**Proposed Planning and Zoning Ordinance Adjustments**
5/5/10

| # | Page | §18.1- | Description |
|---|---|---|---|
| 1 | 52 | Table 7.1 | Allow day care facilities in R-1, R-2, R-3 and R-4 districts by special use permit. |
| 2 | 53 | Table 7.1 | Allow "retail uses not specifically delineated" by right in commercial zones but require all items offered for retail to be under roof or outside materials screened. |
| 3 | 54 | Table 7.1 | Clarify "contractor" uses – i.e. outside storage of materials or equipment, parking lots, etc. |
| 4 | 60 | 901 | Regulate solar panel setbacks, size limits, etc. |
| 5 | 60 | 901.02.5 | Revise rules for satellite dishes. |
| 6 | 62 | 906 | Institute standards for streets and driveways inside a "multifamily" (apartment or condominium) complex. |
| 7 | 116 | 919 | Clarify that VDOT's "527" traffic impact study regulations are effective in the Town. |
| 8 | 117, 118 | 920 | Adjust the commercial development landscaping requirements to be more consistent with the Amherst County practice and except driveway widths from the one tree per 15' of street frontage rule. |
| 9 | 145 | 1011 | Clarify application deadlines for plats and site plans. |
| 10 | 146 | 1102 | Set an expiration date for site plan approvals. |
| 11 | 147 | 1103 | Clarify how site plans for large residences being converted to businesses should be handled |
| 12 | 150 | Articles XII and XIII | Adjust the subdivision regulations to match Amherst County requirements. |
| 13 | 164 | 1402.02.a | Adjust the variance hardship requirement per the change to Sec. 15.2-2309 of the Code of Virginia that removed the "approaching confiscation" clause and mirror other related requirements of the Code of Virginia. |

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# CHAPTER 18.1

# ZONING AND SUBDIVISION

## ARTICLE I. AUTHORITY AND ENACTMENT

**Sec. 18.1-101. Authority to establish zoning.**

Pursuant to §15.2-2280 of the Code of Virginia, 1950, as amended, any locality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of zoning, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

1. The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;

2. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

3. 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 used; or

4. The excavation or mining of soil or other natural resources.

**Sec. 18.1-102. Authority to regulate the subdivision of land.**

Pursuant to § 15.2-2240 of the Code of Virginia, 1950, as amended, the governing body of every locality shall adopt an ordinance to assure the orderly subdivision of land and its development. Pursuant to § 15.2-2241 of the Code of Virginia, 1950, as amended, a subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.);

2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

3. For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics;

4. 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;

5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, 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, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular 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, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five percent of the estimated construction costs.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage;

6. For conveyance, in appropriate cases, of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements and recorded in the land records of the county or city;

7. For monuments of specific types to be installed establishing street and property lines;

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, 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 by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater;

9. 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. All such charges heretofore made are hereby validated;

10. 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 in accordance with the provisions of § 15.2-2244; and 11 of the Code of Virginia, 1950, as amended. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245 of the Code of Virginia, 1950, as amended.

**Sec. 18.1-103. Enactment.**

For the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives articulated above, the Town Council of the Town of Amherst has adopted this zoning and subdivision ordinance for the Town of Amherst, Virginia.

**Sec. 18.1-104. Short title.**

This ordinance shall be known as the Zoning and Subdivision Ordinance of the Town of Amherst, Virginia.

## ARTICLE II. PURPOSE OF REGULATIONS

**Sec. 18.1-201. Purpose.**

This ordinance is designed to assist the citizens, the Town Council, Planning Commission, and administrative officials of the Town of Amherst in guiding land development of the Town. The ordinance has been formed with a spirit of concern for the individual rights of landowners, but at the same time with a recognition that orderly development of natural growth rates is essential for the preservation and protection of the safety, health and general welfare of the citizens of the Town of Amherst.

The purpose of this ordinance shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of §15.2-2200 et. seq. of the Code of Virginia, 1950, as amended. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas; (vi) 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; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; and (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in §62.1-255 of the Code of Virginia, 1950, as amended.

**Sec. 18.1-202. Nonexclusionary intent.**

It is not the intent of this ordinance to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within the Town of Amherst; nor is it the intent of this ordinance to use public powers in any way to promote the separation within the Town of Amherst of economic, racial, religious, or ethnic groups, except as may be the incidental result of meeting the purposes of this ordinance.

## ARTICLE III. DEFINITIONS OF TERMS USED IN THIS ORDINANCE

**Sec. 18.1-301. 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 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.

**Sec. 18.1-302. Specific definitions.**

When used in this ordinance the following words and phrases shall have the meaning given in this section:

**Sec. 18.1-302.01**

*Accessory building, use or structure*. A building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. Examples of accessory uses are private garages, storage sheds, playhouses and swimming pools and satellite dish antennas.

**Sec. 18.1-302.02**

*Administrator, zoning*. The Town Manager of the Town of Amherst or his designee who is charged with the enforcement of the zoning ordinance.

**Sec. 18.1-302.03**

*Alley*. A passage or way open to the public or for private travel, generally affording a secondary vehicular access to abutting lots or upon which service entrances or buildings abut, and not intended for general traffic.

**Sec. 18.1-302.04**

*Amherst Town Council*. The elected governing body of the Town of Amherst, Virginia.

**Sec. 18.1-302.05**

*Animal Hospital*. See Veterinary Hospital.

**Sec. 18.1-302.06**

*Antique and gift shops*. A commercial establishment which is used primarily for the indoor display and retail sale of merchandise, primarily furniture, silverware, glass ware and other curios and collectibles, the value of which is derived from age, rarity and materials of such items and/or the workmanship of a particular historic period; flea markets and furniture stores shall not be included.

**Sec. 18.1-302.07**

*Apartment*. A unit in multi-family dwelling 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.

**Sec. 18.1-302.08**

*Automobile graveyard*. Any lot or place, or part thereof, which is exposed to the weather and upon which more than five (5) motor vehicles of any kind incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

**Sec. 18.1-302.09**

*Automobile service station*. Any area of land, including structures thereon, used for the retail sale of gasoline or oil, automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but excluding painting, major repair, or automatic washing.

**Sec. 18.1-302.10**

*Base map*. A document on which property lines are depicted to the most accurate scale available.

**Sec. 18.1-302.11**

*Bed and breakfast lodging*. A single family dwelling containing sleeping and breakfast accommodations as an accessory use to the principal use. Such lodging shall have no more than five (5) room accommodations for transient persons and wherein a charge is normally paid for such accommodations.

**Sec. 18.1-302.12**

*Board of appeals*. The Town of Amherst Board of Zoning Appeals as established under this ordinance.

**Sec. 18.1-302.13**

*Buffering or screening*. Any device or natural growth, or a combination thereof which shall serve as a barrier to vision or noise between adjoining properties wherever required by this ordinance. Whenever used for screening or buffering purposes "natural growth" shall be taken to mean evergreen trees, bushes and shrubbery.

**Sec. 18.1-302.14**

*Buildable area*. The area of a lot remaining after required yards, open spaces, parking, loading and access areas have been provided.

**Sec. 18.1-302.15**

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

**Sec. 18.1-302.16**

*Building, height of*. The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; in the case of a building set back from the street line thirty-five (35) feet or more, the building height is measured from the average elevation of finished ground surface along the front of the building; and on corner lots exceeding twenty thousand (20,000) square feet in area, the height of the building may be measured from either adjoining curb grade.

**Sec. 18.1-302.17**

*Building inspector*. The duly appointed building official responsible for enforcing the provisions of the Uniform Statewide Building Code within the Town of Amherst or his designated representative or agent.

**Sec. 18.1-302.18**

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

**Sec. 18.1-302.19**

*Building permit* A permit which is issued by the building inspector before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the county building code.

**Sec. 18.1-302.20**

*Bulk storage*. Above-ground storage of liquid in excess of 1,500 gallons.

**Sec. 18.1-302.21**

*Cemetery*. A privately or church owned and/or operated place for burial of the dead where lots may be sold and perpetual care of the graves is furnished.

**Sec. 18.1-302.22**

*Circuit Court*. The Circuit Court of Amherst County, Virginia.

**Sec. 18.1-302.23**

*Commercial*. A wholesale, retail, or service business activity established to carry on trade for a profit.

**Sec. 18.1-302.24**

*Commission*. The planning commission of the Town of Amherst.

**Sec. 18.1-302.25**

*Condominium*. A single unit in a multiple unit residential or commercial structure that is offered for sale and shall be part of a condominium project with general common elements as defined in Section 55-79.2, Code of Virginia, 1950, as amended.

**Sec. 18.1-302.26**

*Club, private.* An establishment operated for the social, education, or recreation benefit of the members thereof, in which no enterprise is conducted, except for the convenience of the members thereof and their guests.

**Sec. 18.1-302.27**

*County*. Amherst County, Virginia.

**Sec. 18.1-302.28**

*Town building code*. The Virginia Uniform Statewide Building Code.

**Sec. 18.1-302.29**

*Town comprehensive plan.* A document prepared and adopted in accordance with Section 15.2-2223 et. seq, Code of Virginia, 1950, as amended, for the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town.

**Sec. 18.1-302.30**

*Cul-de-sac*. A street with only one outlet terminating in a circular turning area.

**Sec. 18.1-302.31**

*Dance hall*. A building open to the general public for purpose of providing a place for dancing and where an admission is charged for the purpose of making a profit, except when sponsored by civic, charitable or non-profit groups.

**Sec. 18.1-302.32**

*Day care center*. A facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during part of the day only, and meeting the licensing requirements for child care centers of Section 63.1-196 of the Code of Virginia, 1950, as amended.

**Sec. 18.1-302.33**

*Development*. A tract of land developed or to be developed as a unit under single ownership of unified control which is to be used for any business or industrial purpose, or is to contain five or more residential dwelling units.

**Sec. 18.1-302.34**

*District*. A section or area of the Town of Amherst within which the zoning regulations are uniform.

**Sec. 18.1-302.35**

*Domestic use*. Normal family or household use of water, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

**Sec. 18.1-302.36**

*Drain-field space*. An area set aside and dedicated for use in the absorption and evaporation of fluid from an initial and/or existing on-site sewerage system.

**Sec. 18.1-302.37**

*Dwelling*. Any building or portion thereof which is designed for or used for residential purposes.

**Sec. 18.1-302.38**

*Dwelling, multi-family*. A building designed for or occupied exclusively by three (3) or more families living independently of each other in three or more dwelling units; the term includes condominiums of similar physical appearance, character and structure.

**Sec. 18.1-302.38.1**

*Dwelling, semi-detached*. A residential unit on its own individual lot attached to one, and only one, other residential unit which is separated from the other unit by a common vertical wall with no openings.

**Sec. 18.1-302.39**

*Dwelling, single-family* A building designed for and occupied exclusively by one (1) family in a single dwelling unit.

**Sec. 18.1-302.40**

*Dwelling, two-family (Duplex)* A building designed for or occupied exclusively by two (2) families living independently of each other in two dwelling units.

**Sec. 18.1-302.41**

*Dwelling unit*. One (1) or more rooms in a residential building or in a mixed building which are arranged, designed, used or intended for use by one (1) family, and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

**Sec. 18.1-302.42**

*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.

**Sec. 18.1-302.43**

*Emergency services*. Emergency services include fire, police, rescue squads and other similar activities.

**Sec. 18.1-302.44**

*Engineer*. A person designated as a licensed Professional Engineer by the Commonwealth of Virginia.

**Sec. 18.1-302.45**

*Family*. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage no such family shall contain more than five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

**Sec. 18.1-302.46**

*Flood*. A general temporary inundation of lands not normally covered by water that are used or usable by man. Concurrent mudslides shall be deemed to be included in this definition.

**Sec. 18.1-302.47**

*Flood hazard areas*. The maximum area of the flood plain which is likely to be flooded once every 100 years or for which mudslides can be reasonably anticipated.

**Sec. 18.1-302.48**

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

**Sec. 18.1-302.49**

*Flood plain*. An area, usually a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

**Sec. 18.1-302.50**

*Flood proofing*. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding required for new construction in the floodway by the county building code.

**Sec. 18.1-302.51**

*Floodway*. The channel of a stream or other watercourse and the adjacent land areas required to carry and discharge the waters of the one hundred (100) year flood.

**Sec. 18.1-302.52**

*Floor area*. The sum of the gross areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the center lines of walls separating two (2) buildings. In particular, floor area includes:

1. Basement space, except such space in a basement which has at least one-third of its height below curb level, and which is located in a residential building with not more than two (2) stories entirely above curb level:

2. Elevator shafts or stairwells at each floor;

3. Floor space in penthouse;

4. Attic space (whether or not a floor has been laid) providing structural headroom of eight (8) feet or more;

5. Floor space in interior balconies or mezzanines;

6. Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, if more than fifty (50) percent of the perimeter of such terrace, balcony, breezeway, or porch is enclosed.

7. Any other floor space used for dwelling purposes, no matter where located within a building, when not specifically excluded;

8. Floor space in accessory buildings except for floor space used for accessory off-street parking.

Floor area of a building shall not include:

1. Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths;

2. Elevator or stair bulkheads, accessory water tanks, or cooling towers;

3. Uncovered steps;

4. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than eight (8) feet;

5. Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, provided that not more than fifty (50) percent of the perimeter of such terrace, balcony, breezeway, or porch is enclosed;

6. Unenclosed floor space used for permitted or required accessory off-street parking spaces;

7. Floor space used for accessory off-street loading berths;

8. Floor space used for mechanical equipment.

**Sec. 18.1-302.53**

*Garage, private*. An accessory structure, or a portion of the main building, designed for the storage of automobiles owned and used by the occupants of the main building.

**Sec. 18.1-302.54**

*Garage, public*. A building or portion thereof, other than a private garage, designed or used for storing motor driven vehicles.

**Sec. 18.1-302.55**

*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, but not including accessory structures used for the same purpose.

**Sec. 18.1-302.56**

*Gas*. Natural gas formed beneath the surface of the earth, including any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil, obtained from gas or combination wells regardless of its chemical analysis.

**Sec. 18.1-302.57**

*General convenience store*. A single store, the ground floor area of which is four thousand (4,000) square feet or less and which offers for sale primarily most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store and no more than four (4) gasoline and/or diesel dispensers shall be permitted, subject to the restrictions in paragraphs 18.2-902.04 and 18.2-902.05.

**Sec. 18.1-302.58**

*Greenhouse*. A structure for the raising of plants or flowers indoors for private or retail purposes.

**Sec. 18.1-302.58-A**

*Grocery Store*. A single store building with a ground floor area of not more than 10,000 square feet which primarily offers for sale food to be prepared and consumed off premises.

**Sec. 18.1-302.59**

*Hazardous waste*. Solid or liquid waste which, because of concentration, quantity, physical, chemical or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

**Sec. 18.1-302.60**

*Health department*. The Amherst County Health Department or its designated agent or representative.

**Sec. 18.1-302.61**

*Home occupation*. An accessory use of a dwelling unit, located either in the main building or an accessory building, for financial gain or support involving the manufacture, provision, or sale of goods and/or services which is clearly incidental to or secondary to the residential use of a dwelling unit.

**Sec. 18.1-302.62**

*Home for the aged*. A building or place in which the establishment is providing housing, board, lodging and maintenance for four(4) or more aged persons who are not informed, chronically ill or incapacitated, with such establishment having separate sleeping quarters and common areas for dining, recreation and other similar facilities.

**Sec. 18.1-302.63**

*Highway, primary*. All state highways in the "State Highway System" so designated by the State Highway and Transportation Commission (Board) under requirements of Section 33.1-25 of the Code of Virginia, 1950, as amended.

**Sec. 18.1-302.64**

*Highway, secondary*. All roads of the Commonwealth of Virginia not currently in the primary system of state highways as provided for in §33.1-67 of the Code of Virginia, 1950, as amended.

**Sec. 18.1-302.65**

*Hospital*. Hospital includes sanatorium, preventorium, clinic or rest home, and is deemed to mean a place for the treatment of human disorders and ailments; an institution providing health services for inpatient medical or surgical care, care of sick or injured, and related laboratories, offices, and outpatient facilities and services.

**Sec. 18.1-302.65.1**

*Industrialized building*. A combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in Section 36-85.3 of the Code of Virginia and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purposes of this ordinance.

**Sec. 18.1-302.66**

*Junk*. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; or junked, dismantled or wrecked automobiles, or parts thereof; iron, steel and other old or scrap ferrous or nonferrous material.

**Sec. 18.1-302.66.5**

*Jail.* Any institution operated by or under authority of any local, regional, state or federal governmental authority whether obtained by purchase, lease, construction, reconstruction, restoration, conversion, improvement, alteration, repair or other means or any physical betterment or improvement relating to the housing of inmates. The term includes prison and correctional facility.

**Sec. 18.1-302.67**

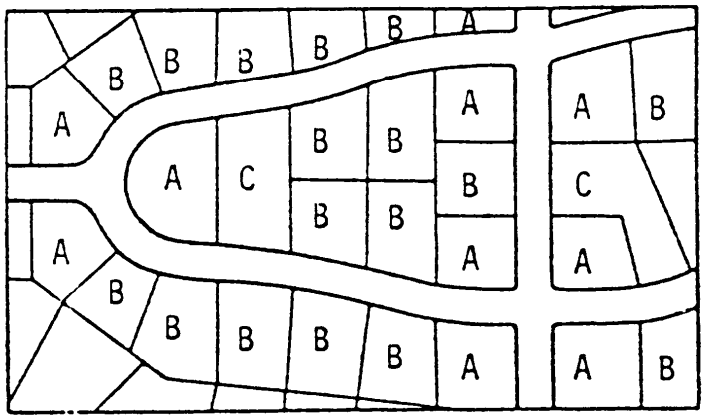
*Kennel*. Any location where raising, grooming, caring for or boarding of dogs, cats or other small animals for commercial purposes is carried on. Outdoor runs properly screened are included.

**Sec. 18.1-302.68**

*Lot*. A 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, of transfer of ownership or of development or separate use. The term applies to units of land whether in a subdivision or a development.

FIGURE 1

**This illustrates the basic types of lots.**




**A = Corner lot**
**B = Interior lot**
**C = Through (or double frontage) lot**

**Sec. 18.1-302.69**

*Lot of record*. A lot or parcel of land whose existence, location and dimensions have been legally recorded in the office of the clerk of the circuit court at the time of the adoption of this ordinance.

**Sec. 18.1-302.70**

*Lot, corner*. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Item A in Figure 1)

**Sec. 18.1-302.71**

*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.

**Sec. 18.1-302.72**

*Lot frontage width*. The distance between side property lot lines measured at the front lot line.

**Sec. 18.1-302.73**

*Lot, interior*. A lot other than a corner lot with only one frontage on a street. (Item B in Figure 1)

**Sec. 18.1-302.74**

*Lot, through*. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Item C in Figure 1)

**Sec. 18.1-302.75**

*Lot line (property line)*. The boundary of a lot.

**Sec. 18.1-302.76**

*Lot width*. The average horizontal distance between side property lot lines.

**Sec. 18.1-302.77**

*Manufacture and/or manufacturing*. The processing and/or converting of raw, unfinished materials or products or either of them into articles or substances of different character or for use for a different purpose.

**Sec. 18.1-302.77.1**

*Manufactured home*. A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the travelling 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 utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

**Sec. 18.1-302.78**

*Mobile Home*. A factory assembled structure or structures equipped with the necessary service connections and made to be readily moveable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without a permanent foundation and built before 1976. (See also Manufactured Home, Modular Home, and Industrialized Building.) This unit does not meet the requirements of the Council of American Building Officials (CABO) or the Virginia Uniform Statewide Building Code Use Group R-4. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon will be moved from time to time at the convenience of the owner. Mobile homes are allowed only in manufactured home parks.

**Sec. 18.1-302.78.1**

*Manufactured home park*. Any site, lot, or tract of land which contains spaces for parking two (2) or more mobile, manufactured, or modular homes or any combination thereof.

**Sec. 18.1-302.78.2**

*Modular home*. A structure constructed to meet the State requirements of an industrialized building, Virginia Uniform Statewide Building Code Use Group R-4, and Council of American Building Officials (not a mobile home or manufactured home). As such, a modular home shall be considered the equivalent of a residence built on-site for the purposes of this ordinance.

**Sec. 18.1-302.79**

*Motel*. A building or a group of buildings containing sleeping accommodations for rental primarily to automobile transients and in which ingress and egress to and from each sleeping room is generally to the outside of the building.

**Sec. 18.1-302.80**

*Natural resource*. Includes soil, sand, gravel, stone or other mineral (other than oil and gas) naturally formed on or beneath the surface of the earth.

**Sec. 18.1-302.81**

*Nonconforming 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 whether at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

**Sec. 18.1-302.82**

*Nonconforming structure*. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use 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 of the ordinance.

**Sec. 18.1-302.83**

*Nonconforming use*. The otherwise legal use of a building or of a tract of land that does not conform to the use 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 this ordinance.

**Sec. 18.1-302.84**

*Non-public water system*. A water system which, as a general rule, does not provide water to the public for drinking or does not meet the requirements for a public water system; or a well used for obtaining water for drinking or domestic use located on an individual lot for the purpose of serving the main dwelling on said lot, with any new well to be at least a Class III-A drilled well as approved by the health department.

**Sec. 18.1-302.85**

*Normal pool elevation*. The height, above sea level, of the water held in any reservoir as it begins to overflow its spillway structure.

**Sec. 18.1-302.86**

*Nursing home*. Includes rest homes and convalescent homes and shall mean a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities, or injuries not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital.

**Sec. 18.1-302.87**

*Oil*. A liquid substance known as crude petroleum oil or petroleum.

