2011** added the phrase “and to implement the Town’s Comprehensive Plan” to the end of the second sentence of this section.

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**902.00 GENERAL PROVISIONS**

- 902.01 Ordinance Mandatory. No person shall subdivide land, relocate or adjust the boundary line between any parcels of land, or vacate any boundary line, without making a plat of such subdivision, relocation, adjustment, or vacation, and recording it in the office of the Circuit Court of Rockingham County and without fully complying with the provisions of this Subdivision Ordinance.
- 902.02 Approval Required. No such plat of land located in the Town shall be recorded unless and until it shall have been submitted to and approved by the appropriate municipal authorities of the Town, and, if the land in question is not situated entirely within the Town, by the appropriate municipal authorities of each county or municipality having a subdivision ordinance, in which any part of the land lies.
- 902.03 Sales Prohibited Without Compliance. No person shall sell or transfer any such land before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto.
- 902.04 Penalty for Illegal Conveyance. Any person violating the foregoing provisions of this section shall be guilty of a misdemeanor and upon due conviction thereof shall be subject to a fine of not more than five hundred dollars (\$500) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. This section shall not be in lieu of any civil action to compel compliance with any provision of this Subdivision Ordinance. No building or Zoning permit shall issue in connection with any land divided or conveyed in violation of this Subdivision Ordinance.
- 902.05 Recordation. No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein; and the penalties provided by Virginia law shall apply to any failure to comply with the provisions of this subsection.
- 902.06 Improvements. All required improvements shall be installed by the subdivider at his cost. Specifications and requirements set forth in this regulation shall be followed. The subdivider's performance bond shall not be released until construction has been inspected and approved by the appropriate official. Nothing herein shall be construed as creating an obligation upon the Town to pay for grading or paving, or for sidewalks, sewers, water systems, curb and gutter improvements, or other construction.

- 902.07 Necessary Changes. No change, erasure or revision shall be made on any final plat, nor on accompanying data sheets after approval thereof has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the party granting such approval.
- 902.08 Private Contracts. This Subdivision Ordinance bears no relation to any private easement, covenant agreement, or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this Subdivision Ordinance calls for more restrictive standards than are required by private contract, the provisions of this Subdivision Ordinance shall control.
- 902.09 Payment of Pro Rata Share of Certain Facilities. The subdivider or developer shall pay a pro rata share of the cost of providing reasonable and necessary water, sewerage and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction or improvement of his subdivision or development; provided, however, that no such payment shall be required until such time as the Town Council or a designated department or agency thereof shall have established a general water, sewer and drainage improvement program, in compliance with Virginia law, for an area having related and common water, sewer and drainage conditions and within which the land owned or controlled by the subdivider or developer is located. Each such payment received shall be expended only for the construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider or developer; in lieu of such payment other methods of performance guarantee satisfactory to the Governing Body shall be posted conditioned on payment at the commencement of such construction.

### **903.00 LOTS TO WHICH ORDINANCE APPLICABLE; APPROVAL PROCESS**

- 903.01 General Applicability. The term “subdivision” shall include any of the following:
- 903.01-1 The division of any single parcel of land into not more than three (3) lots including the remnant, all of which front on an existing street, which do not involve any new road, the extension or installation of public facilities, or the creation of any public improvements, which do not adversely affect the remainder of the parcel or adjoining property (a “Minor Subdivision”). The term “Minor Subdivision” shall not include a subdivision if the Subdivision Administrator determines that a subdivider is using repeated or successive minor subdivisions in an attempt to evade the provisions of this Subdivision Ordinance regarding Major Subdivisions.

903.01-2 The relocation or adjustment of any boundary line between lots, that does not result in the creation of a larger number of lots than existed before such relation or adjustment (a “Boundary Line Adjustment”); and

903.01-3 The division of any parcel or parcels of land into two (2) or more lots, when such division does not constitute a Minor Subdivision (a “Major Subdivision”).