**Sec. 18.1-302.88**

*On-site sewage system*. A sewage system designed not to result in a point source discharge, including individual septic tanks used by the main dwelling on an individual lot, and approved by the health department.

**Sec. 18.1-302.89**

*Open space*. A yard area which is not used for or occupied by a driveway, off-street parking, loading space, refuse storage space.

**Sec. 18.1-302.90**

*Owner*. Any person, agent, firm or corporation having a legal or equitable interest in the property.

**Sec. 18.1-302.91**

*Permanent tributary*. Any perennial, intermittent stream, including lakes or ponds, which provides natural drainage to a larger body of water, as officially indicated on U. S, Geological Survey topographic maps.

**Sec. 18.1-302.92**

*Permitted use*. A use of the land which is allowed by right in the zoning district in which the land is situated.

**Sec. 18.1-302.93**

*Plat*. The schematic representation of land divided or to be divided.

**Sec. 18.1-302.94**

*Prescriptive easement*. An easement granted to the Virginia Department of Transportation for the construction and maintenance of public roads owned by said department.

**Sec. 18.1-302.94.1**

*Preserved area.* An area containing sensitive lands with features such as steep slopes, stream bottoms, critical viewshed, established trees or other vegetation or public ownership where the Town Council has determined that such features are worthy of preservation by the inclusion of such in the Comprehensive Plan. No clearing or grading is allowed in a preserved area prior to specific approval by the Town Council or Planning Commission of a rezoning, special use permit or site plan. The minimum of clearing and grading necessary for sanitary sewer mains and other uses may be allowed provided that the approving authority has adequate assurances that appropriate vegetation will be reestablished. For the purposes of this paragraph, active management of a preserved area in the form of cutting grass or noxious weeds, clearing underbrush, maintaining trees or similar activities shall not be considered clearing or grading.

*(Amended June 11, 2008)*

**Sec. 18.1-302.95**

*Professional office*. An office for the conduct of a professional use by persons generally engaged in rendering personal, executive, sales or administrative services or activities, including law, medicine, theology, architecture, accounting, engineering, insurance, real estate, stock brokers, and administrative agencies considered professional in character. Characteristics of a professional office include desks, telephone and computer equipment, filing cabinets, and conference rooms and display areas. The term, however, does not include repairs or sales of tangible personal property stored or located within the structure nor any use which would create any loud noises or noxious odors, storage of salable materials, construction equipment or construction materials.

**Sec. 18.1-302.97**

*Proffer*. An offer or proposal which the property owner, or his agents, commits himself as additional requirements or restrictions on his property.

**Sec. 18.1-302.98**

*Public building*. A building owned or leased and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth of Virginia, or Amherst County.

**Sec. 18.1-302.99**

*Public sewerage system*. A sewerage system owned and operated by the town of Amherst; or any sewerage system resulting in a point source discharge and approved by the health department.

**Sec. 18.1-302.100**

*Public utilities*. Public service structures such as power plant substations; water lines, treatment plants or pumping stations, sewage disposal systems and treatment plants; or such similar operations publicly or privately owned furnishing electricity, gas rail transport, communication or related services to the general public.

**Sec. 18.1-302.101**

*Public water supply agency*. The administrative organization, department or agency which manages the daily and long term activities of public water system.

**Sec. 18.1-302.102**

*Public water system*. A water system owned and operated by the Town of Amherst or any water system for drinking or domestic use, approved by the health department, that generally has at least fifteen (15) connections or an average of twenty-five (25) individuals for at least sixty (60) days out of the year.

**Sec. 18.1-302.103**

*Ramada*. A structure erected over a mobile home for the purpose of providing shade or shelter.

**Sec. 18.1-302.104**

*Reserve drainfield space*. An area set aside and dedicated for future use in the absorption and evaporation of fluid from an on-site sewerage system.

**Sec. 18.1-302.105**

*Reservoir*. Any impoundment of water, owned, operated or controlled by a public water supply agency to provide drinking water to citizens of their community at the present or in the future.

**Sec. 18.1-302.106**

*Resident engineer*. The resident engineer for the Town of Amherst, Virginia, employed by the Virginia Department of Transportation, or his designated agent.

**Sec. 18.1-302.107**

*Residential use*. A building or part of a building containing dwelling units or rooming units, including single-family or two-family houses, multiple family dwellings, mobile homes, boarding or rooming houses, dormitories, fraternity or sorority houses or apartment hotels; but not including monasteries, convents, transient accommodations, such as hotels, motels, tourist cabins, or travel trailer parks, or that part of a mixed building used for any non-residential use, except accessory to residential uses.

**Sec. 18.1-302.108**

*Restaurant*. Any building in which, for compensation, food or beverage are dispensed to persons not residing on the premises including, among other establishments, cafes, delicatessens, refreshment stands, or drive-in facilities.

**Sec. 18.1-302.109**

*Retail stores and shops*. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration only and are not to be considered exclusive: drug store, newsstand, food store, candy shop, milk, dispensary, drygoods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

**Sec. 18.1-302.110**

*Right-of-way*. Access over or across particularly described property for a specific purpose or purposes.

**Sec. 18.1-302.111**

*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.

**Sec. 18.1-302.112**

*Right-of-Way, state owned*. The right-of-way owned outright by the Virginia Department of Transportation on which public roads are constructed and maintained.

**Sec. 18.1-302.113**

*Satellite Dish Antenna*. An accessory use that is a combination of (1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites or other extraterrestrial sources; (2) a low noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (3 a coaxial cable whose purpose is to carry the signals to the exterior of the building.

**Sec. 18.1-302.114**

*Schools*. An institution providing full-time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the State of Virginia. School support facilities shall not be included.

**Sec. 18.1-302.115**

*School support facilities*. Facilities which are required to maintain efficient operation of a school or school system but which are not directly related to the academic program of study and which may be characterized by potential nuisance factors such as fuel storage, noise, or vibration. Such supportive facilities include school system administrative offices, maintenance shops, storage warehouses, vehicle storage lots and the like.

**Sec. 18.1-302.116**

*Setback line*. A line parallel to a street and extending the full width of the lot for a specified distance at all points from the street right-of-way line, and thus defining an area in which no building or structures or portions thereof may be constructed.

**Sec. 18.1-302.117**

*Shopping center*. A group of commercial establishments, planned and developed as a unit, with common off-street parking provided on the property, located on a parcel of land ten(10) or more acres in size.

**Sec. 18.1-302.118**

*Sign*. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade name or marks, or combinations thereof, by which anything is made know, such as the designation of an individual, a firm, an association, a profession, a public business, a commodity, or product, which are visible from any public way and used as an outdoor display.

**Sec. 18.1-302.119**

*Sign area*. The smallest square, rectangle, triangle, circle, or combination thereof, encompassing the entire advertising area, excluding architectural trim and structural supports.

**Sec. 18.1-302.120**

*Sign, commercial*. A sign informing or advertising products or activities for sale or profit.

**Sec. 18.1-302.121**

*Sign, directional*. A sign indicating only the name and direction to a business, farm or activity.

**Sec. 18.1-302.122**

*Sign, on-site*. A sign relating to its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**Sec. 18.1-302.123**

*Sign, off-site*. A sign, either free standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject not specific to the premises upon which it is located.

**Sec. 18.1-302.124**

*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.

**Sec. 18.1-302.125**

*Sign, temporary*. Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other materials with or without frames intended to be displayed for a period of not more than sixty (60) consecutive days.

**Sec. 18.1-302.126**

*Special use*. A use of the land which may be allowed in a zoning district in which the land is situated subject to the approval of the Town Council, after a public hearing thereon.

**Sec. 18.1-302.127**

*Street*. A strip of land comprising the entire area within the right-of-way intended for possible use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The word "street" includes road, thoroughfare, parkway, avenue, lane, boulevard, expressway, highway (except as herein defined), place, throughway, square, alley, or however designated with the above mentioned right-of-way.

**Sec. 18.1-302.128**

*Street centerline*. A line generally parallel to the right-of-way lines that equally divide the street right-of-way.

**Sec. 18.1-302.129**

*Street, half*. A street that does not meet the minimum right-of-way width requirements set forth or referenced in this ordinance.

**Sec. 18.1-302.130**

*Street, private*. Any road, street, highway or other means of vehicular access to a parcel of land not maintained by the Virginia Department of Transportation (or any other public agency) regardless of ownership.

**Sec. 18.1-302.131**

*Street, public*. A strip of land comprising the entire area within the right-of-way intended for public use as a means of vehicular and pedestrian circulation to provide access to more than one lot and which is presently a portion of the Virginia Department Transportation's street and road system, or is a proposed addition to the Virginia Department of Transportation's street and road system in which case the improvement of which shall meet the construction standards of the Virginia Department of Transportation.

**Sec. 18.1-302.132**

*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.

**Sec. 18.1-302.133**

*Subdivider*. Any person owning a tract or parcel of land to be subdivided.

**Sec. 18.1-302.134**

*Subdivision*. Any division of a piece of land or alteration of the boundary lines of any piece of land. The term includes condominiums, wherein the purchaser acquires both ownership of the condominium units and ownership of an interest in common elements.

**Sec. 18.1-302.135**

*Surveyor*. A land surveyor certified by the Commonwealth of Virginia.

**Sec. 18.1-302.136**

*Theater, indoor*. A building designed and/or used primarily for the commercial exhibition of motion pictures to the general public or used for performance of displays, acts, dramas by actors and/or actresses.

**Sec. 18.1-302.137**

*Theater, outdoor*. An area not to exceed five (5) acres containing a screen projection booth refreshment stand, parking spaces and sound transmission devices to individual parking spaces only for the purpose of commercial exhibition of motion pictures.

**Sec. 18.1-302.137.1**

*Time-share*. A time-share estate or a time-share use plus its incidental benefits.

**Sec. 18.1-302.137.2**

*Time-share estate*. A right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, coupled with a freehold estate for years in a time-share project of a specified portion thereof.

**Sec. 18.1-302.137.3**

*Time-share instrument*. Any document, however denominated, which creates the time-share project and program, and which may contain restrictions or covenants regulating the use, occupancy, or disposition of time-shares in a project.

**Sec. 18.1-302.137.4**

*Time-share program (or program)*. Any arrangement of time-shares in one or more time-share projects whereby the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners

of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five years.

**Sec. 18.1-302.137.5**

*Time-share project*. All of the real property subject to a time-share program created by the execution of a time-share instrument.

**Sec. 18.1-302.137.6**

*Time-share unit (or unit)*. The real property or real property improvement in a project which is divided into time-shares and designated for separate occupancy and use.

**Sec. 18.1-302.137.7**

*Time-share use*. A right to occupy a time-share unit or any of several time-share units during five or more separated time periods over a period of at least five years, including renewal options, not coupled with a freehold estate or an estate for years in a time share project or a specified portion thereof. "Time-share use" shall not mean a right to use which is subject to a first-come, first-served space available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.

**Sec. 18.1-302.138**

*Town*. The governmental entity of the Town of Amherst, Virginia.

**Sec. 18.1-302.139**

*Townhouse*. A residential unit in a series of from three (3) to twelve (12) single family attached dwellings separated from one another by common vertical walls with no openings.

**Sec. 18.1-302.140**

*Townhouse lot*. A lot upon which a townhouse is or is to be erected.

**Sec. 18.1-302.141**

*Town manager*. The Town manager of the Town of Amherst, Virginia.

**Sec. 18.1-302.142**

*Travel trailer*. A vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation uses which is not more than eight (8) feet in body width and is of any weight provided its body length does not exceed twenty-nine (29) feet.

**Sec. 18.1-302.143**

*Use*. The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

**Sec. 18.1-302.144**

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

**Sec. 18.1-302.145**

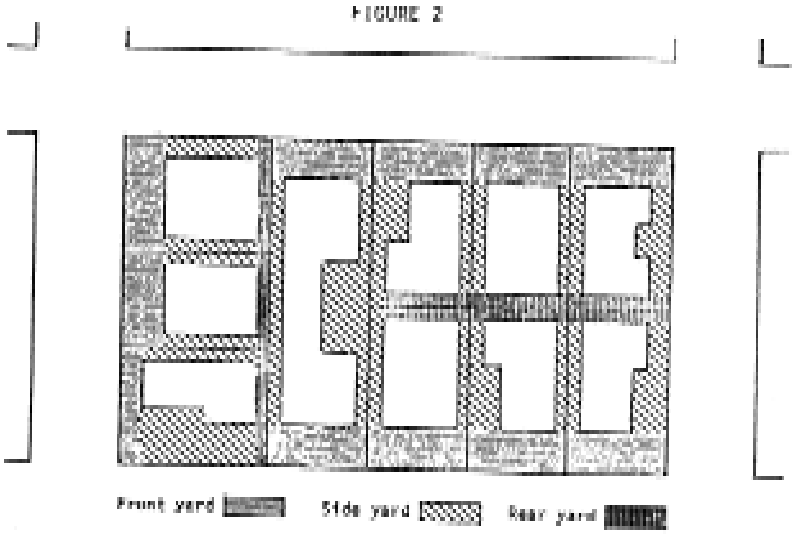
*Veterinary hospital*. A structure or series of structures used for the treatment of diseases and injuries of animals by a veterinarian licensed by the Commonwealth of Virginia, without outdoor runs except for exercise purposes.

**Sec. 18.1-302.146**

*Watershed*. Any area drained by a stream and its tributaries upstream from a public water supply intake structure.

**Sec. 18.1-302.147**

*Yard*. A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.




**Sec. 18.1-302.148**

*Yard, front*. An open, unoccupied space on the same lot with the main structure, extending the full width of the lot and situated between the right-of-way line and the front line of the structure projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the structure and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main structure and shall not project into a required front yard. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. (See figure 2).

**Sec. 18.1-302.149**

*Yard, rear*. An open space on the same lot with the main structure, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main structure projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the front yard. (See figure 2).

**Sec. 18.1-302.150**

*Yard, side*. An open, unoccupied space on the same lot with a main structure, situated between the side line of the structure 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 the corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension. (See figure 2).

**Sec. 18.1-302.151**

*Zoning map*. The official zoning district map for the Town of Amherst, Virginia.

## ARTICLE IV. APPLICATION OF REGULATIONS

**Sec. 18.1-401. Uniform application of regulations.**

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

**Sec. 18.1-402. Subdivision of land.**

Any owner or owners of any tract of land located within the Town, in whole or in part, who subdivides the same as provided herein shall cause a plat of such subdivision to be made in accordance with procedures set forth in this ordinance.

**Sec. 18.1-403. Use.**

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.

**Sec. 18.1-403.01**

*Permitted uses*. A permitted use is one allowed in the district in which the land is situated. Where the proposed use is permitted and is in accordance with other regulations herein, a zoning certificate will be issued by the zoning administrator, without hearing thereon, in accordance with paragraph 18.1-1003.02 herein.

**Sec. 18.1-403.02**

*Special uses*. A special use is one which may be allowed when the Town Council, after review of the application and hearing thereon, finds as a fact that the proposed use or uses are consistent with the comprehensive plan and the policies of the Town Council and the public interest. Where the use is a special use, a zoning certificate will be issued by the zoning administrator, in accordance with paragraph 18.1-1003.03 herein, after such special use has been approved by the Town Council.

**Sec. 18.1-404. Buildings**

No building shall hereafter be erected, constructed, or altered so as to exceed the height limit, to accommodate or house a greater number of families, or to occupy a greater percentage of the lot area than is required or specified in the regulations herein for the district in which it is located.

**Sec. 18.1-405. Lots and yards**

No new lot nor yard shall hereafter be created, nor shall any lot or yard existing at the time of enactment of this ordinance be moved so that lot width, depth, or area requirements; front, side or rear yard requirements; 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 new building lot shall hereinafter be created unless such lot adjoins at least twenty-five (25) feet on a public street except that this provision shall not apply to (a) any property designated for business use and involving the sale of individual sites designated for business use or (b) situations involving joint or shared use access in any business district as approved by the Planning Commission.

No part of a yard nor 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 for the ordinary projections of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend into the required yard areas for a distance exceeding two (2) feet.

*(Amended June 11, 2008)*

**Sec. 18.1-406. 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.

**Sec. 18.1-407. Uses exempt from a zoning permit.**

**Sec. 18.1-407.01**

Incidental agriculture is permitted in any district that allows residential uses provided that such agricultural use shall not occupy over five (5) acres and shall not be objectionable by reason of odor, dust, noise, pollution and erosion or drainage.

**Sec. 18.1-407.02**

Yard sales and garage sales by the resident owner, and bazaars, flea markets and sales conducted by non-profit organizations shall be exempt from zoning permit requirements, provided such sales are limited to forty-eight (48) hours per sale and no more than one (1) such sale per month.

**Sec. 18.1-407.03**

Within districts that permit commercial activity by right, wayside stands for the sale of agricultural or horticultural products shall not require a zoning permit.

**Sec. 18.1-408. Number of dwellings on a single lot.** Except for permitted apartments in single family dwellings, two family dwellings, multifamily dwellings and manufactured home parks where permitted, no more than one dwelling unit may be permitted on a lot or parcel of land.

**Sec. 18.1-409. Access through another zoning district.**

Private access to a parcel of land used appropriately in a zoning district as provided herein shall be prohibited through another zoning district. For the purposes of this section, access to a parcel of land shall not be considered a use and shall therefore be subject to the variance procedure as outlined herein.

## ARTICLE V. ESTABLISHMENT OF ZONING DISTRICTS

**Sec. 18.1-501. Division of Town of Amherst into districts.**

For the purposes of this ordinance, the Town of Amherst is divided into ten (10) districts as follows:

A-1 - Agricultural District
R-1 - Limited Residential District
R-2 – General Residential District
T-1 - Transitional Use Zone District
R-3 - High Density Residential District
R-4 - Manufactured Home District
B-1 - Light Commercial District
CBD - Central Business District
B-2 - General Commercial District
E-1 – Business Park District
M-1 - Industrial District

**Sec. 18.1-502. Incorporation of the zoning map.**

The map entitled "Town of Amherst Zoning and Future Land Use Map," including all notations, references, and amendments as from time to time may be made by the Town Council, and other information shown thereon, as adopted by the Town Council, shall constitute a part of this ordinance. It shall identify and declare the zoning of all parcels of real estate within the Town upon the adoption of this ordinance.

**Sec. 18.1- 503. Map amendment.**

If, in accordance with the provisions of Article X herein, changes are made in the district boundaries or other information portrayed on the official zoning map, such changes shall be entered on the official zoning map within thirty (30) days after the amendment has been approved by the Town Council, together with a numerical entry referring to the application for the amendment 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 Town Council. Amendments to this ordinance which involve matter portrayed on the official zoning map shall become effective immediately upon being approved by the Town Council. The 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 on the official zoning map except in accordance with the procedures set forth herein.

**Sec. 18.1-504. Replacement of the official zoning map.**

In the event that the official zoning map becomes damaged, lost or difficult to interpret because of the nature or number of changes and additions, or can be improved with a more accurate base map, the Town Council may, by resolution, adopt a new official zoning map which shall supersede 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 correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof without a public hearing in accordance with §15.2-2204 of the Code of Virginia, 1950, as amended. 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.

**Sec. 18.1-505. 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 rules shall apply:

**Sec. 18.1-505.01**

Unless otherwise indicated, district boundaries indicated as approximately following property lines, land lot lines, centerline of streams, streets, highways, alleys or railroads, or the shorelines of reservoirs, or other bodies of water, or civil boundaries, shall be construed to follow such lines.

**Sec. 18.1-505.02**

District boundaries indicated as approximately parallel to the centerline of streams, streets, highways, or railroads, or right-of-ways 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.

**Sec. 18.1-505.03**

Where a district boundary line as appearing on the official zoning map divides a lot which is in single ownership at the time of this enactment, the use classification of the larger portion may, on application, be extended to the remainder by the Town Council in accordance with §18.1-404 herein.

**Sec. 18.1-505.04**

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.

**Sec. 18.1-505.05**

Where a district boundary is indicated to follow a river, creek, or 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 natural change in the shoreline, such boundary shall be construed as moving with the actual shoreline with its reestablished center or channel.

**Sec. 18.1-505.06**

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 Appeals which shall determine the boundary in accordance with Section 18.1-1402.03(4) herein.

**Sec. 18.1-505.07**

In case the exact location of a boundary cannot be determined by the foregoing method, the Board of Appeals shall, upon application, determine the location of the boundary in accordance with Section 18.1-1402.03 (4) herein.

**Sec. 18.1-506. Classification of districts.**

For the purpose of this ordinance, the Agricultural District A-1 is classified as an agricultural district. The Limited Residential District R-1, the General Residential District R-2, Transitional Use Zone District T-1, High Density Residential District R-3 and Manufactured Home District R-4 are classified as residential districts. The Light Commercial District B-1, Central Business District CBD and General Commercial District B-2 are classified as business districts. The Business Park District E-1 and Industrial District M-1 are classified as industrial districts.

**Sec. 18.1-507. Annexed territories.**

Where a territory becomes a part of an incorporated area of the Town of Amherst by annexation or otherwise, such territory shall automatically be classified according to the Town of Amherst zoning district most similar to the zoning district of the property in the jurisdiction from which the property was located before it came into the corporate limits of the Town of Amherst until otherwise classified according to the process described herein. The Town of Amherst Planning Commission and the Town Council of the Town of Amherst shall, as soon as practical after the annexation, undertake a review of the zoning of the territory so annexed and shall establish or reestablish the appropriate zoning of the said territory in accordance with the provisions of this ordinance.

## ARTICLE VI. GENERAL PROVISIONS

**Sec. 18.1-601. Nonconforming lots, buildings and uses.**

As provided in the Code of Virginia, nothing in this ordinance shall be construed to impair any vested right, except that this ordinance recognizes 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 if 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 nonconformities to continue, but not to encourage their survival or permit their uses as grounds for adding other structures or uses prohibited elsewhere within 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 be continued subject to the following provisions:

**Sec. 18.1-601.01**

*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 dimensional requirements of this ordinance, the following provisions shall apply:

1. When two or more adjoining and vacant lots with continuous frontage are in single ownership at the time of enactment of this ordinance or amendments thereto, and each of such lots has width or lot area less than is required by the district in which it is located, such lot shall be platted and reparcelled so as to create one or more lots which conform to the minimum lot width and area requirements of the district.

2. Where a single nonconforming 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 that 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. Variances of yard requirements may be obtained only through an appeal to the board of appeals, as outlined in Section 1008 herein.

**Sec. 18.1-601.02**

*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 reasons of restrictions on area, lot coverage, height, yard dimensions or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Any structure or portion thereof declared unsafe by the building inspector, or destroyed, damaged or demolished in any way by any means, may be restored to a safe condition or replaced in the same location, provided that the requirements of this section are met and the restoration or replacement work is underway with two years after the declaration, destruction, damage or demolition.

2. A nonconforming structure may be enlarged or altered as necessary, provided such enlargement(s) or alteration(s) do not exceed a cumulative fifty (50) percent of the floor area of the original nonconforming structure, and provided all yard and other appropriate requirements herein are met; any structure or portion thereof may be altered to decrease its nonconformity.

3. Notwithstanding the provisions of Section 601.02.2 above, whenever repairs on or installation of plumbing facilities in residential structures are required by law or administrative action of the health department 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. Where an existing residential structure exceeds these requirements the said addition shall extend no nearer the lot line than the existing building line.

4. Should a nonconforming structure be moved, it shall thereafter conform to the yard dimension requirements of the district in which it is located after it is moved.

**Sec. 18.1-601.03**

*Nonconforming uses of land*. Where a lawful use of land exists at the time of enactment or amendment of this ordinance that would not be permitted by the regulations imposed herein, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming use may be enlarged or increased or extended to occupy a greater area not exceeding fifty (50) per cent of the floor area that was occupied at the time of enactment of or amendment to this ordinance.

2. 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 of or amendment to this ordinance.

3. In the event that such use ceases for any reason for a period of more than twenty-four (24) months any subsequent use shall conform to all requirements of this ordinance for the district in which the land is located.

4. No additional structure not conforming to the requirements of this ordinance shall be constructed in connection with such nonconforming use.

**Sec. 18.1-601.04**

*Nonconforming uses of structures*. Where a lawful use of individual structure, or of structures of premises in combination, exists at the time of enactment of or amendment to 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 following provisions:

1. A structure existing at the time of enactment of or amendment to this ordinance devoted to a nonconforming use may be enlarged, extended, or structurally altered, provided such enlargement, extension or alteration shall not exceed fifty (50) percent in the aggregate of the floor area of the original structure devoted to a nonconforming use and provided all yard and other appropriate requirements herein are met. The provision shall not apply to the changing of the use of a structure to a conforming use.

2. A nonconforming use of a structure may be extended to include use of the entire structure, or any enlargement, extension or alteration thereof provided herein, but shall not be extended to include either additional structures or land outside the structure.

3. When a nonconforming use of a structure and premises in combination is discontinued or abandoned for twenty-four (24) consecutive months, except when government action impedes access to the premises, or when a nonconforming use is superseded by a permitted use, the

structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.

4. Where a structure which is used in combination with its premises for a use not in conformity with the regulations herein is destroyed by any means, the use of the land shall be allowed to continue after reconstruction of the structure, provided such reconstruction of the structure adheres to the yard and other appropriate requirements of the district in which said structure is located as approved by the board of appeals in accordance with Section 405 herein, and provided the ownership of said structure remains the same as before such destruction.

**Sec. 18.1-601.05**

*Oil and gas leases*. If a property owner has legally executed a lease for oil and gas exploration prior to the enactment of this ordinance, such lease for exploration, and any resultant development of the property for extraction and production of oil and gas, shall constitute the nonconforming use of such land as provided in Section 601.03 herein, and provided Sections 45.1-106 through 45.1-144 [45.1-286 through 45.1-361], Code of Virginia, 1950, as amended, and such oil and gas general rules and regulations promulgated by the Virginia Department of Labor and Industry are met.

**Sec. 18.1-601.06**

Pursuant to Section 15.2-2307 of the Code of Virginia, 1950, as amended, nothing in this ordinance shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this ordinance and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property.

Land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever they are enlarged, extended, reconstructed or structurally altered and may further provide that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

*(Amended September 12, 2007)*

**Sec. 18.1-602 Off-street Parking**

**Sec. 18.1-602.01. Off-street parking required.**

(a) Every use or building instituted, constructed, erected, enlarged or structurally altered shall provide off-street parking and loading facilities in accordance with the provisions of this article.

(b) Such off-street parking and loading facilities shall be maintained as approved and continued as long as the main use is continued.

(c) No owner or operator of any structure affected by this article shall discontinue, change or dispense with the required parking and loading facilities without establishing alternative vehicular parking and loading facilities which meet the requirements of this article.

(d) No person shall utilize any building or use any parcel of land without providing the off-street parking and loading facilities as required by this article, except when a building or use is legally nonconforming as to required parking.

(e) When a permitted use is legally nonconforming as to required parking, and said use is enlarged, additional parking shall be required only on the basis of the enlargement of the permitted use. The additional parking shall meet all applicable requirements of this article.

(f) In lieu of compliance with the regular parking regulations contained in this article, property owners may submit a parking master plan for approval as a special use permit.

**Sec. 18.1-602.02. Location of parking.**

(a) The off-street parking facilities required by this article shall be located on the same lot or parcel of land that they are intended to serve. Where practical difficulties prevent such location or where the public safety or the public convenience would be better served by an alternate location, the planning commission may authorize the alternate or cooperative location as a part of a site plan approval. Any authorization shall be subject to the following:

(1) An alternate location provides parking only for the use in question.

(2) A cooperative location provides parking for two or more uses, and shall have combined parking spaces equal to the sum required for the separate uses.

(3) Such parking spaces shall be conveniently and safely accessible to pedestrians.

(4) All such parking spaces shall be on property zoned properly for the use or uses which require the parking spaces.

(5) The right to use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement; shall be approved as to form and content by the town attorney; shall be recorded in the clerk's office of the circuit court of the County of Amherst so as to ensure the availability of such spaces for a minimum time period of at least five years.

(6) Should such off-street parking spaces become unavailable for use at some future time, an equal number of parking spaces shall be constructed and provided on either the primary site or by another offsite arrangement meeting the requirements of this ordinance. Failure to provide or construct such replacement parking spaces within 90 days from the date on which the use of the previously available off-street spaces was terminated shall be a violation of this chapter.

(7) For churches and other permanent buildings used for religious worship, alternate or cooperative parking agreements may be approved that do not provide exclusive parking rights, provided that such agreement provides adequate parking at appropriate times to meet the parking needs of the church or other permanent building used for religious worship.

**Sec. 18.1-602.03. Size of parking spaces.**

(a) Parallel spaces shall have minimum dimensions of eight feet by 22 feet.

(b) All other parking spaces shall have minimum dimensions of nine feet by 18 feet, except as follows:

(1) Spaces in a parking garage shall have minimum dimensions of eight and one-half feet by 18 feet.

(2) Planning commission, as a part of the site plan review process, may approve spaces with minimum dimensions of eight and one-half feet by 18 feet for vehicle storage lots for automobile dealers, overflow parking areas and other low turnover parking facilities.

(c) Overhang over landscape areas shall not be counted toward the minimum dimensions stated above.

**Sec. 18.1-602.04. Access to off-street parking spaces.**

Every parking space shall afford satisfactory ingress and egress for a motor vehicle without requiring another motor vehicle to be moved, except for parking spaces for single-family detached, duplex and townhouse dwellings where the parking spaces are located on the same lot as the dwelling unit.

**Sec. 18.1-602.04.1. Surfacing**

a. Parking spaces and driveways for single family dwelling units shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
b. Parking spaces and driveways for other than single family dwelling units shall be constructed of concrete, asphalt, brick or paving stones.

**Sec. 18.1-602.05. Calculation of number of off-street parking spaces.**

In calculating the number of required parking spaces, the following rules shall govern:

(1) Floor area shall mean the gross floor area of the specific use, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. Unless otherwise specified, floor area shall include associated corridors, utility rooms and storage space.
(2) When the units of measurements determining the number of required parking spaces results in the requirement of a fractional space, any fraction less than one-half shall be disregarded, and fractions of one-half or over one-half shall require one additional parking space.
(3) The parking space requirement for a use not specifically mentioned shall be the same as required for a use of similar nature, as determined by the zoning administrator.
(4) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

**Sec. 18.1-602.06. Amount of off-street parking required.**

The off-street parking required by this article shall be provided and maintained on the basis of the following table, except as otherwise provided in this article:

| Use Type | Required Parking Spaces |
|---|---|
| **(a)** ***Residential uses:*** | |
| 1 Single-family, two family and multifamily dwelling | 2 for each dwelling unit |
| 2 Townhouses and planned unit developments | 2 for each dwelling unit, plus 0.25 for each dwelling unit for visitor parking |
| **(b)** ***Group quarters:*** | |
| 1 Lodginghouses and roominghouses | 1 for each room rented |
| 2 Nursing homes | 1 for each 3 beds |
| 3 Dormitory, fraternity or sorority | 1 for each 2 beds |
| **(c)** ***Transient lodgings:*** | |
| 1 Hotels/motels: | 1 for each bedroom |
| 2 Meeting rooms, banquet rooms and restaurants located within a hotel/motel | 1 for each 350 square feet of floor area |

**(d)** ***Educational uses:***

| | | |
|---|---|---|
| 1 | Kindergarten, day care center, nursery school | 1 for each 200 square feet of floor area |
| 2 | Elementary, middle and high schools, college or preparatory school | 1 for each 4 seats of maximum capacity in the auditorium or main place of assembly; or 1 for each 100 square feet of floor area in the main place of assembly in places which do not have fixed seats |

**(e)** ***Business:***

| | | |
|---|---|---|
| 1 | Retail establishments (unless otherwise specified) | 1 for each 200 square feet of floor area |
| 2 | Automobile sales and rental establishments, automobile service center, service stations and tire stores | 1 for each 500 square feet of enclosed sales/rental floor area, plus 2 for each service bay (bay area not counted) |
| 3 | Furniture, hardware, home furnishings, automobile parts and supplies | 1 for each 500 square feet of floor area |
| 4 | Pharmacy, freestanding, with a drive-through window for drop off and pick up of prescriptions | 1 for each 400 square feet of floor area |
| 5 | Shopping centers, but excluding theaters (unless otherwise specified) | 1 for each 300 square feet of floor area |
| 6 | Restaurant or nightclub | 1 for each 100 square feet of floor area, plus 1 for each 100 square feet of outdoor dining area in excess of 1,000 square feet |
| 7 | Outdoor sales and display | 1 for each 500 square feet of open sales and display area |
| 8 | Wholesale, inventory and storage uses not otherwise classified | 1 for each 1,000 square feet of floor area devoted to enclosed storage |

**(f)** ***Industrial uses:***

| | | |
|---|---|---|
| 1 | Manufacturing, industrial uses and laboratories | 1 for each 1 1/2 employees on the maximum working shift |

**(g)** ***Cultural, entertainment and recreational uses:***

| | | |
|---|---|---|
| 1 | Auditoriums, assembly halls, community centers, dancehalls and theaters: | 1 for each 4 seats based on maximum seating capacity |
| 2 | Amphitheaters, sports arenas, stadiums or gymnasiums | 1 for each 5 seats or 10 feet of bench space |
| 3 | Art galleries, libraries, museums | 1 for each 400 square feet of floor area |
| 4 | Bowling | 4 for each alley |
| 5 | Golf course or miniature golf course | 2 for each hole |

**(h)** ***Office uses:***

| | | |
|---|---|---|
| 1 | Offices, but not including medical offices | 1 for each 400 square feet of floor area |

**(i)** ***Medical uses:***

| | | |
|---|---|---|
| 1 | Doctor's or dentist's office, clinic and | 1 for each 200 square feet of floor area |

| | | |
|---|---|---|
| | outpatient clinic | |
| 2 | Hospital | 2 for each bed, plus 1 for each 300 square feet of floor area devoted to patient care services, such as cardiopulmonary, physical therapy, radiology, surgery and laboratory |
| 3 | Veterinary hospital | 1 for each 400 square feet of floor area |
| **(j)** | ***Service uses:*** | |
| 1 | Barbershop or beauty salon | 1 for each 200 square feet of floor area |
| 2 | Laundry, self-service | 1 for each 200 square feet of floor area |
| 3 | Laundry, dry cleaning | 1 for each 400 square feet of floor area |
| 4 | Funeral home | 1 for each four seats in chapels or parlors with fixed seats; or 1 for each 100 square feet of floor area for assembly rooms without fixed seats that are used for services |
| **(k)** | ***Institutional uses:*** | |
| 1 | Churches and other places of worship; and civic, fraternal, political, private, religious and social nonprofit organizations | 1 for every 10 seats of maximum seating capacity in the main place of assembly |
| 2 | Governmental buildings | 1 for every 4 seats of maximum seating capacity in the main place of assembly plus 1 for each 400 square feet of other floor area |
| 3 | Jails | 1 for every rated bed space plus1 for each 400 square feet of other floor area |

**Sec. 18.1-602.07. Reduction of amount of off-street parking required**

(a) In lieu of compliance with the regular parking regulations contained in this section, property owners may submit a parking master plan for approval as a special use permit.

(b) The parking master plan shall be prepared by a qualified professional traffic consultant and, in addition to the normal special use permit criteria, shall address the following:

(1) Anticipated average and peak demand and how this is addressed by the parking master plan.
(2) Location of existing and proposed parking lots.
(3) Location of existing and proposed on-street parking.
(4) Pedestrian circulation.
(5) Mass transit facilities provided.

The town council may, at its discretion and at the applicant' s expense, employ a qualified professional traffic consultant to evaluate the parking master plan, and to make recommendations as to what, if any, modifications should be made to the plan.

(c) The parking plan shall include an area map at a scale of not less than one inch equals 100 feet, showing the location of:

(1) Major traffic generators.
(2) Existing and proposed parking lots, including number and size of spaces and any existing or proposed limitation on use of the parking lots.
(3) Existing and proposed on-street parking.
(4) Pedestrian circulation system.
(5) Mass transit circulation system.
(6) Geographic area to be served by the parking master plan.

(d) The parking master plan shall include a written description of all uses to be served by the plan, a table listing the floor areas devoted to the various types of uses, and a comparison of the parking plan with the parking normally required by this article.

(e) The master parking plan, when approved, shall be valid only for the types of uses specifically listed in the approved plan. Any changes in types of uses, or modification of parking provided, shall require an amendment of the special use permit. However, minor changes may be approved by the zoning administrator or, at his option, referred to the planning commission for consideration at a regular meeting without a public hearing. A change shall be considered minor if it:
(1) Does not change the general character of the approved master parking plan.
(2) Does not reduce the number of parking spaces provided.
(3) Does not increase the floor areas devoted to the various types of uses as specified in the approved master parking plan.
(4) Does not adversely affect the development or use of adjacent properties and surrounding neighborhoods.

**Sec. 18.1-603. Off-street loading and unloading space.**
Off-street loading and unloading spaces shall be provided as hereinafter required by this ordinance.
(a) Spaces designated for off-street loading shall not be counted toward the required number of off-street parking spaces.
(b) Off-street loading spaces shall be located so that there is sufficient room for the turning and maneuvering of vehicles using said spaces.
(c) Access to off-street loading spaces shall not be across required off-street parking spaces.

**Sec. 18.1-603.01**
*Size of off-street loading spaces*. Each off-street loading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty (50) feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the zoning administrator may reduce the minimum length accordingly to as little as twenty-five (25) feet.

**Sec. 18.1-603.02**
*Connection to street or alley*. Each required off-street loading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks and which shall meet the requirements of Section 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the resident engineer prior to the final approval of the site plan.

**Sec. 18.1-603.03**
*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, street or alley.

**Sec. 18.1-603.04**
*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, street or alley.

**Sec. 18.1-603.05**

*Bus and truck terminals*. There shall be provided sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded at the terminal at any one time.

**Sec. 18.1-603.06**

*Location of off-street loading spaces*. All required off-street loading spaces shall be located on the same lot as the building which they are intended to serve, or on an adjacent lot when shared with the use occupying an adjacent lot.

**Sec. 18.1-603.07**

*Permanent reservation*. Area reserved for off-street loading in accordance with the requirements of this article 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 provided and is approved by the zoning administrator.

**Sec. 18.1-604. Control of vision clearance.**

No shrubs, plants, hedges, fence, wall marquee, or other obstruction, except vehicles lawfully parked, located on the real estate owned by any landowner or occupied by any tenant, shall obscure the vision of operators of motor vehicles utilizing an intersection. None of the above obstructions, obscuring vision, shall exceed two and one-half (2 1/2) feet in height above the extended plane of the nearest edge of the hard surface or gravel surface, of the street or road nearest to the obstruction at the intersection of a street, road, or railroad line.

**Sec. 18.1-605. Minimum distance between buildings.**

The minimum distance between buildings shall be as required by the Uniform Statewide Building Code.

## ARTICLE VII. USE REQUIREMENTS BY ZONING DISTRICTS

**Sec. 18.1-701 Table of zones and uses**

Table 7.1 contains the list of uses permitted and special uses for each zoning district and shall be considered a part of this Zoning and Subdivision Ordinance. Uses permitted are noted with the letter "P" in each district's column for each permitted use's row. Special uses are noted with the letter "S" in each district's column for each special use's row. The intersection of a district column and use class row with neither a "P" nor "S" indicates a use that is not allowed in that district. The procedures for zoning certificate approval for permitted uses and special uses are outlined in Section 1003 herein.

**Sec. 18.1-702. Agricultural District A-1**

**Sec. 18.1-702.01 Intent of Agricultural Zoning District A-1.**

This district is designed to accommodate farming, forestry, and limited residential use. While it is recognized that certain desirable rural areas may logically be expected to develop residentially, it is the intent, however, to discourage the random scattering of residential, commercial or industrial uses in this district.

**Sec. 18.1-702.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-702.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-703. Limited Residential District R-1**

**Sec. 18.1-703.01 Intent of Limited 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 where there are children, and to prohibit activities of a commercial nature. 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 that serve the residents of the district.

**Sec. 18.1-703.02 Permitted uses**.

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-703.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-704. General Residential District R-2.**

**Sec. 18.1-704.01 Intent of General Residential District R-2.**

This district is composed of certain quiet, medium density residential areas plus certain open areas where similar residential development appears likely to occur and where public water and/or sewer service is available. The regulations for this district are designed to stabilize and protect the essential

characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit most activities of a commercial nature. To these ends, development is limited to concentrations of medium density single and two-family dwellings.

**Sec. 18.1-704.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-704.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec.18.1-704.1 Transitional Use Zone District T-1**

**Sec. 18.1-704.1.01 Intent of Transitional Use Zone District T -1.**

This district covers that part of the town intended for the installation of uses that will allow for the creation of small local businesses that will expand the Town's employment base and improve the Town's general economic situation while providing protection to existing residential areas . Uses allowed are characterized as being those which a resident would not mind having adjacent to his or her dwelling and have no more traffic than that normal for a residential area. Allowed uses may involve intermittent heavy trucking for the delivery of retail or wholesale goods, or by very limited nuisance factors such as smoke, odor, fumes, noise, light, traffic, including incidental light and noise due to the congregation of people and vehicles. It is envisioned that this district will specify certain areas of the Town that have been residential but will be converted to commercial use over time.

**Sec. 18.1-704.1.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-704.1.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-705. High Density Residential District R-3**

**Sec. 18.1-705.01 Intent of High Density Residential District R-3.**

This district is composed of high density residential areas plus certain open areas where similar development appears likely to occur and where public water and/or sewer service is available or likely to be extended. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, promote and encourage a suitable environment for family life, allow orderly arrangement of multi-family structures and certain congregational organizations, and services. It prohibits most activities of a commercial nature not related to residential dwellings. To these ends, development is limited to concentration of high density single, two-family and multiple family dwellings.

**Sec. 18.1-705.02 Permitted Uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-705.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-705.1 Manufactured Home District R-4**

**Sec. 18.1-705.1.01 Intent of Manufactured Home District R-4.**

This district is composed of high density residential areas plus certain open areas where similar development appears likely to occur and where public water and/or sewer service is available or likely to be extended. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, promote and encourage a suitable environment for family life, allow orderly arrangement of residential structures, certain congregational organizations, manufactured home parks and services. It prohibits most activities of a commercial nature not related to residential dwellings. To these ends, development is limited to concentration of high density single and two-family as well as manufactured home parks.

**Sec. 18.1-705.1.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-705.1.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-706. Light Commercial District B-1**

**Sec. 18.1-706.01 Intent of Light Commercial District B-1.**

The primary purpose of this district is to establish and protect a limited business district that will serve the surrounding residential districts. Traffic and parking congestion is to be held to a minimum to protect and preserve property values in the surrounding residential districts and, insofar as possible, all neighborhood business development shall be placed in a light commercial district.

**Sec. 18.1-706.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-706.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-706.1. Central Business District CBD**

**Sec. 18.1-706.1.01 Intent of Central Business District CBD.**

This district covers those areas 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 retail goods, or by limited nuisance factors including incidental light and noise of congregation of people and passenger vehicles.