903.02 Administrative Approval. An applicant may obtain administrative approval of certain plats. The Subdivision Administrator may approve such plats detailing the foregoing if he finds that such plats comply with all requirements of this Subdivision Ordinance, without approval from the Planning Commission or Town Council. If the Subdivision Administrator disapproves such plat, he shall transmit to the applicant a statement of the reasons for such disapproval, either by indications on the plat or separately. From the decision of the Subdivision Administrator approving or disapproving such plats, an appeal shall lie to the Circuit Court of Rockingham County in accordance with Virginia law. If he so desires, the Subdivision Administrator may seek advice from the Planning Commission on any proposed plat, and, in addition, may refer such plat to the Town Council for action instead of taking action himself, in which event all procedures shall apply as with a plat that does not qualify for administrative approval. Administrative approval is permitted for:

903.02-1 A Minor Subdivision, provided that no other application for a minor subdivision of the same parcel or parcels has been considered within five (5) years from the date of approval;

903.02-2 A Boundary Line Adjustment that does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas.

903.03 Planning Commission and Council Approval. Any plat not eligible for administrative approval shall be submitted for approval to the Planning Commission and Town Council in accordance with the provisions of this Subdivision Ordinance.

903.04 Partition Suits. This Subdivision Ordinance shall not apply to the final decree of a court of competent equity jurisdiction that partitions land among the parties of a bona fide chancery suit for the partition of land within the Town, and such decree may be recorded without the approval of the Subdivision Administrator or Town Council. Notwithstanding the foregoing, this Subdivision Ordinance shall apply if the Subdivision Administrator finds that such decree was procured by parties acting



collusively in order to evade the requirements of this Subdivision Ordinance. Furthermore, all requirements of the Zoning Ordinance shall apply to any lot created by a decree exempt from the application of this Subdivision Ordinance under this paragraph.

**904.00 PROVISIONS REGARDING LOTS**

904.01 Lot Size and Width. No lot shall be created (through subdivision, relocation or adjustment of a boundary line, or vacation of a boundary line) that does not meet all the requirements of the Zoning Ordinance for the zoning district in which the lot is situate, including provisions therein regarding the minimum lot size and lot width requirements.

904.02 Lot Shape. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage by adding area which would be unusable for normal purposes.

904.03 Remnants. Land subject to flooding and all remnants of lots below minimum size left over after subdividing a tract must be added to adjacent lots, or may become the property of a homeowners association, but may not in any event be allowed to remain as unusable parcels.

**905.00 PROVISIONS REGARDING STREETS AND RELATED PUBLIC IMPROVEMENTS**

905.01 Street Orientation. The following regulations shall apply:

905.01-1 Lot Shall Abut on a Street. Each lot (except a lot on which a townhouse will be constructed) shall abut on a developed public street dedicated by the subdivision plat, or on a street which has become public by right of use. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of said roads or streets to a width of fifty (50) feet. No lot shall embrace any portion of a street or alley.

905.01-2 Blocks. Except in Minor Subdivisions, streets shall be designed in such a way as to allow blocks with a maximum length of six hundred (600) feet, a maximum total perimeter length of sixteen hundred (1,600) feet, and the minimum length of blocks upon which lots have frontage of three hundred (300) feet. Such blocks shall be wide

enough to allow two tiers of lots of minimum depth, except where fronting on major streets.

**Ordinance of December 6, 2011** amended this section to change the phrase “twelve hundred (1200)” to “six hundred (600), to add the phrase “, a maximum total perimeter

length of sixteen hundred (1,600) feet, and” immediately after that phrase, and to change “five hundred (500)” to “three hundred (300)”.

905.01-3

**Street Alignment and Layout.** The arrangement of streets shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where it is called for in the Comprehensive Plan, or would further the orderly development of the Town for adjacent or contiguous subdivisions, whether existing or contemplated, to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not permitted. Wherever possible, streets should intersect at right angles.