**Sec. 18.1-706.1.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-706.1.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-707. General Commercial District B-2**

**Sec. 18.1-707.01 Intent of General Commercial District B-2.**

This district covers those areas 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 retail goods, or by limited nuisance factors including incidental light and noise of congregation of people and passenger vehicles.

**Sec. 18.1-707.02 Permitted uses.**

Within this district, uses permitted are designated by a "P" in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-707.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an "S" in the column for this district in the row for the specific use described in Table 7.1.

**Sec.18.1-707.1 Business Park District E-1**

**Sec. 18.1-707.1.01 Intent of Business Park District E-1.**

This district covers that part of the town intended for the installation of uses that will improve and expand the Town's employment base and improve the Town's general economic situation. Uses allowed are characterized as being those which the public does not require direct and frequent access, but may see constant heavy trucking involving raw or finished materials, stocking and delivery of retail or wholesale goods, or by very limited nuisance factors such as smoke, odor, fumes, noise, light, traffic, including incidental light and noise due to the congregation of people and vehicles.

**Sec. 18.1-707.1.02 Permitted uses.**

Within the Business Park District E-1,

a. Class I Uses shall be permitted throughout the district provided all other restrictions contained in the Zoning and Subdivision Ordinance are met.
b. Class II Uses shall be permitted throughout the district provided all other restrictions contained in the Zoning and Subdivision Ordinance are met and no building containing a Class II Use is located within 1,000 feet of a major road. For the purpose of this ordinance, major road shall include U.S. Route 60, U.S. Route 29 Business or U.S. Route 29 Bypass.
c. Class III Uses are specifically prohibited.

**Class I Uses**

1. Accessory uses as provided in Section 18.1-901 herein.
2. Automotive repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within 100 feet of a residential district and which shall not store or otherwise maintain any parts or waste material outside such building.
3. Bakeries.
4. Banks and savings and loan institutions.
5. Building materials dealer, not including handling of bulk materials such as sand and gravel located outside a building.

6. Cabinet making shops.
7. Catering establishments.
8. Churches.
9. Clinics and medical offices.
10. Cold storage plants and frozen food lockers not including lard rendering and abattoirs.
11. Contractor facilities for the fabrication, installation and servicing of the following: air conditioning, electrical service, telephony and wireless communication systems, flooring, heating, interior decorating, painting, plumbing, roofing, tiling, or ventilating with all material and equipment stored entirely in buildings enclosed on all sides. Accessory storage yards for contractor facilities shall be allowed provided that they are adequately screened from public view.
12. Day care centers.
13. Feed and seed stores.
14. Frozen food processors.
15. Garages, private and public.
16. Government buildings used exclusively by the county, municipal, state or federal government for public service, including libraries.
17. Hospitals, nursing homes and retirement centers.
18. Laboratories, pharmaceutical or medical.
19. Machinery sales and services conducted within a building.
20. Manufacturing, processing or fabricating, distributing, or packaging of products (including machine shops without punch presses) provided all operations are conducted in a building; parts or waste material shall not be stored or otherwise maintained outside any such building; and operations shall not create smoke, fumes, noise, odor or dust detrimental to health, safety or general welfare of the community.
21. Motels, motor hotels and motor inns.
22. Pest exterminating businesses.
23. Post offices.
24. Printing plants and newspaper offices.
25. Professional office buildings.
26. Public utilities; poles, lines, transformers, pipes, meters, and/or other facilities necessary for the provision and maintenance of public utilities; provided that electric service lines within 1,500' from a primary road shall be underground and that provided that only one line of utility poles shall be allowed on any street.
27. Radio and TV offices and studios.
28. *(Deleted)*
29. *(Deleted)*
30. Restaurants.
31. Sign manufacturing.
32. Signs as permitted herein.
33. Wineries, vineyards and microbreweries.

**Class II Uses**

1. Any manufacturing or industrial use which is not specifically prohibited by this section or prohibited under any performance specification contained in the Zoning and Subdivision Ordinance or deed restrictions. Allowable Light Industrial Uses meeting all applicable performance standards shall include but not be limited to the manufacturing of:
   a. Adhesive products.

b. Air conditioning, refrigerated equipment.
c. Apparel and accessories, hosiery and lingerie.
d. Automatic temperature controls.
e. Automobile and truck parts.
f. Bakery goods.
g. Battery.
h. Blankbooks, looseleaf binders and devices.
i. Box.
j. Broom and brush.
k. Business machines, typewriters, adding machines, calculators, card punching or counting equipment.
l. Camera and photographic equipment.
m. Cameras and other photographic equipment.
n. Candy.
o. Canvas products.
p. Ceramic products.
q. Chemical apparatus.
r. Communication equipment.
s. Computer.
t. Confection.
u. Cosmetics and toiletries.
v. Costume jewelry, costume novelties, buttons and miscellaneous notions (except precious metals).
w. Curtains and draperies.
x. Cutlery, hand tools and general hardware.
y. Dental equipment and supplies.
z. Drugs.
aa. Electrical appliance, components and instrument.
bb. Electrical equipment
cc. Electrical lighting and wiring equipment.
dd. Electrical transmission and distribution equipment.
ee. Electronic components and instruments.
ff. Engineering, laboratory and scientific and research instruments, equipment.
gg. Envelope.
hh. Extracts, food and flavor.
ii. Fence.
jj. Food products other than fish, sauerkraut, vinegar, or yeast, or the refining or rendering of fats or oils.
kk. Furniture and fixtures.
ll. Glass products.
mm. Greeting card.
nn. Hardware and tools.
oo. Hats, caps and millinery.
pp. Ice cream.
qq. Ice, natural and dry.
rr. Ink products.
ss. Instruments, professional, scientific and controlling.

tt. Insulating material.
uu. Jewelry, silverware and flatware.
vv. Laboratory apparatus.
ww. Lace goods.
xx. Leather products (manufacturing, not to include tanning).
yy. Luggage (manufacturing, not to include tanning).
zz. Machine tools, light.
aaa. Machinery and machines, household and office.
bbb. Medical instruments and equipment.
ccc. Metal products and machinery, medium and light.
ddd. Modular and mobile homes.
eee. Motorcycles.
fff. Musical instruments and parts.
ggg. Novelty products.
hhh. Office, computing and accounting machines.
iii. Ophthalmic goods.
jjj. Optical instruments and lenses.
kkk. Orthopedic, medical, prosthetic and surgical supplies.
lll. Perfumes.
mmm. Pharmaceutical.
nnn. Photographic equipment and supplies.
ooo. Photography film.
ppp. Polish.
qqq. Porcelain enamel products.
rrr. Pottery and chinaware.
sss. Professional, scientific and controlling instruments; photographic and optical goods, watches and clocks, clockwork operated devices and parts.
ttt. Radio and television sets.
uuu. Rope, fibrous.
vvv. Rugs.
www. Shoe.
xxx. Signs and advertising displays.
yyy. Silverware and plated ware.
zzz. Silverware, plate and sterling.
aaaa. Spices.
bbbb. Sporting and athletic goods.
cccc. Starch.
dddd. Textile mills products.
eeee. Tobacco products.
ffff. Toiletries.
gggg. Toys and games.
hhhh. Twine, fibrous.
iiii. Umbrellas, parasols and canes.
jjjj. Wax and wax products.
kkkk. Wearing apparel.
llll. Window blinds, shades and awnings.
mmmm. Wire.

nnnn. Wood products.

2. Blueprinting and photostating establishments.
3. Bookbinding.
4. Books, publishing and printing.
5. Bottling and beverage works.
6. Bus and other transit stations.
7. Carpentry and cabinet making shops.
8. Catering establishments.
9. Coffee and peanut roasting.
10. Commercial greenhouses.
11. Communications systems service and wholesale.
12. Computer centers.
13. Contractor and construction shops and yards.
14. Contractor facilities and storage yards and establishments for installation and servicing products with outside storage.
15. Dairies and/or pasteurizing plants.
16. Data processing service.
17. Dental laboratory services.
18. Depositories for the storage of office records, microfilm or computer tapes.
19. Die casting.
20. Distribution center.
21. Dyeing establishments.
22. Electrical equipment fabrication.
23. Electrical testing laboratories.
24. Electronic components and instruments fabrication.
25. Electroplating.
26. Emergency services.
27. Feed and seed stores.
28. Food wholesale.
29. Frozen food lockers and ice manufacturing.
30. Frozen food processors.
31. Laboratories (research and testing).
32. Laboratories, pharmaceutical or medical.
33. Latex (fabrication, not including paint).
34. Laundry plants.
35. Linen supply establishments.
36. Lithographing.
37. Machine shops.
38. Manufacturing, processing, fabricating, assembling, distributing or packaging of products including, but not limited to: business equipment, die-cut paperboard and cardboard; glass products made of purchased glass; electrical lighting and wiring equipment; dairy products; baked and confectioners goods; fruit and vegetable processing, canning and storage; electronic components; professional, scientific, engineering; laboratory, or research instruments; electronic computing instruments; iron and steel, musical instruments; toys; rubber and metal stamps; photographic equipment; drugs; fire extinguisher; sporting and athletic goods, lithographic and printing processes; radio and television receiving sets; appliances; watches; clocks; and optical goods.
39. Metal finishing.

40. Metal products and machinery, medium and light fabrication.
41. Milk and dairy products (processing and distribution).
42. Monument works and statuary (production).
43. Motor freight terminals.
44. Motorcycles fabrication.
45. Moving and storage establishments.
46. Newspapers, publishing and printing.
47. Office, general, directly related to industrial activities.
48. Off-street parking garages and lots incidental to industrial activities.
49. Oil and gas exploration, extraction and production, provided the provisions of Sections 45.1-106 through 45.1 144 (45.1-286 through 45.1-361), Code of Virginia, 1950, as amended, and the oil and gas rules and regulations promulgated by the Virginia Department of Labor and Industry are adhered to.
50. Packaging and paper products manufacturing from previously prepared materials.
51. Photoengraving.
52. Photography film processing.
53. Plastics (fabrication).
54. Porcelain enamel products fabrication.
55. Printing and publishing.
56. Printing establishments.
57. Public utilities; poles, lines, transformers, pipes, meters and related or similar facilities; public water and sewer filtration lines, treatment facilities, and pumping facilities, electrical power transmission lines and substations; oil and gas transmission pipelines and pumping station microwave transmission and relay towers and substations; unmanned telephone exchange centers and similar such facilities.
58. Radio and television studios and stations, provided that studios produce no exterior electromagnetic effect and are soundproofed from adjoining properties.
59. *(Deleted)*
60. *(Deleted)*
61. Research, development and testing laboratories.
62. Retail/wholesale display rooms for sales at industrial establishments of products manufactured on site and other products of the corporation provided the display does not exceed fifteen (15) percent of the total floor area.
63. Rubber fabrication.
64. Sale of products produced on the premises.
65. Sign manufacturing.
66. Signs as provided in Section 907 herein.
67. Silverware, plate and sterling fabrication.
68. Soft drink and bottling plants.
69. Spices processing.
70. Static transformer stations, transmission lines, gas and water mains, conduits for the transmission of electric energy including telephone, telegraph, and noncommercial radio and television poles and appurtenances thereto.
71. Wireless communication facilities, including radio and TV transmitters and transmission towers, subject to Section 18.1-914 of the Town Code.
72. Telephone exchanges.
73. Textile mills products fabrication.
74. Tool, die or pattern making shops.

75. Transportation terminals and facilities.
76. Truck painting and body repair shops.
77. Warehousing and storage, except sandyards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junkyards, or the storage of combustibles prohibited by the fire code.
78. Warehousing operations.
79. Welding and blacksmith shops.
80. Welding, blacksmith, or machine shops, excluding punch presses.
81. Wholesale and jobbing establishments.
82. Wholesale display rooms within industrial establishments.
83. Wholesale establishments with a building area of five thousand (5,000) square feet or more. A portion of the establishment may be used for retail display area, provided the retail sales (a) do not exceed fifteen (15) percent of the total building area, and (b) are not used for second hand (consignment) merchandise or auction centers and do not require outdoor storage such as lumber yards, wholesale warehouses for the sale of motor vehicles, farm, or heavy construction equipment.
84. Wool processing.
85. Yards for storage and/or sale of coal, lumber, building materials, or contracting equipment.
86. Other uses determined by the Town Council to be of similar character to and compatible with the above uses.

**Class III Uses**

1. Residential uses such as single family dwellings, manufactured homes and manufactured home parks, duplexes, multifamily and apartment dwellings, and townhouses.
2. Abattoir or slaughterhouse, except for poultry which is incidental to a commercial use permitted by this ordinance.
3. Acetylene gas manufacture on a commercial scale.
4. Acid manufacture, such as sulphurous, sulphuric, nitric, picric, hydrochloric or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry.
5. Armories.
6. Asphalt roofing, tar roofing or waterproofing manufacture.
7. Automobile and truck rental.
8. *(Deleted)*
9. Bleaching powder, ammonia or chlorine manufacture.
10. Celluloid or pyroxylene manufacture or processing; the manufacture of explosive or highly inflammable cellulose products.
11. Coal tar manufacture or tar distillation.
12. Cork products manufacturing outside an enclosed structure.
13. Creosote manufacture or creosote treatment.
14. Distillation of bones.
15. Fat rendering.
16. Fertilizer manufacture or the compounding of fertilizers on a commercial scale.
17. Fireworks or explosives manufacture, nitrating process, the loading of explosives or their storage in bulk.
18. Fish smoking or curing or processes involving recovery from fish or animal offal.
19. Fuel storage yards.
20. Gas manufacture, or gas storage in quantity exceeding five hundred thousand (500,000) cubic feet within one hundred (100) feet of any lot line; or in quantity exceeding two hundred (200) cubic feet if the pressure is greater than one hundred (100) pounds per square inch.

21. Glue or size manufacture.
22. Horn processing.
23. Lime, gypsum, plaster or plaster of paris manufacture.
24. Lumberyards and sawmills.
25. Match manufacturing.
26. Motor freight terminals, except when in direct support of a permitted manufacturer or distributor.
27. Petroleum manufacturing.
28. Potash manufacture.
29. Retail uses, unless specifically listed under Class I Uses.
30. Rope, fibrous manufacturing outside an enclosed structure.
31. Rubber products manufacturing.
32. Solid waste management facilities.
33. Soda, soda ash, caustic soda manufacture.
34. Starch, glucose and dextrine manufacture.
35. Turpentine, varnish or shellac manufacture.
36. Any other use or purpose which produces or may produce smoke, fumes, noise, odors, dust or particulates that could travel onto, over, or across any property line and which would be detrimental to the health, safety and general welfare of the community and tenants of adjoining or adjacent property.

**Sec. 18.1-707.1.03 Screening and landscaping.**

An industrial use shall be permanently screened from all adjoining residential districts by a wall, fence, evergreen hedge and/or other suitable enclosure of minimum height of seven (7) feet at the original elevation of the property line.

**Sec. 18.1-708. Industrial District M-1**

**Sec. 18.1-708.01 Intent of Industrial District M-1.**

This district is designed to encourage the development of manufacturing and wholesale business establishments which do not produce high levels of smoke, smell, noise, light, dust and other nuisances; operate primarily within enclosed structures and do not deal with large volumes of customers on a continuous basis throughout the day.

**Sec. 18.1-708.02 Permitted uses.**

Within this district, uses permitted are designated by a “P” in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-708.03 Special uses.**

Within this district, special uses (which may be permitted under the process described herein) are designated by an “S” in the column for this district in the row for the specific use described in Table 7.1.

**Sec. 18.1-708.04 Screening and landscaping.**

An industrial use shall be permanently screened from adjoining residential district by a wall, fence, evergreen hedge and/or other suitable enclosure of minimum height of seven (7) feet at the original elevation of the property line.

# TABLE 7.1

| A-1 | R-1 | R-2 | T-1 | R-3 | R-4 | B-1 | CBD | B-2 | E-1 | M-1 | Description of Use |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **ACCESSORY AND AGRICULTURAL USES** | | | | | | | | | | | |
| P | P | P | P | P | P | P | P | P | P | P | Accessory buildings and uses as provided in Section 901 herein. |
| P | P | P | P | P | P | P | P | P | P | P | Agricultural activities, including the raising of crops and animals, provided that agricultural use shall not be objectionable by reason of odor, dust, noise, pollution, erosion or drainage. |
| | | | | | | | P | P | P | P | Antenna and equipment buildings associated with existing wireless telecommunication facilities as provided in Section 914 herein. |
| | | | | | | | | | P | S | Cemeteries. |
| S | S | S | P | S | S | P | P | P | | | Church accessory uses involving 2,000 SF or more of building area, including day care centers, indoor recreation or fellowship halls, and schools. |
| P | P | P | P | P | P | P | P | P | P | P | Confined livestock facilities as provided in Section 916 herein. |
| P | S | S | S | S | S | P | P | P | | | Home occupation in an accessory building to the main dwelling unit as provided in Section 905 herein. |
| P | P | P | P | P | P | P | P | P | | | Home occupations within a dwelling unit as provided in Section 905 herein. |
| P | P | P | P | P | P | P | P | P | P | P | Public utilities: poles, lines, transformers, pipes, meters, and/or other facilities necessary for the provision and maintenance of public utilities; provided that electric service lines from the street property line to any residence or other permitted use shall be underground. Provided that only one line of poles will be allowed on any street. |
| P | P | P | P | P | P | P | P | P | P | P | Signs as provided in Section 908 herein. |
| S | S | S | S | S | S | P | P | P | P | P | Temporary uses including, but not limited to, sale of Christmas trees, tents for revivals, carnivals, but such use not permitted for a period to exceed four (4) months in any calendar year. |
| **RESIDENTIAL USES** | | | | | | | | | | | |
| S | S | P | P | P | P | | | | | | Apartments in an existing single family dwelling. |
| P | S | S | P | S | S | P | P | P | | | Bed and Breakfast lodging, provided that the owner and family must occupy the residence and own the business, the single-family dwelling appearance be maintained, and adequate off-street parking is provided to the rear of the front setback of the dwelling. |
| P | P | P | P | P | P | P | P | P | | | Churches, manses, parish houses and adjacent cemeteries. |
| P | P | P | P | P | P | P | P | P | | | Garages, private. |
| P | | | | | S | | | | | | Individual manufactured or modular homes nineteen (19) feet or greater in width placed on continuous masonry foundations. |
| | | | | | S | | | | | | Manufactured home parks, as provided in Section 913 herein. |
| | | | | P | | P | P | P | | | Multi-family dwellings with an aggregate of three (3) or more units as specified in Section 906 herein. |
| S | S | S | S | S | S | S | S | S | | | Planned unit developments, as provided in Section 917 herein. |
| P | P | P | P | P | P | P | P | P | | | Single-family dwellings, except for mobile homes and manufactured homes. |
| | | | | | | | P | | | | Single family, two family and multifamily dwellings within a building that contains a business, provided that no dwelling shall be on the sidewalk-level floor of the front of the building. |
| | | | P | P | | P | P | P | | | Townhouses, as provided in Section 912 herein, and condominiums. |
| P | | P | P | P | P | P | P | P | | | Two-family dwelling units and semi-detached dwellings. |

| A-1 | R-1 | R-2 | T-1 | R-3 | R-4 | B-1 | CBD | B-2 | E-1 | M-1 | Description of Use |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **COMMERCIAL USES** | | | | | | | | | | | |
| | | | | | | | S | S | | | Adult entertainment establishments. |
| | | | P | | | P | P | P | | | Antique and gift shops. |
| | | | | | | | | | | S | Arenas, auditoriums or stadiums. |
| | | | | | | | P | P | | P | Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process. |
| | | | | | | | P | P | | | Automobile service stations as provided in Section 902 herein. |
| | | | | | | | P | P | | P | Automobile, motor home, travel trailer, and mobile home sales (new and used) which need not be enclosed, but any mechanical or body repair must be conducted entirely within a structure which shall not have any opening, other than a stationary window, within 100 feet of a residential district and provided further that all vehicles on a used car sales lot must be in operating condition at all times. |
| | | | | | | | S | S | | | Automotive repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within 100 feet of a residential district and which shall not store or otherwise maintain any parts or waste material outside such building. |
| | | | | | | | P | P | | | Bakeries employing not more than ten (10) persons other than clerks and vehicle drivers. |
| | | | | | | S | P | P | | | Banks and savings and loan institutions. |
| | | | | | | | S | S | | | Bowling alleys, roller skating and ice skating rinks, billiard parlors, pool rooms, dance halls, game rooms, pinball parlors, electronic game centers, golf driving ranges, and similar forms of amusement. |
| | | | | | | | P | P | | | Building materials dealer, not including handling of bulk materials such as sand and gravel. |
| | | | | | | | S | S | | | Building materials dealer. |
| | | | | | | | P | P | | | Catering establishments. |
| | | | P | | | P | P | P | | | Clinics and medical offices. |
| | | | | | | | P | P | | | Convenience stores; In the event that gasoline or fuel is sold together with any other uses allowed in this district there must be compliance with Section 9 of this ordinance. |
| | S | S | P | S | S | P | P | P | | | Day care centers. [J1] |
| | | | | | | S | P | P | | | Drug stores and other establishment for the filling of prescriptions and sale of pharmaceutical and similar supplies. |
| | | | | | | P | P | P | | P | Emergency services. |
| | | | | | | | P | P | | | Agricultural, farm and lawn machinery display, sales and services, provided that all inoperable machinery must not be visible from any public right of way. |
| | | | | | | | S | S | | P | Feed and seed stores. |
| | | | P | | | P | P | P | | | Funeral homes. |
| | | | | | | | P | P | | | Furniture stores. |
| | | | | | | | S | S | | P | Garages, private and public. |
| S | | | | | | | | | | | Golf driving ranges. |
| | | | | | | S | P | P | | | Grocery stores. |
| | | | | | | | P | P | | | Hardware stores. |
| | | | | | | | | | | P | Kennels. |
| | | | | | | | | | | P | Laboratories, pharmaceutical or medical. |
| | | | | | | | P | P | | | Machinery sales and services. |
| | | | | | | | P | P | | | Motels, motor hotels and motor inns. |
| | | | | | | P | P | P | | | Newsstands. |
| S | | | | | | | | | | | Nonmotorized bicycle (motorcross) racing facilities. |
| | | | | | | | | | | S | Outdoor theaters, provided the face of the screen is not visible from any arterial or collector streets located within 2,000 feet of such screen. |
| | | | | | | | S | S | | | Pest exterminating businesses. |

| A-1 | R-1 | R-2 | T-1 | R-3 | R-4 | B-1 | CBD | B-2 | E-1 | M-1 | Description of Use |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | P | P | | | Printing plants and newspaper offices. |
| | | | P | | | P | P | P | | | Professional office buildings. |
| | | | | | | | P | P | | | Radio and TV offices and studios. |
| | | | | | | | P | P | | | Restaurants. |
| | | | | | | | | | | P | Retail and wholesale greenhouses and nurseries. |
| | | | | | | | P | P | | | Retail automotive parts stores. |
| | | | | | | S | P | P | | | Retail nurseries with greenhouses. |
| | | | | | | | S | Sp | | | Retail sales and services not specifically delineated herein, provided all items offered for sale are either screened from view or under roof. [J2] |
| | | | P | | | P | P | P | | | Retail service stores such as bakeries, barber shops, beauty parlors, shoe shops, self-service laundries, and establishments for receiving and distributing articles for laundering, drying and dry cleaning. |
| | | | | | | | | | | P | Sale of products produced on the premises. |
| | | | | | | | P | P | | | Satellite dish antenna sales and service establishments. |
| | | | | | | | S | S | | | Self-service mini-storage and warehouse facilities. |
| | | | | | | | P | P | | | Shopping centers as provided in Section 909 herein. |
| | | | | | | | P | P | | | Theaters, indoor. |
| | | | S | | | S | P | P | | | Time-shares. |
| | | | | | | | S | S | | | Veterinary hospitals and clinics. |
| | | | S | | | | P | P | | | Videotape sales and rental establishments. |
| | | | | | | P | P | P | | | Wearing apparel stores. |
| | | | | | | | S | S | S | S | Wireless telecommunication facilities as provided in Section 914 herein. |