**Ordinance of December 6, 2011** added the phrase “is called for in the Comprehensive

Plan, or” after the phrase “where it” in the third sentence of this section.

905.01-4

**Alleys.** The creation of new alleys is permitted.

**Ordinance of December 6, 2011** deleted the word “not” before the word “permitted” in this section.

905.01-5

**Reserve Strips.** There shall be no reserve strips controlling access to public streets.

905.01-6

**Cul-De-Sacs.** Dead-end streets are prohibited unless designed as cul-de-sacs, in accord with VDOT standards. The number or percentage of dead end streets in any subdivision shall not exceed the number that will produce a connectivity measurement meeting the standards set in VDOT’s Secondary Street Acceptance Standards (SSARs).. Streets designed to have one end permanently closed must be terminated by a turn-around of not less than one hundred (100) feet in diameter. The street shall not exceed 500 feet in length and shall not furnish access to more than 20 dwelling units. Drainage of cul-de-sac streets shall preferably be towards the open end unless such requirement is not practical. If drainage is toward the closed end, adequate provisions shall be made for runoff to be carried away. Drainage easements shall be required where necessary.

**Ordinance of December 6, 2011** added the phrase “, in accord with VDOT standards. The number or percentage of dead end streets in any subdivision shall not exceed the number that will produce a connectivity measurement meeting the standards set in

VDOT’s Secondary Street Acceptance Standards (SSARs).” to the end of the first sentence, and changed the phrase “one hundred (100)” to “eighty (80)” in the second sentence of this section.

905.01-7 **Intersections.** In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees.

905.01-8 **Curve Radii.** The minimum curve radius at intersections of local streets shall be ten (10) feet, and twenty-five (25) feet for major streets.

**Ordinance of December 6, 2011** added this section.

905.02 **Street Design.** The following regulations shall apply:

905.02-1 **Street Width.** For all subdivisions, all streets shall have, as a minimum, a right-of-way width of fifty (50) feet and a pavement width of thirty (30) feet except that pavement width may be a 26 feet for streets that will carry less than 200 vehicles per day.

**Ordinance of December 6, 2011** added the phrase “except that pavement width may be a 26 feet for streets that will carry less than 200 vehicles per day.” to the end of the first sentence of this section.

sentence shall not apply to a private access easement for townhouses, but in lieu of the foregoing sentence, a proposed subdivision for townhouses shall comply with all the requirements of the Zoning Ordinance regarding private access easements for townhouses.”

**Ordinance of July 7, 2015** repealed the final sentence of this section as originally enacted. The former language read: “The foregoing

905.02-2 **Construction and Surfacing.** All streets and alleys, subgrade and base material, shall be developed according to standards in the Virginia Department of Transportation Highway’s Street Standards. Streets shall be surfaced in accordance with State standards. The subdivider shall construct and surface all platted streets to the width and in accordance with the requirements of this Subdivision Ordinance.

905.02-3 **Curbs and Gutters.** Concrete curbs and gutters shall be installed on both sides of all streets shown on the subdivision plat in accordance with State standards. In the case of newly platted streets in a subdivision in which each lot contains one acre or more, curb and gutter is not required, but the development plan must nevertheless provide satisfactory storm drainage provisions. Curbs, gutters, and

any required sidewalks shall be constructed such that there will be a driveway entrance for each lot not being used for a townhouse.

905.02-4 Street Names. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. The name of a proposed street shall not duplicate or confuse an existing street in the town or in the postal district. The use of the following suffixes shall constitute a duplication if used after a name which is repeated before each suffix: street, road, avenue, boulevard, drive, way, place, court, lane, etc. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Town. Names of existing streets shall not be changed except by specific approval.

905.03 Monuments. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by this regulation are clearly visible for inspection and use. Such monuments shall be inspected and approved by the administrator before any improvements are accepted. All street corners, all points where the street line intersects the exterior boundaries of the subdivision, at right angle points, and points of curve in each street, and all other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade line.

905.04 Related Required Improvements. The following improvements shall be required:

905.04-1 Sidewalks. Concrete sidewalks shall be provided on one (1) or both sides of all new streets. Furthermore, when a new lot is created that fronts on an existing street, and adjacent property on either side has an existing sidewalk, the applicant shall construct a sidewalk that connects to the existing sidewalk.

905.04-2 Street Identification Signs. Street identification signs of an approved design shall be installed at all intersections.

905.04-3 Lighting. In Major Subdivisions, streetlights of adequate type and intensity shall be required to promote public health and safety in any subdivision. Streetlights shall be provided at all intersections. In order to ensure compliance with the foregoing, the design proposal for such streetlights shall be submitted with the preliminary or final plat of the proposed subdivision.

905.04-4 Railroad Crossing. In Major Subdivisions, the applicant shall be responsible for providing flashing lights and short-arm gates for any new or improved road within a subdivision which may cross a railroad track.

## **906.00 UTILITY AND STORMWATER REQUIREMENTS**

906.01 Plans and Specifications for Utility Fixtures and Systems to be Submitted for Approval. If the applicant for any subdivision desire to construct in, on, or under any streets or alleys located in such subdivision any gas, water, sewer, or electric light or power works, pipes, wires, fixtures, or systems, then with the submission of their plat they shall present plans or specifications therefore, which shall be considered as part of the consideration of such plat.

906.02 Public Water and/or Sewer Required. Public water and sewer service shall be extended to all lots within a subdivision by the developer. Such systems shall be designed to connect with such systems already in existence in accordance with state department of health standards. Such systems shall furnish an adequate supply of water to each lot, with adequate main sizes and fire hydrants located to meet the specifications of the insurance services office. The distance between sewer manholes shall not exceed three hundred (300) feet. A copy of the approval of such system by the appropriate public agency or utility company shall be submitted with the final plat. Any such property with existing septic tanks must connect to the public systems already in existence in accordance with state department of health standards, immediately after the failure of the individual septic tank.

906.03 Fire Protection. The installation of adequate fire hydrants in a subdivision at approved locations is required, provided that the necessary water supply is available.

906.04 Flood Control. If any portion of the proposed subdivision is determined by the agent to be in the one hundred (100) year floodplain, the subdivider shall provide the necessary information to demonstrate that the presence of the one hundred (100) year floodplain was considered in the layout of the subdivision. The subdivider shall also provide the plans for meeting the statewide stormwater management criteria, and, if necessary, and provisions of the Zoning Ordinance regarding flood control. The Flood Control information shall include a properly certified engineer's statement that such improvements, when properly installed will be adequate to meet the criteria as applied to the proposed development.

906.05 Storm Drainage. In order to provide adequate provisions for drainage control, the following rules shall apply:

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- 906.05-1 Existing Storm Sewers. Where existing storm sewers are reasonably accessible, the proposed subdivision shall connect with such storm sewers.
- 906.05-2 New Storm Sewers. New storm sewers and related installations shall be required only when the runoff of stormwater cannot be satisfactorily handled within the street pavement.
- 906.05-3 Design of Storm Drainage Facilities. Storm drainage facilities shall be designed to avoid the concentration of stormwater runoff onto adjacent developed or undeveloped properties or the collection of water at low points in the subdivision and along streets. Water shall be drained away from onsite sewage disposal facilities. Storm drainage facilities should be designed not only to handle the anticipated peak discharge from the property being subdivided, but also the anticipated increase in runoff that will occur when all the property at a higher elevation in the watershed is fully developed.
- 906.05-4 Watercourses. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a drainage easement conforming substantially with the line of such watercourse, drainage way, channel, or stream and of such width as will be adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, improving, or protecting such drainage facilities. Any changes in the existing drainage way shall be subject to the approval of the state water control board.
- 906.05-5 Street Design. All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way.
- 906.05-6 Certification of Required Improvements. The applicant shall provide for all such drainage improvements together with a certified engineer's or surveyor's statement that the contemplated improvements (or lack thereof) will be adequate for proper development. The highway resident engineer shall then approve or disapprove the plans.
- 906.05-7 Maintenance of Systems, etc. All stormwater detention, retention, and conveyance systems and facilities must be conveyed to, and maintained by a homeowners association or other entity approved by the agent approving the plat.