**INSTITUTIONAL USES**

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | P | P | P | | | Clubs and lodges, fraternal, civic and patriotic. |
| | | | | | | S | P | P | | | Community centers |
| | | | | | | | S | S | | | Day care centers. |
| | | | | | | S | P | P | P | P | Government office buildings, including buildings occupied any local, regional, state or federal agency including courthouses. |
| | | | P | P | | P | P | P | | | Hospitals and nursing homes. |
| | | | | | | | S | S | S | S | Jails |
| | | | P | | | P | P | P | | | Public and private schools and accompanying dormitories and facilities. |
| | | | P | | | P | P | P | | | Public libraries. |
| P | P | P | P | P | P | P | P | P | | | Public parks and playgrounds provided recreational facilities shall not be less than two hundred fifty (250 feet from any residential lot line. |
| S | | | | | | | | | | | School support facilities. |
| | | | | | P | P | P | P | | | Social, civic, patriotic and recreational clubs, lodges and fraternal orders. |
| | | | P | | | P | P | P | | | U.S. Post Offices. |

| A-1 | R-1 | R-2 | T-1 | R-3 | R-4 | B-1 | CBD | B-2 | E-1 | M-1 | Description of Use |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **INDUSTRIAL USES** | | | | | | | | | | | |
| | | | | | | | P | P | | | Carpentry and cabinet making shops. |
| | | | | | | | P | P | | | Cold storage plants and frozen food lockers not including lard rendering and abattoirs. |
| | | | | | | | S | S | | S | Contractor facilities and storage yards and establishments for installation and servicing products with outside storage of materials and machinery. |
| | | | | | | | P~~S~~ | ~~S~~P | | P | Contractor facilities not involving outside storage of materials and machinery.~~and storage yards for installation and servicing of the following: air conditioning, electrical service, flooring, heating, interior decorating, painting, plumbing, roofing, tiling, or ventilating with all material and equipment stored entirely in buildings enclosed on all sides.~~[J3] |
| | | | | | | | P | P | | | Dry cleaning plants. |
| | | | | | | | | | | P | Frozen food processors, lockers and ice manufacturing. |
| | | | | | | | S | S | | P | Light manufacturing, processing or packaging of products (including machine shops without punch presses) provided all operations are conducted in a building which shall not have any opening other than a stationary window within 100 feet of a residential, agricultural or conservation district; shall not store or otherwise maintain any parts or waste material outside such building; and shall not create conditions of smoke, fumes, noise, odor or dust detrimental to health, safety or general welfare of the community; and shall be permanently screened from adjoining residential lots and districts by a wall, fence, evergreen hedge and/or other suitable enclosure of a minimum height of seven(7) feet at the original elevation of the property line. |
| | | | | | | | | | | P | Manufacturing, processing, fabricating, assembling, distributing or packaging of products including, but not limited to: business equipment, die-cut paperboard and cardboard; glass products made of purchased glass; electrical lighting and wiring equipment; dairy products; baked and confectioners goods; fruit and vegetable processing, canning and storage; electronic components; professional, scientific, engineering; laboratory, or research instruments; electronic computing instruments; iron and steel, musical instruments; toys; rubber and metal stamps; photographic equipment; drugs; fire extinguisher; sporting and athletic goods, lithographic and printing processes; radio and television receiving sets; appliances; watches; clocks; and optical goods. |
| | | | | | | | | | | P | Moving and storage establishments. |
| | | | | | | S | S | S | | P | Oil and gas exploration, extraction and production, provided the provisions of Sections 45.1-106 through 45.1-144 (45.1-286 through 45.1-361) Code of Virginia, 1950, as amended, and the oil and gas rules and regulations promulgated by the Virginia Department of Labor and Industry are adhered to. |
| P | | | | | | | | | | | Packing and distribution plants for horticultural products, provided such plants are incidental to agricultural operation of the property on which such plants are located. |
| | | | | | | | | | | P | Printing establishments. |
| | | | | | | | | | | S | Processing and sale of milk and milk products, both wholesale or retail. |
| | | | | | | | S | S | | S | Radio and TV transmission towers (provided the tower is so located that its minimum distance from any lot line shall equal the maximum height of the tower above ground level). |
| | | | | | | | S | S | | S | Radio and TV transmitters. |
| | | | | | | | S | S | | | Shopping centers as provided in Section 909 herein. |
| | | | | | | | S | S | | P | Sign manufacturing. |
| | | | | | | | | | | P | Soft drink and bottling plants. |
| | | | | | | | S | S | | P | Tire recapping, provided all operations are conducted in a building which shall not have any opening other than a stationary window within 100 feet of a residential district and which shall not store or otherwise maintain any parts or waste material outside such building. |
| | | | | | | | | | | P | Transportation terminals and facilities. |
| | | | | | | | | | | S | Truck stops as provided in Section 903 herein. |
| | | | | | | | S | S | | P | Warehousing operations. |
| | | | | | | | S | S | | S | Welding, blacksmith, or machine shops, excluding punch presses. |
| | | | | | | | S | S | | P | Wholesale and jobbing establishments. |
| | | | | | | | | | | S | Yards for storage and/or sale of coal, petroleum products, or flammable gases, . |
| | | | | | | | S | S | | S | Yards for storage and/or sale of lumber, building materials, or contracting equipment. |
| | | | | | | | | | P | | Uses listed in Section 18.1-707.02 of this ordinance. |

## ARTICLE VIII. OTHER REQUIREMENTS OF ZONING DISTRICTS

**Sec. 18.1-801. Minimum lot area and lot width.**

| | | Minimum Lot Area (sq. ft.) | | | Minimum Lot Width (ft) | |
|---|---|---|---|---|---|---|
| **District** | **Public Utilities** | **Water & Sewer** | **Water Only** | **None** | **Interior Lot** | **Corner Lot** |
| A-1 | Single Family | 217,800 | 217,800 | 217,800 | 200 | 250 |
| | SemiDetached | | | | | |
| | Two Family | 217,800 | 217,800 | 217,800 | 200 | 250 |
| | Multifamily | | | | | |
| | Manufactured Home | 217,800 | 217,800 | 217,800 | 200 | 250 |
| R-1 | Single Family | 15,000 | 20,000 | 43,560 | 100 | 120 |
| | SemiDetached | | | | | |
| | Two Family | | | | | |
| | Multifamily | | | | | |
| | Manufactured Home | | | | | |
| R-2 | Single Family | 10,000 | 15,000 | 43,560 | 80 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 12,000 | 23,000 | 43,560 | 80 | 100 |
| | Multifamily | | | | | |
| | Manufactured Home | | | | | |
| T-1 | Single Family | 10,000 | 15,000 | 43,560 | 80 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 12,000 | 23,000 | 43,560 | 80 | 100 |
| | Multifamily | | | | | |
| | Manufactured Home | | | | | |
| | Properties in the defined Traffic Impact Overlay District | | | | 440' when the posted speed limit is over 45 mph; 245' when the posted speed limit is 45 mph or less | |
| R-3 | Single Family | 7,500 | 15,000 | 43,560 | 75 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 9,500 | 20,000 | 43,560 | 80 | 100 |
| | Multifamily | 16,000 + 4,000 per each unit over 2 | | | 100 | 120 |
| | Manufactured Home | | | | | |
| R-4 | Single Family | 10,000 | 15,000 | 43,560 | 80 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 12,000 | 23,000 | 43,560 | 80 | 100 |
| | Multifamily | | | | | |
| | Manufactured Home | 10,000 | 15,000 | 43,560 | 80 | 100 |
| B-1 | Single Family | 7,500 | 15,000 | 43,560 | 75 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 9,500 | 20,000 | 43,560 | 80 | 100 |
| | Multifamily | 16,000 + 4,000 per | | | 100 | 120 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | each unit over 2 | | | | |
| | Manufactured Home | 7,500 | 15,000 | 43,560 | 75 | 100 |
| CBD | Single Family | 7,500 | 15,000 | 43,560 | 75 | 100 |
| CBD | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 9,500 | 20,000 | 43,560 | 80 | 100 |
| | Multifamily | 16,000 + 4,000 per each unit over 2 | | | 100 | 120 |
| | Manufactured Home | 7,500 | 15,000 | 43,560 | 75 | 100 |
| B-2 | Single Family | 7,500 | 15,000 | 43,560 | 75 | 100 |
| | SemiDetached | 6,000 | 11,500 | 43,560 | 50 | 50 |
| | Two Family | 9,500 | 20,000 | 43,560 | 80 | 100 |
| | Multifamily | 16,000 + 4,000 per each unit over 2 | | | 100 | 120 |
| | Manufactured Home | 7,500 | 15,000 | 43,560 | 75 | 100 |
| | Properties in the defined Traffic Impact Overlay District | | | | 440' when the posted speed limit is over 45 mph, 245' when the posted speed limit is 45 mph or less. | |

In the measurement of lot width, the front shall be deemed to be the shorter of the two sides of a corner lot facing streets.

*Note: Lot area and width requirements for townhouses are located in Section 18.1-912. The E1 and M1 districts do not allow residential development.*

Area requirements in this section are subject to the approval of the health department, and in special circumstances larger lot areas may be required by the health department.

*(Amended June 11, 2008)*

**Sec. 18.1-802. Maximum lot coverage.**

**Sec. 18.1-802.00 Agricultural Uses**.

The maximum lot coverage for agricultural uses shall adhere to the following requirements.

| District | Maximum Lot Coverage (Percent) |
|---|---|
| A-1 Agricultural | 25 |

**Sec. 18.1-802.01 Residential uses.**

The maximum lot coverage for residential uses shall adhere to the following requirements

| District | Maximum Lot Coverage (Percent) |
|---|---|
| R-1 Limited Residential | 25 |
| R-2 General Residential: Single & Two Family | 35 |
| T-1 Transitional Use Zone | 35 |
| R-3 Multi-Family | 40 |
| R-4 Manufactured Home | 40 |

Does not apply to Lots of Record as described in Section 601.01 herein.

**Sec. 18.1-802.02 Commercial, industrial and other uses.**

There is no maximum lot coverage for commercial, industrial and other uses, except as provided herein in special circumstances and/or as may be required by the Town Council, commission and/or board of appeals.

**Sec. 18.1-803. Maximum height restrictions.**

No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein for the district in which it is located.

**Sec. 18.1-803.01**

Except as provided herein, the maximum height restrictions and other uses within the districts shall be as follows:

No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein for the district in which it is located.

Except as provided herein, the maximum height restrictions for residential and other uses within the districts shall be as follows:

| | Residential Uses | | |
|---|---|---|---|
| **District** | **Single Family** | **Two Family** | **Other Uses** |
| A-1 Agricultural | 40' | 40' | 65' |
| R-1 Limited Residential | 35' | 40' | 60' |
| R-2 General Residential | 35' | 40' | 60' |
| T-1 Transitional Use Zone | 40’ | 40’ | 60’ |
| R-3 High Density Res. | 35' | 40' | 60' |
| R-4 Manufactured Home | 35' | 40' | 60' |
| B-1 Light Commercial | n/a | n/a | 60' |
| CBD Central Business District | n/a | n/a | 80’ |
| B-2 General Commercial | n/a | n/a | 80' |
| E-1 Business Park | n/a | n/a | 80’ |
| M-1 Industrial | n/a | n/a | 80' |

**Sec. 18.1-803.02**

The method determining the height of a building or sign is described in Section 302 of this article.

**Sec. 18.1-803.03**

Chimneys, water and fire towers, church spires, domes, cupolas, cooling towers, roof signs, elevator bulkheads, smokestacks, flag poles, silos, granaries, windmills, oil derricks and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established except for those structures exceeding two hundred (200) feet in height, where prior written approval from the Federal Aviation Administration is necessary. Wireless communication facilities, including antennae and towers, are subject the requirements of Section 18.1-914.

**Sec. 18.1-804 Minimum yard requirements.**

a. Within the district herein defined, the following minimum yard requirements shall apply:

| | | Side-Yard Setback | | |
|---|---|---|---|---|
| | **Front Yard Setback** | **Corner Lot** | **Other Lots** | **Rear Yd Setback** |
| A-1 Agricultural | 50' | 15' | 15' | 25' |
| R-1 Limited Residential | 60’ | 20’ | 15’ | 35’ |
| R-2 General Residential | 50' | 15' | 10' | 35' |
| T-1 Transitional Use Zone | 50’ | (b) | (b) | 35’ |
| R-3 High Density Res. | 30' | 15' | 15' | 35' |
| R-4 Manufactured Home | 30' | 15' | 15' | 35' |
| B-1 Light Commercial | 50' | (c) | (c) | (c) |
| CBD Central Business District | 50' | (c) | (c) | (c) |
| B-2 General Commercial | 50' | (c) | (c) | (c) |
| E-1 Business Park | 50’ | (c) | (c) | (c) |
| M-1 Industrial | 50' | (c) | (c) | (c) |

b. The minimum side yard shall be 15’ on corner lots and 10’ on other lots, except that no building or structure shall be erected within twenty-five (25) feet of a residentially zoned lot or a lot on which a residence exists.

c. No minimum requirement except that no building or structure shall be erected within twenty-five (25) feet of a residentially zoned lot or a lot on which a residence exists.

d. The front yard setback requirement for any lot in the Agricultural District A-1, Limited Residential District R-1, General Residential District R-2, High Density Residential District R-3, or Manufactured Home District R-4 shall be reduced when 50 percent or more of the building lots on the same side of the street within the same block are improved with buildings, and no building on that same side of the street within the same block shall be required to have a front yard setback greater than the average front yard setback of the existing buildings on the same side of the street. However, when there are buildings on the lots on both sides of the lot, the required front yard setback for that lot shall not be greater than the average of the front yard setbacks of the buildings on such adjacent lots. The side line of a building on a corner lot shall not be a factor in these calculations. For the purposes of this section, a block shall be defined as the area between the next adjacent street intersection or 500’ of the lot in question, whichever is less, on both sides of the lot in question. A property owner shall be responsible for providing the appropriate documentation to support the reduction in front yard setback requirement prior to issuance of a zoning certificate.

*(Amended September 12, 2007)(Note: Refer to 18.1-601.02 for language regarding setback requirements for destroyed buildings.)*

**Sec. 18.1-805. Adjustments to minimum yard requirements.**

Whenever there shall be plans in existence, surveyed and approved by either the Virginia Department of Highways and Transportation or by the Town Council, upon recommendation of the commission, may require additional front, side or rear yard setbacks for any new construction or for any

structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for such proposed street or highway widening.

## ARTICLE IX. SPECIAL PROVISIONS

**Sec. 18.1-901 Accessory and temporary buildings.**

**Sec. 18.1-901.01 Intent**.

Special requirements are designed for accessory and temporary buildings to insure ample access for emergency vehicles, maintain the effectiveness of rear and side yard requirements and insure accessory structures remain secondary in function to the main building.

**Sec. 18.1-901.02 Accessory buildings.**

The location of accessory buildings and uses in residential districts must meet the following restrictions:

1. 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 building 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 comply in all respects with the requirements applicable to the main building.

2. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any residential or business district.

3. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard.

4. No detached accessory building may be located in the front yard of a lot.

5. Radio and television antennae, ~~-~~satellite dishes with a dish area larger than 4 square feet[J4], solar panels, wind mills and similar accessory uses shall ~~antennas may~~ be permitted as accessory uses provided ~~such antennas shall~~they conform to all appropriate yard and height requirements for the district in which the lot is located. [J5]The installation of a satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

**Sec. 18.1-901.03 Temporary buildings.**

Temporary buildings may be permitted in any district when used in conjunction with the construction work only, but shall be removed immediately upon completion of construction.

**Sec. 18.1-902. Automobile service stations.**

**Sec. 18.1-902.01 Intent.**

Special requirements are imposed on automobile service stations because of the potential dangers and nuisances caused by high traffic volume, repair of machinery and flammable products.

**Sec. 18.1-902.02 Location.**

The building and service area (to include all automotive maintenance, cleaning and pumping of gasoline) shall not be within one hundred (100) feet of any residential lot or any property containing a school, public playground, church, hospital, public library or institution for children or dependents.

**Sec. 18.1-902.03 Site requirements.**

An automobile service station shall have a minimum frontage of one hundred twenty (120) feet and minimum area of twelve thousand (12,000) square feet. All buildings shall be set back forty (40) feet from the right-of-way line of any road or street right-of-way lines. All canopies shall be set back twenty-five (25) feet from all road or street right-of-way lines.

**Sec. 18.1-902.04 Access to site.**

All ingress and egress to and from public streets and alleys at the automobile service station shall meet the specifications of paragraph 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the resident engineer prior to the approval of the site plan.

**Sec. 18.1-902.05 Gasoline pump islands.**

All gasoline pump islands shall be set back at least twenty-five (25) feet from the road or street right-of-way line. Where pump islands are constructed perpendicular to the right-of-way line, the pump island shall be set back at least thirty (30) feet from the road or street right-of-way line.

**Sec. 18.1-902.06 Off-street parking.**

A minimum of four (4) off-street parking spaces are required with an additional off-street parking space for each automobile service bay.

**Sec. 18.1-902.07 Other site improvements.**

In addition to the above requirements the following additional site improvements shall be required:

1. Exterior lighting shall be arranged so that it is deflected away from adjacent properties.

2. All drives, parking, traffic and storage and service areas shall be surface treated, blacktop or concrete.

**Sec. 18.1-905. Home occupations.**

**Sec. 18.1-905.01 Intent.**

It is recognized that home occupations provide valuable services while providing income for town residents. The regulations in this section seek to prevent conflict of the home occupation with the surrounding residential areas and to insure that the home occupation maintains a secondary posture to the main residential use.

**Sec. 18.1-905.02 General requirements.**

Home occupations meeting the following general requirements shall be allowed as accessory uses in all residences:

1. The operator must be the owner of the property on which the home occupation is to be located or must have written approval of the owner of the property if the applicant is a tenant.

2. The home occupation shall be operated only by the members of the family residing on the premises and no article or service shall be sold nor offered for sale except as may be made by members of the immediate family residing on the premises.

3. The home occupation shall not generate excessive traffic nor produce obnoxious odors, glare, noise, vibration, electrical disturbance, radio activity or other conditions detrimental to the character of the surrounding area.

**Sec. 18.1-905.03 Special requirements:**

1. The home occupation within the main building shall not occupy more than twenty-five (25) percent, or five hundred (500) square feet, whichever is smaller, of the floor area within the main building.

2. A home occupation may be located in an accessory building to the main dwelling that is no larger than one-third (1/3) area size of the main dwelling, located in the rear yard, and meeting all requirements in Section 18.1-901 herein.

**Sec. 18.1-905.04 Expiration.**

A zoning certificate for home occupations shall expire under the following conditions:

1. Whenever the operator ceases to occupy the premises for which the home occupation certificate was issued, and no subsequent occupant of such premises shall engage in any home occupation until he shall have been issued a new certificate after proper application.

2. Whenever the holder of such a certificate fails to exercise the same for any period of twelve (12) consecutive months.

**Sec. 18.1-906. Multi-family developments.**

All multi-family, herein defined as three or more dwelling units contained in one building, shall meet the following special requirements. These requirements shall apply to any structure of similar use, physical structure and character, regardless of the type of ownership.