906.05-8      Stormwater and Sewer Systems. Sanitary sewers shall not be used to carry stormwater.

906.06      Easements. The Town may require that easements for drainage through adjoining property be provided by the subdivider. When necessary to provide access, easements of not less than ten (10) feet in width shall be provided for water, sewer, power lines, and other utilities to serve the subdivision. Easements may also be required in, along or adjacent to natural water courses as drains for sanitary sewers and water diversion purposes.

**907.00      RELATION TO EROSION AND SEDIMENT CONTROL LAWS**

907.01      Incorporation of Rockingham County Ordinance. The Town of Broadway adopts the Erosion and Sediment Control Ordinance of Rockingham County for all subdivisions except Minor Subdivisions that disturb less than 10,000 square feet of land.

907.02      Plan. In any instance in which the Rockingham County Erosion and Sediment Control Ordinance is applicable, an applicant shall submit with his or her final plat a valid and approved Rockingham County Erosion and Sediment Control Plan.

**908.00      PRELIMINARY SKETCHES AND PLATS**

908.01      Preliminary Sketch. The subdivider may, if he or she so chooses, submit to the Subdivision Administrator a preliminary sketch of the proposed subdivision prior to his preparing detailed preliminary and final plats. The purpose of such preliminary sketch is to permit the Administrator to advise the subdivider whether his plans, in general, are in accordance with the requirements of this Ordinance. Upon submission of any such preliminary sketch, it shall be studied and the subdivider advised where it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be submitted with the preliminary plat. The preliminary sketch shall be as follows: It shall be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to an appropriate scale i.e., one hundred (100) feet to the inch. It shall show the same location and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

908.02      Preliminary Plat. In the case of every subdivision that is not a Minor Subdivision or a Boundary Line Adjustment, the subdivider shall present to the Subdivision

Administrator four (4) copies of a preliminary layout at an appropriate scale of at least one hundred (100) feet to the inch. In the case of a Minor Subdivision or a Boundary Line Adjustment, the subdivider may (but shall not be required to) present a preliminary plat to the Subdivision Administrator, who may consider it and approve or disapprove it as provided herein without the involvement of the Planning Commission. All preliminary plats shall include the following information:

- 908.02-1 Name of subdivision, owner, subdivider, surveyor, or engineer, date of drawing, number of sheets, north point, and scale;
- 908.02-2 Location of proposed subdivision by an inset map at a scale of not less than one inch equal to two thousand (2,000) feet showing adjoining roads, their names and number, towns, subdivisions, and other landmarks;
- 908.02-3 The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one in twenty-five hundred; total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, and adjoining such boundaries;
- 908.02-4 All existing, platted, and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas, and parking spaces; culverts, drains, and water courses, their names and other pertinent data;
- 908.02-5 All parcels of land to be dedicated for public use and the conditions of such dedication;
- 908.02-6 Topography at an appropriate interval; and for this purpose, the Subdivision Administrator may require the subdivider to furnish topographic maps, floodplain profile elevation information or other relevant information;
- 908.02-7 Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith;
- 908.02-8 Proposed connections with existing sanitary sewers and existing water supply. The location, type, profile, percentage of slope, pipe



size, and location of manholes for all sewers shall be shown. The location, type and sizes of all waterlines shall be shown as well as the location of necessary control valves and fire hydrants;

908.02-9 Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required.