**Sec. 18.1-906.01 Multi-family development utilities and streets.**

All multi-family developments shall meet the following minimum requirements for utilities and streets:

1. All units shall be connected to water and sewage systems that are constructed in accordance with the specifications of the Town Council of the Town of Amherst after recommendation by the Town Planning Commission, and taking into consideration the requirements of the State Health Department, the Statewide Building Code, and health, safety, and welfare of the citizens of the Town of Amherst.

2. All units shall have such fire protection systems and fixtures constructed in accordance with the specifications of Town Council, of the Town of Amherst, after recommendation of the Town Planning Commission, upon taking into consideration the requirements of the Statewide Building Code and the health, safety, and welfare of the citizens of the Town of Amherst.

3. All road entrances, parking lots, streets, and roadways shall be constructed in accordance with ~~the standards and specifications of the Town Council of the Town of Amherst, after recommendation by the Town Planning Commission, upon taking into consideration requirements of the State Department of Transportation and the health, safety, and welfare of the citizens of the Town of Amherst.~~Virginia Department of Transportation standards, except that the Planning Commission shall have the authority to relieve specific requirements for any good cause which shall not involve cost considerations.[J6]

4. All units shall be connected to water and sewerage systems approved by the health department and shall be open to inspection.

5. The site storm drainage system shall drain to any existing natural drainage system. On-site retention of storm waters is encouraged provided that it is in compliance with requirements of Section 15. 1-867 of the Code of Virginia, 1950, as amended, and the sediment basin design standards of the Erosion and Sediment Control Handbook. All storm drainage facilities shall meet the requirements of the health department. Curbs and gutters, if provided, and curb cuts shall meet the specifications of paragraph 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the resident engineer.

**Sec. 18.1-906.02 Amenities.**

All multi-family developments shall meet the following minimum requirements for open space, recreation and other amenities:

1. Open space areas, excluding those portions of the multi-family development occupied by multi-family dwellings, accessory buildings, driveways, or parking areas, and including outdoor recreation areas, shall meet the following requirements.

    a. Provision shall be made for common open space such that one (1) percent of the gross area of the site shall be devoted to common open space for each dwelling unit per acre of density. For example, if the density of the development is eight (8) units per acre, at least eight (8) percent of the development shall be devoted to common open space. Common open space shall not include areas included in minimum yard area requirements.

    b. In multi-family developments of over one hundred fifty (150) units in size, provision shall be made for adequate supervision of recreational areas.

    c. Tot lots and swimming areas shall be adequately enclosed, and all recreational areas shall be located away from the concentrations of vehicular traffic.

2. Fencing or vegetative screening shall be provided to a height of six (6) feet and of such a density that no part of the development shall be visible to a casual observer on any side of the development abutting any yard of a residential or nonresidential structure. Provided that where natural features such as topography or natural vegetation are preserved and prevent the development from being casually visible from adjoining properties, the board of appeals may waive requirements for screening. Fencing where required shall be maintained in a safe condition, shall be painted, and shall be kept in good repair.

3. Paved common walks of a width of at least four (4) feet shall be provided on at least one (1) side of all streets, and wherever concentrations of pedestrian traffic can be expected, as between recreational facilities, walks may be incorporated into the street curb. Walk grades shall not exceed ten (10) percent; lights shall be provided sufficiently to illuminate steps.

**Sec. 18.1-908. Signs.**

**Sec 18.1-908.01 Intent**.

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, outdoor advertising signs, 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 designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs

overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development. To the extent possible, use of signs for advertising other than to identify the owner or business or entity will not be allowed; however, provisions for the identification of property, the location of events, and other nonobtrusive and reasonable uses of signage are contained herein.

**Sec. 18.1-908.02 General requirements.**

a. Any sign, display, or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other regulations and requirements of this ordinance.

b. Except as provided in section 908.03, below, no business or advertising sign or structure shall be erected without a zoning permit. Failure to adhere to the requirements of this Ordinance automatically cancels such permit and said structure shall be removed forthwith. In addition, all other legal requirements must be met prior to the issuance of a permit to erect a sign, and any permit issued for a sign not in conformance with such other requirements shall be voided by the Zoning Administrator and the sign removed by its owner.

c. For the purpose of computing sign area, only one side of a "v-type" or double faced sign shall be considered.

d. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises.

**Sec. 18.1-908.03 Signs Allowed Without a Permit.**

Sign permits shall not be required for the following signs; however, all other applicable regulations of this Ordinance shall apply:

a. Address or identification signs. Signs not exceeding one (1) square foot in area, attached flat against a building or mailbox, or mounted on a post no greater than three (3) feet in height, indicating the address or name of a building occupant.

b. Commemorative plaques and historical markers erected by a recognized historical organization or governmental body, and not exceeding two (2) square feet in area.

c. Construction signs. One (1) sign on each roadway frontage not exceeding 32 square feet in area, and bearing only the names and addresses of the project, contractors, architects, developers, planners, financial institutions, or engineers engaged in the project. Such signs shall only be posted during the time that the construction project is underway and removed prior to use or occupancy of the project.

d. Flags, emblems or insignias of any governmental agency or religious, charitable, public, or non-profit organization, provided that no single flag shall exceed 54 square feet in area and that no more than three such flags may be displayed on any lot.

e. Handicapped parking space signs.

f. Institutional signs. Signs setting forth the name or any simple announcement for any hospital or clinic, or public, charitable, educational, or religious institution located entirely within the premises of that institution, up to an area of 24 square feet. If building-mounted, these signs

shall be flat wall signs, and shall not project above the roof line. If ground-mounted, the top shall be no more than eight (8) feet above ground level.

g. Integral Signs. Names of buildings, dates of erection, monumental citations, and commemorative tablets when carved into stone, concrete or similar material, or made of bronze, aluminum, or other permanent type construction and forming an integral part of the structure.

h. Public signs, including traffic, utility and other regulatory signs.

i. Rental signs. One (1) sign shall be allowed per premises announcing room, apartment, or house for rent, provided that such sign is no larger than four (4) square feet in area, and is removed within three (3) days after such vacancy is filled.

j. Security, warning, and private property signs, provided that any such sign does not exceed one-and-one-half (1.5) square feet in area.

k. Seasonal or temporary displays of patriotic, religious or civic character located on private property that do not advertise a product or service, and are not displayed for a period exceeding 30 days.

l. Signs not visible beyond the boundaries of the lot or parcel upon which they are located, including visibility from any public right of way.

m. Temporary political campaign signs on private property, not to exceed eight (8) square feet in area and six (6) feet in height. Such signs shall not be erected more than 45 days before an election, and shall be removed within five (5) days after the election.

n. Temporary private yard sale signs, not exceeding three (3) in number per sale, not more than sixteen (16) square feet in area per sign, and not placed in a public right of way. Such signs shall not be erected more than 48 hours before the date of the sale, and shall be removed within 24 hours of the end of the sale.

o. Temporary auction signs, not exceeding thirty-two (32) square feet in area per auction, and not placed in a public right-of-way. Such signs shall not be erected more than 14 days before the auction, and shall be removed within 24 hours after the auction.

p. Temporary real estate signs, located on the premises, not exceeding a height of six (6) feet or an area of four (4) square feet in residential districts, or eight (8) square feet in other districts. One real estate sign shall be permitted for each side of the property facing a public right of way. No off-premise real estate signs shall be permitted, with the exception of open house notices, which may be displayed for no more than 72 consecutive hours, and not more than five (5) directional signs not exceeding two (2) square feet in area. No real estate sign shall contain language indicating that the subject real estate is sold or under pending contract and any such sign so erected shall be immediately removed by the Zoning Administrator. Temporary real estate signs shall be removed within 10 days of sale.

q. Traffic direction. Signs directing traffic movement onto or within a premise not exceeding four (4) square feet in area.

r. Vehicle signs. Signs on trucks, buses, trailers, or other vehicles, while such vehicles are in use in the normal course of business.

**Sec. 18.1-908.04 Prohibited Signs**.

The Zoning Administrator shall have the authority to require an owner of real estate to dismantle and remove any sign determined by him to be in violation of the following section. The following signs shall be prohibited in all districts:

a. Signs which imitate an official traffic sign.

b. Signs which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device, or which hide from view any traffic or street sign or signal, or which obstruct the view in any direction at any street or road intersection.

c. Signs in any public right of way. Signs projecting over public property shall not be permitted unless otherwise specifically authorized by this ordinance.

d. Signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving or flashing devices, with the exception of seasonal or holiday displays, in accordance with section 908.03, item (l).

e. Signs which are pasted or attached to utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.

f. Signs advertising activities which are illegal under federal, state, or town laws or regulations.

g. Any sign displayed on an automobile, truck, or other motorized vehicle, when that vehicle is used primarily for the purpose for such advertising display.

h. Building mounted signs projecting above the roof line.

i. Signs that contain statements, words, or pictures of an obscene, indecent, or immoral character.

j. Flashing signs, except for time and temperature signs.

k. Signs affixed to a tree, other natural vegetation, or rocks.

l. Signs or outdoor advertising structures that obstruct ingress or egress from any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any room or building as required by law.

m. Signs which reflect or cast glare or light, directly or indirectly, on any public roadway or adjacent property within a residential district.

n. Signs which are visible from any limited access highway, except for on-site sale or rental signs, and on-site business signs, as permitted.

o. Signs, other than official road markers, placed on an official road right of way.

p. Signs 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 an intersection of a road with a railroad grade crossing.

q. Freestanding signs greater than 25 feet above the ground.

**Sec. 18.1-908.05 Signs Permitted in the Residential and Agricultural Zoning Districts**.

a. Temporary event signs, provided that they are not more than four (4) square feet in area, and there is not more than one (1) on any lot or premise.

b. Residential Developments: Permanent subdivision or development identification signs indicating only the name and/or address of the premises. The identification sign shall be ground mounted, and shall not be internally illuminated. For developments of twenty (20) units or less the sign shall not exceed six (6) square feet in area or eight (8) feet in height. For developments of twenty-one (21) units or more the sign shall not exceed sixteen (16) square feet in area or eight (8) feet in height.

c. Directional signs for parks, playgrounds, schools, religious institutions, and other non-residential uses of a non-commercial nature within the residential district, provided that such signs shall not exceed two (2) square feet in area, shall be within one (1) mile of the use, and shall not be illuminated.

d. In the Transitional Use Zone District, identification signs, provided that they are not more than eight (8) square feet in area and there is not more than one (1) on any premise.

**Sec. 18.1-908.06 Signs Permitted in the Commercial and Industrial Districts.**

For each lot, tract, or parcel, one and one half (1-1/2) square feet of sign area shall be allowed for each (one) lineal foot of building frontage on the primary public street. In the case of buildings that front on more than one public street, sign area shall be based on the length of frontage of one side of the building only.

Signs approved under this section shall be exclusively for the businesses operated on the premises on which the signs are located. Sign area for changeable copy signs associated with churches, restaurants, theaters and gasoline sales establishments shall be included within the area allowed by this subsection. Changeable copy signs include display boxes for posters and menu boards where individual letters or numbers can be reconfigured but do not include portable signs as described hereinbelow.

Such sign area may be in a single sign, or in a combination of signs located on one or more sides of the building, with no more than two (2) signs allowed for each building facade. In addition, one (1) sign shall be permitted for the rear of the building, computed on the ratio of one half (1/2) square foot of sign for each (one) lineal foot of building frontage. Permitted signs shall be subject to the following limitations.

a. Wall signs, provided that such signs do not exceed twenty percent (20%) of any exposed finished wall surface area including openings, or sixty (60) square feet, whichever is smaller, and do not extend more than six (6) inches beyond the building wall surface.

b. Freestanding signs. One (1) freestanding sign shall be allowed when a building takes up less than fifty percent (50%) of the total lot area, provided that such sign be no larger than forty (40) square feet in area, no taller than twelve (12) feet and set back at least seven (7) feet

from the public right of way. However, such freestanding signs shall not be larger than twenty (20) square feet along Main Street (U.S. 29 Business) from Monitor Road to 250' north of Nicewood Place.

c. Window signs, provided that such signs take up no more than twenty five percent (25%) of the glass area upon which they are placed. All window signs shall be painted on or affixed to the interior side of the window.

d. Projecting signs, and signs attached to the bottom of a marquee or roof overhang shall not project more than six (6) feet from the building front, nor closer than two (2) feet from any curb line, and have a minimum clearance of ten (10) feet above a sidewalk. The maximum size for these signs shall be no greater than ten (10) square feet.

e. Awning signs, provided that the bottom of such signs shall be at least eight (8) feet above the sidewalk or grade at any point, and extend horizontally no closer than twelve (12) inches from the curb.

f. Canopy signs, provided that the bottom of such canopies shall have a minimum clearance of at least ten (10) feet, and shall extend horizontally no closer than two (2) feet from the edge of the curb.

g. Illuminated or neon signs that lay flat on a building or window, provided that such signs bear only the name of business located in the building, and are no greater than six (6) square feet in area, do not project from the building, and do not fall into any of the categories defined as prohibited in this section.

h. Portable signs, limited to 24 square feet, provided that they are displayed no more than 60 days within any one calendar year, and that such signs do not fall into any of the categories defined as prohibited in this section.

i. For shopping centers and buildings in which more than three (3) tenants are located, no more than one (1) freestanding sign shall be permitted. The sign shall be limited in area to 100 square feet, and shall not extend higher than 25 feet. Such signs shall indicate only the name of the shopping center or building, and/or business uses within that building.

j. Office or industrial signs: One ground-mounted identification sign at each major entrance of an office or industrial center, provided that no such sign shall exceed forty (40) square feet in area or twelve (12) feet in height.

**Sec. 18.1-908.07 Non-conforming Signs.**

Any sign, otherwise lawful, in existence at the time of enactment of this section may remain in use so long as it meet all the applicable requirements of Section 18.1-601-Nonconforming lots, buildings and uses, of this code.

**Sec. 18.1-909. Large-scale development.**

**Sec. 18.1-909.01 Intent.**

Large developments can strain Town resources and negatively impact adjacent areas and are therefore subject to special review. Areas of special concern include traffic impact, water and sewer service, fire protection, generation of noise, and aesthetics.

**Sec. 18.1-909.02 Applicability.**

For the purposes of this section, a large-scale development shall be defined as a building or group of buildings under one ownership or control and containing more than 60,000 SF of floor area, regardless of use, in agricultural, residential and commercial districts. Large-scale developments are subject to the issuance of a special use permit in the following districts:

A-1 - Agricultural District
R-1 - Limited Residential District
R-2 – General Residential District
T-1 – Transitional Use Zone District
R-3 - High Density Residential District
R-4 - Manufactured Home District
B-1 - Light Commercial District
CBD-Central Business District
B-2 - General Commercial District

**Sec. 18.1-909.03 Building and construction setback.**

All buildings in a large scale development shall have minimum setback of seventy-five (75) feet from the right-of-way of arterial highways, such as U. S. 60 and U. S. 29. All buildings will have a setback of twenty-five (25) feet from other street right-of-way lines, or property lines, unless adjacent to a residential district, then the setback shall be seventy-five (75) feet.

**Sec. 18.1-909.04 Screening and landscaping.**

A large-scale development shall be permanently screened from adjacent residential areas by a wall, fence, evergreen hedge and/or other suitable enclosure of minimum height of seven (7) feet at the original elevation of the property line. A landscaped area at least ten (10) feet in depth, exclusive of sidewalks, must be provided along street frontage and must be located between the curbline and a line parallel to and twenty (20) feet inside the property line; other landscaping and/or screening may be required.

All mechanical equipment, including mechanical equipment mounted on a roof, shall be screened.

**Sec. 18.1-912. Townhouses**

**Sec. 18.1-912.01 Minimum lot area, lot width and yard requirements.**

Townhouse lots for sale shall adhere to the following minimum requirements:

1. Lot Area - Each townhouse shall be located on a lot of not less than 1,200 square feet in area.

2. Unit Width - A minimum width of sixteen feet per lot shall be maintained.

3. Front yard - There shall be a minimum ten (10) foot front yard (area between front door and front of lot, or parking area, or other common area).

4. Side Yard - There shall be a side yard of not less than sixteen (16) feet in width at each end of a group of units (not to be shared between units).

5. Rear Yard - There shall be a rear yard with a depth of not less than twenty-five (25) feet for each unit (not to be shared between units).

**Sec. 18.1-912.02 Development perimeter yard requirements.**

Each townhouse development shall have a perimeter yard on the rear and side property lines of the total site equal to at least 25 feet except where the development is within or abuts a R-1 or R-2 Residential District, in which case the perimeter yard shall be at least 50 feet. The required development perimeter yard may include the side and rear yards required for each townhouse. The required front yard for the zoning district in which the development is located shall apply for the townhouse development along the front property line of the total site which may include the required front yard for each townhouse.

**Sec. 18.1-912.03 Height restrictions.**

Height shall be no more than forty (40) feet measured from the average level of the ground adjacent to the front exterior wall.

**Sec. 18.1-912.04 Maximum lot coverage.**

The maximum lot coverage for interior townhouse lots for sale shall be fifty (50) percent and for end and/or corner lots shall be forty (40) percent.

**Sec. 18.1-912.05 Common areas.**

Each townhouse development shall provide at least ten (10) percent of the development site for areas of common use which includes such uses as parking, walkways, streets not dedicated to the Virginia Department of Transportation, recreation facilities, picnic areas, refuse collection, utility easements, and similar activities. The following minimum requirements for common areas shall be adhered to:

1. Off-street parking shall meet the requirements set forth in Sections 18.1-602 and 18.1-603 herein. Required parking spaces shall be provided within the perimeter of the townhouse development and no farther than two hundred (200) feet from the facilities served. Off-street parking shall be designed to produce the minimum possible interference with pedestrian circulation within the townhouse development.

2. Tot lots and swimming areas shall be adequately enclosed, and all recreational areas shall be located away from the concentrations of vehicular traffic.

3. Fencing or vegetative screening shall be provided to a height of six (6) feet and of such a density that no part of the development shall be visible to a casual observer on any side of the development abutting any yard of a residential or nonresidential structure. Provided that where natural features such as topography or natural vegetation are preserved and prevent the development from being casually visible from adjoining properties, the board of appeals may waive requirements for screening. Fencing where required shall be maintained in a safe condition, shall be painted, and shall be kept in good repair.

4. Paved common walks of a width of at least four (4) feet shall be provided from each dwelling unit to common areas within the townhouse development, and wherever concentrations of pedestrian traffic can be expected, as between recreational facilities, walks may be incorporated into the street curb. Walk grades shall not exceed ten (10) percent; lights shall be provided sufficiently to illuminate steps.

**Sec. 18.1-912.06 Preservation and maintenance of common areas.**

All common areas shall be preserved for their intended purpose as expressed in the approved subdivision plat. The preservation and maintenance of all common areas within the townhouse development shall be in accordance with the following requirements:

1. All deeds shall include appropriate restrictions to insure that common areas are permanently preserved according to the subdivision plat. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

2. All common areas shall be specifically included in the development schedule and be constructed and fully improved by the developer.

3. All common areas shall be placed in the ownership and control of a non-profit association capable of providing adequate maintenance.

4. The developer shall establish a non-profit association, corporation, trust or foundation of all individuals or corporations owning property within the townhouse development to insure the maintenance of common areas. Said organization shall conform to the following requirements:

    a. The developer must establish the organization prior to the sale of any lot or property and shall relinquish control of said organization when voted upon by the membership of the organization.

    b. Membership in the organization shall be mandatory for all property owners, present and future, within the townhouse development and said organization shall not discriminate in its members or shareholders.

    c. The organization shall manage all common areas within the townhouse development, shall provide for the maintenance, administration and operation of said land improvements and shall secure adequate liability insurance on the common areas.

    d. The organization shall conform to the Condominium Act, Sections 55-79.39 through 55-79.103, Code of Virginia, 1950, as amended.

**Sec. 18.1-912.07 Streets and utilities.**

All streets and utilities within the townhouse development shall meet the following requirements:

1. The traffic circulation pattern, the street dimensions, curbs and gutters (if provided) and curb cuts shall meet the specifications of the Virginia Department of Transportation and Sections 33.1-197 and 198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of the Entrances to State Highways and be approved by the resident engineer prior to the approval of the site plan.

2. All dwelling units shall be connected to the Town of Amherst water and sewerage systems

3. The site storm drainage system shall drain to any existing natural drainage system. On-site retention of storm waters is encourage provided that it is in compliance with requirements of Section 15.1-867 of the Code of Virginia, 1950, as amended, and the sediment basin design standards of the Erosion and Sediment Control Handbook. All storm drainage facilities shall meet the requirements of the health department.

4. All utilities shall be underground.

**Sec. 18.1-912.08 Subdivision plat and site plan requirements.**

In addition to the subdivision plat requirements herein, the submittal of the subdivision plat that includes townhouses lots shall be accompanied by a special site plan for the townhouse development only as provided for Article XI herein.

**Sec. 18.1-913. Manufactured homes and manufactured home parks.**

**Sec. 18.1-913.01 Manufactured homes**.

Any manufactured home located in the Town of Amherst after the enactment or amendment of this ordinance shall meet the following requirements:

1. All manufactured homes shall meet the plumbing requirements and the electrical wiring and connection requirements of the building code and the construction, blocking and anchoring requirements of the Virginia State Corporation Commission; and shall display the seal of a testing laboratory approved by the Commonwealth of Virginia.

2. All manufactured home units shall be completely enclosed with metal skirts, concrete blocks, ornamental wood, stone, or similar material, in such a manner that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the Amherst County building inspector.

3. All manufactured homes must use and be secured with proper tie-down equipment.

4. Individual manufactured home units located outside of a manufactured home park shall be subject to the following additional conditions:

    a. The lot area and dimensions must meet the requirements of a single-family dwelling unit within the district in which the manufactured home unit is to be located.

    b. In no case shall the unit be located within thirty (30) feet of any permanent type of building.

    c. Manufactured homes shall be listed as a permitted use within the district in which the manufactured home is to be located.

**Sec. 18.1-913.02 Manufactured home accessory structures**.

All manufactured home accessory structures erected or constructed in any new or existing manufactured home park after the date of enactment or amendment of this ordinance must meet the following requirements:

1. All manufactured home accessory structures must meet the plumbing, electrical connection, wiring, construction and other applicable requirements of the Uniform Statewide Building Code.
2. Manufactured home accessory structures, except ramadas, shall not exceed the height of the manufactured home.

3. No accessory structure shall be erected or constructed on any manufactured home lot except as an accessory to a manufactured home.

4. Porches may be placed adjacent to manufactured homes provided they are constructed in accordance with the provisions of the Uniform Statewide Building Code.

**Sec. 18.1-913.03 Manufactured home park area requirements.**

Within a manufactured home park, the following area requirements shall apply:

1. The minimum area for each manufactured home park shall be ten (10) acres with a minimum of twenty-five (25) manufactured home stands and a maximum of five (5) manufactured home stands per acre; and the minimum lot width for the portion used for entrance and exit to a public road shall be fifty (50) feet. However, entrances for existing parks shall be exempt from this requirement.

2. The minimum lot area of each individual manufactured home lot shall be three thousand six hundred (3,600) square feet for single-wide units and six thousand (6,000) square feet for doublewide units.

3. No manufactured home and an accessory building shall occupy more than thirty (30) percent of the area of the lot on which it is situated.

4. The minimum length of a manufactured home lot shall be ninety (90) feet; the minimum width shall be forty (40) feet. On all lots larger than the minimum, the ratio of length to width shall not exceed 2.2 to 1.0.

5. No more than one (1) detached manufactured home accessory structure shall be permitted on any manufactured home lot.

**Sec. 18.1-913.04 Manufactured home park setback requirements.**

All manufactured home parks shall meet the following minimum setback requirements:

1. No manufactured home unit, management office, or other structure except decorative fencing, lighting, wall, entrance or other decorative feature shall be located closer than thirty-five (35) feet to a street right-of- way line of a public road with a right-of-way of fifty (50) feet or greater, nor closer than sixty (60) feet to the centerline of a public road with a right-of-way of less than fifty (50) feet.

2. No main or accessory structure shall be located closer than twenty-five (25) feet to the property line of the manufactured home park.

3. No manufactured home shall be placed within twenty (20) feet of another manufactured home nor closer than ten (10) feet to the manufactured home lot line.

**Sec. 18.1-913.05 General requirements for manufactured home park:**

1. No park may be a closed park where entry is denied to anyone who has not purchased his home from a dealer, park owner or operator. No park may also serve as a general retail or wholesale and demonstration or storage area for manufactured homes.

2. Every manufactured home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.

3. An internal street system shall be provided to furnish convenient access to manufactured home lots 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 in addition to such other reasonable standards and requirements as may be recommended by the resident engineer:

a. All internal streets shall be permanently paved with plant bituminous material or other hard durable surface which shall be maintained free of cracks and holes and the edges of which shall be protected from raveling. Minimum pavement widths shall be twenty-four (24) feet for streets providing access to forty (40) or more manufactured home lots, and eighteen (18) feet for streets providing access to less than forty (40) manufactured home lots. Widths shall be measured from curbface to curbface.

b. No on-street parking shall be permitted.

c. Dead-end streets shall be limited in length to 400 feet, shall be provided with cul-de-sacs with turning areas of not less than forty (40) feet in radius, or with "T" or "Y" turning areas, and shall provide access to no more than twenty (20) manufactured home lots.

d. Streets shall be approximately at right angles at and within one hundred feet of street intersections. Offsets at intersections of less than 125 feet from centerline to centerline and intersections of more than two streets at one point shall be avoided.

e. Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grade and alignments. No grade shall exceed twelve (12) percent or no curve shall have an outside radius of less than eighty (80) feet.

f. Lighting shall be provided in such a way as to produce a minimum of 0.1 footcandles at street level throughout the system, with at least 0.3 footcandles at street intersections, park entrances, and other potentially hazardous locations in or around the park.

g. Entrances shall be provided in sufficient numbers to insure safe and convenient access and egress. Where the proposed park adjoins two or more public roads, entrances shall be provided on at least two public roads where possible, provided that the internal street system be so designed as to discourage through traffic. Entrances shall be no closer than 125 feet from an existing public road intersection.

4. An adequate supply of water approved by the State Health Department shall be furnished from a public water supply system, or from a private water system, or from a private water system conforming to all applicable laws, regulations, resolutions, and ordinances with water connections located on each manufactured home lot. All water lines shall be made frost-free.

5. In each manufactured home park, all wastewater from a faucet, toilet, tub, shower, sink, slopsink, drain, washing machine, garbage disposal unit or laundry shall empty into the Town of Amherst sewer system.

6. Each manufactured home park shall provide door-to-door garbage pickup for disposal in approved containers at a central location within the manufactured home park or provide adequate number of trash containers as specified by the Town Council, and so located to

allow the collection and disposal of the solid waste generated by park residents only or by private contract for disposal in accordance with applicable state and local laws.

7. There shall be provided a minimum of thirty thousand (30,000) square feet of developed recreational area, exclusive of required setback and yard requirements, per each twenty-five (25) manufactured home lots or multiple or fraction thereof.

8. All utilities shall be underground, except control instrumentation and substations which must be screened by planting or ornamental walls. No overhead wires are permitted within the park.

9. Fencing or vegetative screening shall be provided to a height of six (6) feet and such a density that no manufactured home or manufactured home accessory structure shall be visible to a casual observer on any side of a manufactured home park abutting the backyard of a residential structure or the side yard of a residential structure provided the screening does not extend beyond the setback line of the structure. Provided that where natural features such as topography adjoining properties, the zoning administrator may waive requirements for screening. Fencing where required shall be maintained in a safe condition, shall be painted and shall be kept in good repair.

**Sec. 18.1-913.06 Park management requirements.**

The management of manufactured home parks shall be in accordance with the following requirements:

1. The minimum number of manufactured home lots and stands completed and ready for occupancy before the first occupancy is permitted shall be twelve (12) and no lot or stand shall be rented for a period of less than sixty (60) days. Prior to first occupancy, a certified statement of compliance shall be obtained from the zoning administrator.

2. Permanent buildings housing management offices, child care centers, laundry facilities, or indoor recreational facilities or other service facilities may be permitted in manufactured home parks provided such facilities:

    a. Shall meet parking requirements for such facilities as specified in Section 602 herein;

    b. Shall be subordinate to the residential use and character of the park;

    c. Shall be located, designed and intended to serve the service needs of persons residing in the park;

    d. Shall present no visible evidence of their nonresidential character to any area outside the park;

    e. Shall meet all applicable federal, state and local requirements pertaining to such uses; and

    f. Shall not occupy more than ten (10) percent of the area of the park.

**Sec. 18.1-913.07 Manufactured home park site plan.**

Applicants for manufactured home parks shall follow site plan procedures outlined in Article XI herein and, in addition, shall meet the following special requirements:

1. The name of the proposed park shall be included on the site plan and shall not closely approximate that of any existing manufactured home park or subdivision in the town, county or neighboring jurisdictions.

2. The location and dimensions of all existing streets and street rights-of-way, easements, water, sewerage, drainage facilities and other community facilities and utilities adjacent to the proposed park shall be included on the site plan.

3. All existing significant natural and historical features on or adjacent to the proposed park including, but not limited to, views from the property and views from adjoining properties that might be affected by the proposed park shall be included on the site plan.

4. The proposed layout shall include interior streets with dimensions and such typical street cross sections and centerline profiles as may be required in evaluating the street layout; 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 structures 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.

5 A narrative statement shall be included describing how the standards and requirements set forth herein are to be met; a statement from the health department certifying approval of the proposed site plan; and a statement from the resident engineer certifying that all ingress and egress to and from public streets and alleys meet the requirements of the Virginia Department of Transportation.

**Section 18.1-914. Regulation of wireless telecommunications facilities**

**Section 18.1-914.1. Purpose and Legislative Intent.**

The Telecommunications Act of 1996 affirmed The Town of Amherst's authority concerning the placement, construction, and modification of Wireless Telecommunications Facilities. The Town Council of the Town of Amherst finds that Wireless Telecommunications Facilities may cause a unique impact to the health, safety, public welfare and environment of The Town of Amherst and its citizens. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to ensure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Ordinance is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of The Town of Amherst.

**Section 18.1-914.2. Title.**

This Ordinance may be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for The Town of Amherst.

**Section 18.1-914.3. Severability.**

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any Special Use Permit issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town Council.

**Section 18.1-914.4. Definitions.**

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

**a.** "**Accessory Facility** or **Structure**" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

**b.** **"Applicant"** means any Person submitting an Application to The Town of Amherst for a Special Use Permit for Wireless Telecommunications Facilities.

**c.** **"Application"** means the form approved by the Council, together with all necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications Facilities

**d.** **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), and microwave Telecommunications.

**e.** **"Council"** means the Town Council of the Town of Amherst.

**f.** **"Collocation"** means the use of the same Telecommunications Tower or structure to carry two or more Antennae for the provision of wireless services by two or more persons or entities.

**g.** **"Commercial Impracticability"** or **"Commercially Impracticable"** means the inability to perform an act on terms that are reasonable in commerce. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not be considered "commercial impracticability" and shall not render an act or the terms of an agreement "commercially impracticable".

**h.** **"Commonwealth"** means the Commonwealth of Virginia.

**i.** **"Completed Application"** means an Application that contains all information and/or data necessary to enable the Council to evaluate the merits of the Application, and to make an informed decision with respect to the effect and impact of Wireless Telecommunications Facilities on the Town in the context of the permitted land use for the particular location requested.

**j.** **"Direct-to home satellite services"** or **"Direct Broadcast Service"** or **"DBS"** means only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

**k.** **"EPA"** means the State and/or Federal Environmental Protection Agency or its duly assigned successor agency.

**l.** **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.

**m.** **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.

**n.** **"Free standing Tower"** means a Tower that is not supported by guy wires and ground anchors or other means of attached or external support.

**o.** **"Height"** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna.

**p.** **"Modification" or "Modify"** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

**q.** **"NIER"** means Non-Ionizing Electromagnetic Radiation

**r.** **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

**s.** **"Personal Wireless Facility**" See definition for 'Wireless Telecommunications Facilities'.

**t.** **"Personal Wireless Services"** or **"PWS"** or **"Personal Telecommunications Service" or "PCS"** shall have the same meaning as defined and used in the 1996 Telecommunications Act.

**u.** **"Special Use Permit"** means the official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Town.

**v.** "**Stealth" or "Stealth Technology"** means minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

**w.** **"Telecommunications"** means the transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**x.** **"Telecommunication Site"** See definition for Wireless Telecommunications Facilities.

**y.** **"Telecommunications Structure"** means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.

**z.** **"Temporary"** means in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.

**aa.** **"Town"** means The Town of Amherst, Virginia.

**bb.** "**Wireless Telecommunications Facilities"** or **"Telecommunications Tower"** or **"Telecommunications Site"** or **"Personal Wireless Facility"** means a structure, facility or location designed, or intended to be used as, or used to support, Antennas. It includes without limit, free standing Towers, guyed Towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an Antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, or microwave Telecommunications, but excluding those used exclusively for the Town's fire, police and other dispatch Telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar Telecommunications.

**Section 18.1-914.5. Overall Policy and Desired Goals for Special Use Permits for Wireless Telecommunications Facilities.**

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the Town's health, safety, public welfare, environmental features and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Town Council hereby adopts an overall policy with respect to a Special Use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

a. Implementing an Application process for person(s) seeking a Special Use Permit for Wireless Telecommunications Facilities;
b. Establishing a policy for examining an application for and issuing a Special Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.
c. Establishing reasonable time frames for granting or not granting a Special Use Permit for Wireless Telecommunications Facilities, or recertifying or not recertifying, or revoking the Special Use Permit granted under this Ordinance.
d. Promoting and encouraging, wherever possible, the sharing and/or collocation of Wireless Telecommunications Facilities among service providers;
e. Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

**Section 18.1-914.6. Special Use Permit Application and Other Requirements.**

1. All Applicants for a Special Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this section. The Council is the officially designated agency or body of the community to whom applications for a Special Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not

recertifying, or revoking special use permits for Wireless Telecommunications Facilities. The Council may at its discretion delegate or designate other official agencies of the Town to accept, review, analyze, evaluate and make recommendations to the Council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for Wireless Telecommunications Facilities.

2. An application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application. At the discretion of the Council, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.

3. Applications not meeting the requirements stated herein or which in the opinion of the Council are otherwise incomplete, may be rejected by the Council.

4. The Applicant shall include a statement in writing:

    a. That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Council in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, Commonwealth and Federal Laws, rules, and regulations;
    b. That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the Commonwealth of Virginia.

5. No Wireless Telecommunications Facilities shall be installed or constructed until the site plan is reviewed and approved by the Council, and the Special Use Permit has been issued.

6. All applications for the construction or installation of new Wireless Telecommunications Facilities shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the Commonwealth of Virginia. Where this section calls for certification, such certification shall be by a qualified Professional Engineer acceptable to the Town, licensed in the Commonwealth of Virginia. The Application shall include, in addition to the other requirements for the Special Use Permit, the following information:

    a. Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily within the Town;
    b. Name, address and phone number of the person preparing the report;
    c. Name, address, and phone number of the property owner, operator, and Applicant, to include the legal form of the Applicant;
    d. Postal address and tax map parcel number of the property;
    e. Zoning District or designation in which the property is situated;
    f. Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
    g. Location of nearest residential structure;
    h. Location of nearest habitable structure;
    i. Location, size and height of all structures on the property which is the subject of the Application;

j. Location, size and height of all proposed and existing antennae and all appurtenant structures;
k. Type, locations and dimensions of all proposed and existing landscaping, and fencing;
l. The number, type and design of the Telecommunications Tower(s) Antenna(s) proposed and the basis for the calculations of the Telecommunications Tower's capacity to accommodate multiple users;
m. The make, model and manufacturer of the Tower and Antenna(s);
n. A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
o. The frequency, modulation and class of service of radio or other transmitting equipment;
p. Transmission and maximum effective radiated power of the Antenna(s);
q. Direction of maximum lobes and associated radiation of the Antenna(s);
r. Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC;
s. Certification that the proposed Antenna(s) will not cause interference with existing telecommunications devices, though the certifying engineer need not be approved by the Town;
t. A copy of the FCC license applicable for the use of Wireless Telecommunications Facilities;
u. Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site, though the certifying engineer need not be approved by the Town;
v. Propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
w. Applicant shall disclose in writing any agreement in existence prior to submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.

7. In the case of a new Telecommunication Tower, the Applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing Telecommunications Tower(s) or use of existing buildings or other structures within the Town. Copies of written requests and responses for shared use shall be provided to the Council.

8. The Applicant shall furnish written certification that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all local, Town, Commonwealth and Federal structural requirements for loads, including wind and ice loads.

9. The Applicant shall furnish written certification that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

10. The Applicant shall furnish a Visual Impact Assessment which shall include:

    a. A " Zone of Visibility Map" which shall be provided in order to determine locations where the Tower may be seen.

b. Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.

c. An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

11. Any and all representations made by the Applicant to the Council, on the record, during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Council.

12. The Applicant shall, in a manner approved by the Council, demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed Wireless Telecommunications Facilities base and all related facilities and structures.

13. All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Council may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Council, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

14. All Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facilities sites.

15. Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may required by the Town.

16. At a Telecommunications Site, an access road, turn around space, and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

17. A Person who holds a Special Use Permit for Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, Town, Commonwealth, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

18. A holder of a Special Use Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.

19. An Applicant shall submit to the Town the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be also be provided to the Amherst County Board of Supervisors by the Applicant at the same time the Application is filed with the Town.

20. The Applicant shall examine the feasibility of designing a proposed Telecommunications Tower to accommodate future demand for at least five (5) additional commercial applications, for example, future collocations. The scope of this examination shall be determined by the Council. The Telecommunications Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Telecommunications Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

    a. The foreseeable number of FCC licenses available for the area;

    b. The kind of Wireless Telecommunications Facilities site and structure proposed;

    c. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;

    d. Available space on existing and approved Telecommunications Towers.

21. The applicant shall submit to the Council a letter of intent committing the owner of the proposed new Tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed Tower by other Telecommunications providers in the future. This letter shall be filed with the Council. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the Special Use Permit. The letter shall commit the new Tower owner and their successors in interest to:

    a. Respond within 60 days to a request for information from potential shared-use applicant;

    b. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;

    c. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

22. Unless waived by the Council, there shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting

process. A pre-application meeting may also include a site visit if required. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

23. The holder of a Special Use Permit shall notify the Town of any intended modification of a Wireless Telecommunication Facility and shall apply to the Town to modify, relocate or rebuild a Wireless Telecommunications Facility.

24. In order to better inform the public, in the case of a new Telecommunication Tower, the applicant shall prior to the public hearing on the application, hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised, by the Applicant, at seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in Town and agreed to by the Council. The Applicant shall inform the Council, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least eight consecutive hours sometime between 7:00 am and 4:00 pm of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday.

25. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the Telecommunications Tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

**Section 18.1-914.7. Location of Wireless Telecommunications Facilities.**

1. Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority.

    1) On existing Telecommunications Towers or other tall structures without increasing the height of the tower or structure;
    2) Collocation on a site with existing Wireless Telecommunications Facilities or structures;
    3) On Town-owned properties;
    4) On other property in the Town.

2. If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

3. An Applicant may not by-pass sites of higher priority by stating the site presented is the only site leased or selected. An Application shall address collocation as an option and if such option is not proposed, the applicant must explain why collocation is Commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting collocation, shall not be a valid basis for any claim of Commercial Impracticability or hardship.

4. Notwithstanding the above, the Council may approve any site located within an area in the above list of priorities, provided that the Council finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants.

5. The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

6. The Applicant shall, in writing, identify and disclose the number and locations of any additional sites that the Applicant has been, is, or will be considering, reviewing or planning for Wireless Telecommunications Facilities in the County of Amherst, including the area within the Town of Amherst, for a two year period following the date of the Application.

7. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Council may disapprove an Application for any of the following reasons.

    a. Conflict with safety and safety-related codes and requirements;
    b. Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws;
    c. Conflict with the historic nature of a neighborhood or historical district;
    d. The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
    e. The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
    f. Conflicts with the provisions of this Ordinance.

8. The site must be located in a General Commercial District B-2, Business Park District E-1, or Industrial District M-1.

**Section 18.1-914.8. Shared use of Wireless Telecommunications Facilities and other structures.**

1. Shared use of existing Wireless Telecommunications Facilities shall be preferred by the Town, as opposed to the proposed construction of a new Telecommunications Tower. Where such shared use is unavailable, location of Antennas on other pre-existing structures shall be considered and preferred. The Applicant shall submit a comprehensive report inventorying existing Towers and other appropriate structures within four (4) miles of any proposed new Tower Site, unless the Applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as a preferred alternative to new construction. Such report shall clearly show ownership, operators, communication provider, and such other information as deemed relevant by the Zoning Administrator on or with a map.

2. An Applicant intending to share use of an existing Telecommunications Tower or other structure shall be required to document the intent of the existing owner to share use. In the event of an Application to share the use of an existing Telecommunications Tower does not increase the height of the Telecommunications Tower, the Council shall waive such requirements of the Application required by this Local Ordinance as may be for good cause shown.

3. Such shared use shall consist only of the minimum Antenna array technologically required to provide service within the Town, to the extent practicable, unless good cause is shown.

**Section 18.1-914.9. Height of Telecommunications Tower(s).**

1. The Applicant shall submit documentation justifying to the Council the total height of any Telecommunications Tower, Facility and/or Antenna and the basis therefor. Such justification shall be to provide service within the Town, to the extent practicable, unless good cause is shown.

2. Telecommunications Towers shall be no higher than the minimum height necessary unless waived by the Council upon good cause shown.
3. The maximum height of any Telecommunications Tower and attached Antennas constructed after the effective date of this Ordinance shall not exceed that which shall permit operation without artificial lighting of any kind, in accordance with municipal, Town, State, and/or any Federal statute, law, local law, ordinance, code, rule or regulation**.**

**Section 18.1-914.10. Visibility of Wireless Telecommunications Facilities.**

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by federal regulation or this Ordinance.

2. Telecommunications Towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Council, and shall be maintained in accordance with the requirements of this Ordinance.

3. If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen-hundred (1,500) feet of all property lines of the parcel on which the Wireless Telecommunications Facilities are located.

**Section 18.1-914.11. Security of Wireless Telecommunications Facilities.**

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, as follows:

a. All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

b. Transmitters and Telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

**Section 18.1-914.12. Signage.**

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or shed of the Applicant and be visible from the access point of the site and must identify the equipment shelter of the applicant. The sign shall not be lighted unless the Council shall have allowed such lighting or unless such lighting is required by applicable provisions of Ordinance. No other signage, including advertising, shall be permitted on any facilities, Antennas, Antenna supporting structures or Antenna Towers, unless required by Ordinance.

**Section 18.1-914.13. Lot Size and Setbacks.**

All proposed Wireless Telecommunications Facilities shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the Wireless Telecommunications Facility or the existing setback requirements of the underlying zoning district, whichever are greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

**Section 18.1-914.14. Retention of Expert Assistance and Reimbursement by Applicant.**

1. The Council may hire any consultant and/or expert necessary to assist the Council in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for recertification.

2. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be $8,500.00. The placement of the $8,500 with the Town shall precede the pre-application meeting. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than $2,500.00, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least $5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.