908.03 Procedure for Consideration. The Planning Commission and agent shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the Land Development Code. The subdivider shall then be advised in writing, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning the approval or disapproval of the preliminary plat, any additional data that may be required, the character and extent of public improvements that will have to be made, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In the case of a disapproval, the written advice shall describe specifically the reasons for disapproval and shall state what corrections or modifications would render the plat acceptable.

908.04 Time Limits for Consideration. The Planning Commission or Subdivision Administrator shall act on all preliminary plats (including any required or convenient submission of plats to other agencies) within the maximum time limits prescribed in Virginia law, taking into account any tolling periods provided in Virginia law and the time periods during which other agencies may comments on such plats.

908.05 Amount of Bond. In determining the cost of required improvements and the amount of the performance bond, the Subdivision Administrator shall require an amount equal to the estimate of the cost of improvements to be furnished by the subdivider.

908.06 No Guarantee. Approval of the preliminary plat does not constitute a guarantee of approval of the final plat.

908.07 Six Months Limit. The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to submit to the Subdivision Administrator a final subdivision plat in accordance with this Subdivision Ordinance. Failure to do so shall make preliminary approval null and void. The Subdivision Administrator may, on written request by the subdivider, for good cause shown, grant an extension of this time limit.

908.08 Review by Engineer. The Subdivision Administrator may, at his option, submit a preliminary plat to a professional engineer of his choice, retained by the Town, to obtain review of the plat by such engineer and such engineer's advice thereon. The

proponent of the subdivision shall bear all fees associated with such engineer's review, regardless whether the subdivision is ultimately approved.

**909.00            REQUIREMENTS FOR FINAL PLATS**

909.01            Characteristics of Final Plats. Four (4) copies of the final plat shall be submitted to the Subdivision Administrator. The subdivision plats submitted for final approval and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth at an appropriate scale, i.e., one hundred (100) feet to the inch on sheets not exceeding seventeen (17) inches by twenty-two (22) inches in size. When a subdivision cannot be platted on sheets of this size, it is suggested that it be platted in sections, numbering the sections numerically, as Section 1, 2, etc., of \_\_\_\_\_ subdivision.

909.02            Requirements. A final plat should contain at least the following information:

909.02-1            Name of subdivision, ward, town, state, owner, north point, scale of drawing, and number of sheets. If shown on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. A space containing the Certificate of Approval shall be provided for the use of the approving authority, containing spaces for the endorsement of the Subdivision Administrator and any other official whose approval is necessary, as well as a Certification by a surveyor or professional engineer, or both, that all requirements of this Subdivision Ordinance have been met to the best of his knowledge and belief;

909.02-2            Location of proposed subdivision by an insert map, at a scale of not less than one (1) inch equals two thousand (2,000) feet, indicating adjoining roads, their names and numbers, towns, subdivisions, and other landmarks;

909.02-3            A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the true meridian and showing the location of all monuments and their type of material. The survey may be related to the State Plan Coordinate grid, if the Coordinates of two (2) adjacent corners of the subdivision are shown;

909.02-4            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 owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly

acknowledged before some officer authorized to take acknowledgements of deeds;

- 909.02-5 When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat;
- 909.02-6 When any existing boundary line is being vacated, the location of such boundary line shall be indicated by a dashed line and a notation that such line is hereby vacated;
- 909.02-7 The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites, or other public areas; the number and area of all building sites; all existing public and private streets, their names, numbers, and widths; existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes, and underground conduits including their size and type; water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries;
- 909.02-8 All dimensions shown shall meet the standards published by the State Board of Licensing;
- 909.02-9 The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, tangent, chord, and chord bearings.

## **910.00 CONSIDERATION OF FINAL PLATS**

- 910.01 Action on Plat. The Town Council (or, for plat on which administrative approval is permitted under this Subdivision Ordinance, the Subdivision Administrator) shall act on proposed final plats within the maximum period permitted under state law after it has been officially submitted for approval (taking into account any tolling periods or extensions permitted under state law) by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. The specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

- 910.02      Time Limit. The subdivider shall have not more than six (6) months after receiving final approval to file the subdivision plat for recordation. If a plat is not filed for recordation within the time limit such approval shall be withdrawn and the plat marked void and returned. Notwithstanding the foregoing, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved under the terms herein, or where the developer has furnished surety to the Town by certified check, cash escrow, bond, or letter of credit in the amount required herein, the time for plat recordation shall be extended to one year after final approval or to the time limited specified in the surety agreement, whichever is greater.
- 910.03      Required Surety. Before the acceptance of dedication for public use of any right-of-way located within any subdivision which has been constructed or proposed to be constructed within the subdivision, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use or for the provision of any other site-related improvement required for vehicle ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, in any case financed or to be financed in whole or in part by private funds, the owner or developer must: (1) certify to the Town that the construction costs have been paid to the person constructing such facilities; or (2) furnish to the Subdivision Administrator a certified check, letter of credit, cash escrow, or contract for construction in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the Subdivision Administrator, in an amount described in § 907.05, and conditioned upon the construction of such facilities.
- 910.04      Additional Bond for Highway. Should the Town have accepted the dedication of a road for public use and such road is not acceptable into the State Highway System due to factors other than its quality of construction, the Town may require the subdivider or developer to furnish a maintenance and indemnifying bond or letter of credit with surety satisfactory to the Subdivision Administrator, in an amount sufficient for, and conditioned upon, the maintenance of such road until such time as it is accepted into the State Highway System.
- 910.05      Recordation. Without further action by the Town, the recordation of such plat shall operate to transfer, in fee simple, to the Town of Broadway such portion of the premises platted as is on such plat set apart for streets, alleys, or other public use and to transfer to the Town any easement indicated on such plat to create public right of passage over the same or to provide for the conveyance of stormwater, domestic water, and sewage, including the installation and maintenance of any facilities utilized for such purposes.

910.06 Endorsement. The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this Ordinance, and has made arrangements for performance bonds satisfactory to the Subdivision Administrator. Approval of the final plat shall be written by the agent on the face thereof.

## **911.00 VACATION OF PLAT OR BOUNDARY LINE**

911.01 Administrative Approval. An applicant may obtain administrative approval from the Subdivision Administrator of a plat the sole purpose of which is to vacate a boundary line between one or more lots under common ownership, when such vacation does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. To obtain such approval, the applicant shall submit a plat that complies with the provisions of §§ 908.01 and 908.02. The Subdivision Administrator shall examine such plat to determine its compliance with the foregoing sections and shall approve the plat if he finds that the vacation of such boundary lines does not worsen any nonconformity with the provisions of this Subdivision Ordinance.

911.02 Vacation of Plat. Any vacation of boundary lines or of a plat that does not qualify for administrative approval under § 911.01 may be vacated by any method permissible under Virginia law, provided, however, that no such vacation shall be recorded without the consent of the Town Council of the Town and such other parties as Virginia law requires, and without the due holding of any public hearings that Virginia law requires.

## **912.00 ADMINISTRATION**

912.01 Subdivision Administrator. The Zoning Administrator shall serve as Subdivision Administrator. The Subdivision Administrator shall have all authority permitted by Virginia law to enforce the provisions of this Subdivision Ordinance, including, to the full extent permissible under Virginia law, the powers that the Zoning Administrator has to enforce the Zoning Ordinance.

912.02 Variances to Subdivision Ordinance. Upon application of a party proposing a subdivision, the Town Council may authorize a variance the provisions of this Subdivision Ordinance if it finds that strict adherence to the general regulations would result in substantial injustice or hardship. The Subdivision Administrator shall maintain a record of all variances granted to this Subdivision Ordinance, noting for each variance the reasoning that justified the departure from normal subdivision regulations. In granting variances, the Town Council may require such

conditions as will in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

912.03 Delinquent Taxes. The Subdivision Administrator shall not act on any application for a subdivision if Town property taxes on the property that is the subject of the application have not been paid.