3. The total amount of the funds set forth in subsection (2) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed by the Council or its consultant/expert to complete the necessary review and analysis and inspection of any construction or modification. Additional escrow funds, as reasonably required and requested by the Town, shall be paid by the Applicant.

**Section 18.1-914.15. Exceptions from a Special Use Permit for Wireless Telecommunications Facilities.**

1. No Person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Special Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Special Use Permit shall be required for those exceptions noted in the definition of Wireless Telecommunications Facilities.

2. All Wireless Telecommunications Facilities existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any modification to existing Wireless Telecommunications Facilities must comply with this Ordinance.

**Section 18.1-914.16. Public Hearing and Notification Requirements.**

1. Prior to the approval of any Application for a Special Use Permit for Wireless Telecommunications Facilities, Public Hearings shall be held by the Amherst Town Planning Commission and Council, notice of which shall be published in a newspaper of record in accordance with the requirements for such Public Hearings as prescribed in Title 15.2 of the Code of Virginia, 1950 (as amended). In order

that the Town may officially notify nearby landowners, the Applicant, at the time of submission of the Application, shall be required to provide names and address of all landowners whose property is located within fifteen hundred (1500) feet of any property line of the lot on which the new Wireless Telecommunications Facilities are proposed to be located.

2. The Planning Commission and Town Council, respectively, shall schedule the Public Hearings referred to in Section 18.1-914.16.1 once it finds the Application is complete. The Council, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

3. The above provisions notwithstanding, if the application is for a zoning certificate for collocating antennae or appurtenances on an existing telecommunications or high structure, where no increase in height of the tower or structure is required, no Public Hearing will be required prior to the approval of the application and the Town Council will act as the zoning administrator for such applications. The Applicant shall be subject to the escrow and a consultant review requirement as outlined by this ordinance for such non-special use permit requirement applications.

**Section 18.1-914.17. Action on an Application for a Special Use Permit for Wireless Telecommunications Facilities.**

1. The Council will undertake a review of an Application pursuant to this Ordinance in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

2. The Council may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.

3. After the Public Hearing, if required, and after formally considering the Application, the Council may approve, approve with conditions, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the Applicant.

4. If the Council approves the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Council's action, and the Special Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Special Use Permit has been granted hereunder, no additional permits or approvals from the Town or Council, such as site plan or zoning approvals, shall be required by the Town or Council for the Wireless Telecommunications Facilities covered by the Special Use Permit.

5. If the Council denies the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Council's action.

**Section 18.1-914.18. Recertification of a Special Use Permit for Wireless Telecommunications Facilities.**

1. At any time between twelve (12) months and six (6) months prior to the five (5) year anniversary date after the effect date of the Special Use Permit and all subsequent fifth anniversaries of the effective date of the original Special Use Permit for Wireless Telecommunications Facilities, the holder of a Special Use Permit for such Wireless Telecommunication Facilities shall submit a signed written

request to the Council for recertification. In the written request for recertification, the holder of such Special Use Permit shall note the following:

a. The name of the holder of the Special Use Permit for the Wireless Telecommunications Facilities;
b. If applicable, the number or title of the Special Use Permit;
c. The date of the original granting of the Special Use Permit;
d. Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise modified since the issuance of the Special Use Permit and if so, in what manner;
e. If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise modified, then whether the Council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
f. Any requests for waivers or relief of any kind whatsoever from the requirements of this Ordinance and any requirements for a Special Use Permit;
g. That the Wireless Telecommunications Facilities are in compliance with the Special Use Permit and compliance with all applicable codes, Ordinances, rules and regulations and laws;
h. Recertification that the Telecommunication Tower and attachments both are designed and constructed ("As Built") and continue to meet all local, Town, Commonwealth of Virginia, and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified Virginia licensed Professional Engineer, the cost of which shall be borne by the Applicant.

2. If, after such review, the Council determines that the permitted Wireless Telecommunications Facilities are in compliance with the Special Use Permit and all applicable statutes, laws, local ordinances, codes, rules and regulations, then the Council shall issue a recertification Special Use Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, laws, local ordinances, codes, rules and regulations. If, after such review, the Council determines that the permitted Wireless Telecommunications Facilities are not in compliance with the Special Use Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Council may refuse to issue a recertification Special Use Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of such decision by the Council. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

3. If the Applicant has submitted all of the information requested by the Council and required by this Ordinance, and if the Council does not complete its review, as noted in Section 18.1-914.18.2, prior to the five (5) year anniversary date of the Special Use Permit, or subsequent fifth anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the Special Use Permit for up to six (6) months, in order for the Council to complete its review.

4. If the holder of a Special Use Permit for Wireless Telecommunications Facilities does not submit a request for recertification of such Special Use Permit within the timeframe noted in Section 18.1-914.18.1, then such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Special Use Permit, or subsequent fifth anniversaries, unless the holder of the Special Use Permit adequately demonstrates to the Council that extenuating circumstances prevented a timely recertification request. If the Council agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late recertification request or Application for a new Special Use Permit.

**Section 18.1-914.19. Extent and Parameters of Special Use Permit for Wireless Telecommunications Facilities.**

1. The extent and parameters of a Special Use Permit for Wireless Telecommunications Facilities shall be as follows:

    a. Such Special Use Permit shall be non-exclusive;

    b. Such Special Use Permit shall not be assigned, transferred or conveyed without the express prior written notification of the Council.

    c. Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit for Wireless Telecommunications Facilities, or for a material violation of this Ordinance after prior written notice to the Applicant and the holder of the Special Use Permit.

**Section 18.1-914.20. Application Fee.**

1. At the time that a person submits an Application for a Special Use Permit for a new Telecommunications Tower, such person shall pay a non-refundable application fee of $5,000.00 to the Town. If the Application is for a Special Use Permit for collocating on an existing Telecommunications Tower or high structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be $2,000.00.

2. No Application fee is required in order to recertify a Special Use Permit for Wireless Telecommunications Facilities, unless there has been a modification of the Wireless Telecommunications Facilities since the date of the issuance of the existing Special Use Permit for which the conditions of the Special Use Permit have not previously been modified. In the case of any modification, the fees provided in Section 18.1-914.20.1 shall apply.

**Section 18.1-914.21. Performance Security.**

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall at its cost and expense, be jointly required to execute and file with the Town a bond, or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount of at least $75,000.00 and with such sureties as are deemed sufficient by the Council to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until the removal of the Wireless Telecommunications Facilities, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Use Permit and shall entitle the Council to revoke the Special Use Permit after prior written notice to the Applicant and holder of the permit and after a hearing upon due prior notice to the Applicant and holder of the Special Use Permit.

**Section 18.1-914.22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.**

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, Ordinances, regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's

placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

**Section 18.1-914.23. Annual NIER Certification.**

The holder of the Special Use Permit shall, annually, certify in writing to the Town that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer must be licensed to practice engineering in the Commonwealth of Virginia.

**Section 18.1-914.24. Liability Insurance.**

1. A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below:

    a. Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;
    b. Automobile Coverage: $1,000,000.00 per occurrence/ $2,000,000 aggregate;
    c. Workers Compensation and Disability: Statutory amounts.

2. The Commercial General liability insurance policy shall specifically include the Town and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional named insureds.

3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the Commonwealth and with a Best's rating of at least A.

4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

5. Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

6. Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

**Section 18.1-914.25. Indemnification.**

1. Any application for Wireless Telecommunication Facilities that is proposed for Town property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Ordinance, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at Ordinance or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced

herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

2. Notwithstanding the requirements noted in Section 18.1-914.25.1, an indemnification provision will not be required in those instances where the Town itself applies for and secures a Special Use Permit for Wireless Telecommunications Facilities.

**Section 18.1-914.26. Fines.**

1. In the event of a violation of this Ordinance or any Special Use Permit issued pursuant to this Ordinance, the Council may impose and collect, and the holder of the Special Use Permit for Wireless Telecommunications Facilities shall pay to the Town, fines or penalties as set forth below.
2. A violation of this local Ordinance is hereby declared to be a Class I misdemeanor. Each week's continued use shall constitute a separate additional violation.

3. Notwithstanding anything in this Ordinance, the holder of the Special Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The Town may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the Town.

**Section 18.1-914.27. Default and/or Revocation.**

1. If Wireless Telecommunications Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Special Use Permit, then the Council shall notify the holder of the Special Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven (7) days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Council may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

2. If within the period set forth in Section 18.1-914.27.1 the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Ordinance, or of the Special Use Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the Council may revoke such Special Use Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Special Use Permit within forty-eight (48) hours of such action.

**Section 18.1-914.28. Removal of Wireless Telecommunications Facilities.**

1. Under the following circumstances, the Council may determine that the health, safety, and welfare interests of the Town warrant and require the removal of Wireless Telecommunications Facilities.

    a. Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

b. Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

c. Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization.

2. If the Council makes such a determination as noted in subsection (1) of this section, then the Council shall notify the holder of the Special Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the Council may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

3. The holder of the Special use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Council. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Council.

4. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the permit holder has received notice, then the Council may order officials or representatives of the Town to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

5. If, the Town removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the Town may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

6. Notwithstanding anything in this Section to the contrary, the Council may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the Council, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the Town. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Town may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

**Section 18.1-914.29. Relief.**

Any Applicant desiring relief or exemption from any aspect or requirement of this Ordinance may request such from the Council at a pre-Application meeting, provided that the relief or exemption is contained in the original Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Council. However, the burden of proving the need for the requested relief or exemption, is solely on the Applicant to prove to the satisfaction of the Council. The Applicant shall bear all costs of the Council or the Town in considering the request and the relief shall not be transferable to a new or different holder of the permit

or owner of the Tower or facilities without the specific written permission of the Council. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief or exemption will have no significant affect on the health, safety and welfare of the Town, its residents and other service providers.

**Section 18.1-914.30. Periodic Regulatory Review by the Council.**

1. The Council may at any time conduct a review and examination of this entire Ordinance.

2. If after such a periodic review and examination of this Ordinance, the Council determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, then the Council may take whatever measures are necessary in accordance with applicable Ordinance in order to accomplish the same. It is noted that where warranted, and in the best interests of the Town, the Council may repeal this entire Ordinance at any time.

3. Notwithstanding the provisions of Sections 30.1 and 30.2, the Council may at any time, and in any manner (to the extent permitted by Federal, Commonwealth, or local Ordinance), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

**Section 18.1-914.31. Adherence to State and/or Federal Rules and Regulations.**

1. To the extent that the holder of a Special Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

2. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**Section 18.1-914.32. Conflict with Other Ordinances.**

Where this Ordinance differs or conflicts with other laws, ordinances, rules and regulations, unless the right to do so is preempted or prohibited by the Town, Commonwealth of Virginia, or federal government, the more restrictive or protective of the Town and the public shall apply.

The provisions of this section 18.1-914 shall override any conflicting provisions of Chapter 18.1 of the Town Code.

**Sec. 18.1-915. Flood Plains**

**Sec. 18.1-915.1.1. Purpose.**

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and

unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage.

D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

**Sec. 18.1-915.1.2 Applicability.**

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

**Sec. 18.1-915.1.3 Compliance and Liability.**

A. No land shall hereafter be developed and no structure shall be relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on accepted 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.

C. This ordinance shall not create liability on the part of the Town of Amherst or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Sec. 18.1-915.1.4 Abrogation and Greater Restrictions.**

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

**Sec. 18.1-915.1.5 Severability.**

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

**Sec. 18.1-915.1.6 Penalties.**

A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the zoning officer or any other authorized employee of the Town of Amherst shall be guilty of a misdemeanor of the first class and subject to the penalties therefore.

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

**Sec. 18.1-915.2Definitions.**

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

B. *Board of Zoning Appeals* - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

C. *Development* - Any man-made change to improved or unimproved real estate, including, but limited to, buildings and other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operation, or storage of equipment or materials.

D. *Existing Manufactured Home Park/Subdivision* - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.

E. *Expansion to an Existing Manufactured Home Park or Subdivision* - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

F. *Flood* - A general and temporary inundation of normally dry land areas.

G. *Flood-Prone Area* - Any land area susceptible to being inundated by water from any source.

H. *Floodplain* - (a) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) an area subject to the usual and rapid accumulation or runoff of surface water from any source.

I. *Floodway* - The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordnance, the floodway shall be capable of accommodating a flood of the one hundred (100)-year magnitude.

J. *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 historical 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:

(1) By an approved state program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in states without approved programs.

K. *Manufactured Home* - This term shall take the meaning described in the definition section of the Town of Amherst Zoning and Subdivision Ordinance.

L. *Manufactured Home Park/Subdivision* - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

M. *New Construction* - For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective of an initial FIRM (Flood Insurance Rate Map) 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.

O. *New Manufactured Home Park/Subdivision* - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.

P. *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.

Q. *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 a 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.

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

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

**Sec. 18.1-915.3 Establishment of Flood Plain Districts**

**Sec. 18.1-915.3.1. Description of Districts**

A. Basis of Districts

The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Town of Amherst prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 19, 2007, as amended.

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 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 II of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and floodway Map or flood Insurance Rate Map.

2. The Flood-Fringe District shall be that area of the 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 Boundary and Floodway Map or Flood Insurance Rate Map.

3. The Special Floodplain District shall be that floodplain area for which base flood elevations have been provided in the FIS and FIRM but for which no floodway has been delineated. Such areas are shown as Zone AE on the maps accompanying the FIS.

4. The Approximated Floodplain District shall be that floodplain area for which no delineated flood profiles or elevations are provided, but where the one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from other federal, state, or other acceptable source shall be used, when available. When such other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest to the construction site.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

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

3. In the event any provisions concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

**Sec. 18.1-915.3.2 Official Zoning Map.**

The boundaries of the Floodplain Districts are established as shown on the **Flood Insurance Rate Map** which is declared to be part of this ordinance and which shall be kept on file at the Town offices.

**Sec. 18.1-915.3.3 District Boundary Changes.**

The delineation of any of the Floodplain Districts may be revised by the town council 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 such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

**Sec. 18.1-915.3.4 Interpretation of District Boundaries.**

Initial interpretation of the boundaries of the floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**Sec. 18.1-915.4. District Provisions**

**Sec. 18.1-915.4.1 General Provisions**

A. *Permit Requirement*

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Amherst Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. *Alteration or Relocation of Watercourses*

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, 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.

C. *Site Plans and Permit Applications*

All applications for development in the Floodplain District and all building permits issued for the floodplain shall incorporate the following information.

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

2. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.

3. The elevation of the one hundred (100)-year flood.

4. Topographic information showing existing and proposed ground elevation.

D. *Manufactured Homes*

1. Manufactured homes that are placed or substantially improved on sites:

   (i) outside of a manufactured home park or subdivision.

   (ii) in a new manufactured home park or subdivision;

   (iii) in an expansion to an existing manufactured home park or subdivision, or

   (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, 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 flotation, collapse and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of paragraph one above shall be elevated so that either

   ( i) The lowest floor of the manufactured home is at or above the base flood elevation, or

   (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. *Recreational Vehicles*

Recreational vehicles placed on sites either:

(i) Be on the site for fewer than 180 consecutive days, and

(ii) Be fully licensed and ready for highway use,

(iii) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in paragraph 4.1 D. above.

**Sec. 18.1-915.4.2 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.

**Sec. 18.1-915.4.3 Flood-Fringe, Special Floodplain and Approximated Floodplain Districts.**

A. In the Flood-Fringe, Special Floodplain and Approximated Floodplain Districts 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 floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

B. Standards for the Special Floodplain District. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special floodplain district, designated as Zones AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the Town.

**Sec. 18.1-915.4.4 Decision Criteria for Utilities and Facilities**

A. *Sanitary Sewer Facilities*

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) 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.

B. *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.

C. *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. The town council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. *Utilities*
All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

E. *Streets and Sidewalks*
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.

**Sec. 18.1-915.5. Variances: Factors to be considered.**

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

B. The danger that materials may be swept on to other lands or downstream to the injury to others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

E. The importance of the services provided by the proposed facility to the community.

F. The requirements of the facility for a waterfront location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access by ordinary and emergency vehicles to the property in time of flood.

K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and variance is the minimum necessary to preserve the historic character and design of the structure.

M. Such other factors which are relevant to the purposes of this ordinance.

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

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

Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 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.

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

**Sec. 18.1-915.6. Existing Structures in floodplain districts.**

The substantial damage or improvement of any structure shall require full compliance with the provisions of section 18.1-915.

*(Amended September 12, 2007)*

**Sec. 18.1-916. Confined livestock facilities.**

**Sec. 18.1-916.01 Intent**

The Town of Amherst recognizes that the operation of large-scale confined animal feeding facilities can have a substantial adverse impact on the quality of life for property owners in nearby areas thereby requiring standards and guidelines for their siting and operation. It is the intent of this section to promote economic development and to preserve farmland by providing for the continued security of the

Town of Amherst's rural residential/agricultural environs by encouraging limited, orderly and responsible growth of livestock, dairy and poultry industry.

**Sec. 18.1-916.02 Definitions**

*Animal unit* means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, (Reference 9VAC25-31-10 of the Virginia Administrative Code) or 1,000 pounds of live weight of any other given livestock species or any combination of other livestock species (Reference 7 CFR 1466.3).

*Confined livestock facility* means a livestock facility that stables, confines, feeds, or maintains animals for a total of 45 days or more in any 12-month period and does not sustain crops, vegetation, forage growth, or post-harvest residues within the confined area in the normal growing season over any portion of the confinement facility (Reference 7 CFR 1466.3).

**Sec. 18.1-916.03 Uses allowed subject to special use approval**

*Residential, commercial or industrial districts.* Confined livestock facilities of more than 50 animal units or keeping of more than 2 animal units per acre shall not be permitted in any residential, commercial or industrial district.

*Agricultural districts.* Confined livestock facilities with more than 100 animals regardless of sex, age or weight or more than 50 animal units or keeping more than 2 animal units per acre in all agricultural districts are subject to special use approval. In no event shall any one confined livestock operation be permitted to have more than 299 animal units in any agricultural district.

**Sec. 18.1-916.04 Application requirements for confined livestock facilities**

All applications for a special use approval in connection with a confined livestock facility shall include the following.

1. *Other approvals*. The applicant shall provide certifications that all required state and federal permits and approvals have been granted along with the request for approval of the confined livestock facility. Such certifications shall include a nutrient management plan issued by the Virginia Department of Conservation and Recreation or other appropriate agency. If off-site disposal is part of the nutrient management plan, the applicant shall provide written documentation of an agreement with the receiver of the wastes produced at the confined livestock facility. Such documentation shall specify the duration of the agreement and the nature of the application or use of the wastes.

2. *Documentation*. The applicant shall supply a site plan and other materials as deemed appropriate by the Zoning Administrator to document the proposed facilities. The applicant shall supply a survey, prepared by a land surveyor or engineer licensed by the Commonwealth of Virginia, of the entire parcel or parcels of land upon which the confined livestock facility is proposed to be situated. The survey shall show that the proposed confined livestock facility meets all applicable separation requirements by showing the direction and distance to the nearest applicable feature.

3. *Well data*. The applicant shall supply baseline well water data from all adjoining property owners with a water supply well. In the event an adjoining owner refuses permission for a well water test, the applicant shall provide a documentary record of its request to perform the test and the property owner's refusal to grant permission. The applicant shall submit with the

data a correlated list of the names and addresses of the adjoining property owners and a map noting tested well locations. At a minimum, the well testing shall address the following:

| Parameter | Unit |
|---|---|
| Static water level | Ft |
| Ammonia Nitrogen | Mg/l |
| Nitrate Nitrogen | Mg/l |
| PH | SU |
| Conductivity | Umhos/cm |

4. *Applicant*. The applicant for all permits must be a resident of the Town of Amherst and the property owner.

5. *Fees*. Any costs associated with review of the application by the Town of Amherst by an engineer of any of the above-required information shall be paid by the applicant.

**Sec. 18.1-916.05 Separation requirements for confined livestock facilities**

All structures and wastewater treatment facilities associated with confined livestock facilities shall meet the following minimum separation distances in addition to all setback and yard requirements found elsewhere in this ordinance:

1. 1,500 feet from any house not located on the property owned by the applicant.

2. 1,000 feet from a residential zoning district.

3. 2,500 feet from a public place such as a college, school, courthouse, library or church.

4. 1,000 feet from a perennial stream as indicated on the 7.5 minute U.S.G.S. topographic survey maps.

5. 1,000 feet from a state maintained road and not visible from a state maintained road.

**Sec. 18.1-916.06 Required findings for confined livestock facilities**

Prior to approving any application for a special use approval which would allow a confined livestock facility, the Town Council shall be satisfied that the odors generated by the proposed facilities will not be objectionable to any resident or business operator located either inside or outside the corporate limits of the Town of Amherst.

**Sec. 18.1-917. Planned unit development.**

**Sec. 18.1-917.01. Intent of the planned unit development requirements.**

The planned unit development concept, hereinafter referred to as PUD, is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for residential and other selected secondary uses. PUDs are intended to provide flexibility in the development of large tracts of land through the waiver of certain lot, setback and use restrictions, and should provide for increased amenities, safety and conveniences, reduced public and private costs and other public and private benefits.

**Sec. 18.1-917.02. Planned unit development designation.**

A development shall be designated a PUD only when it meets all requirements herein and is approved by the town council.

**Sec. 18.1-917.03. Permitted uses.**

Within a PUD, the following uses are permitted, subject to the approval of the town council:

1. Single-family dwellings.
2. Two-family dwellings.
3. Multi-family dwellings.
4. Townhouses.
5. Condominiums.
6. Commercial uses (including retail shops, specialty shops, convenience/grocery stores).
7. Automobile service stations as provided in Section 902 herein.
8. Swimming pools and tennis courts.
9. Marinas, docks and boating facilities of a commercial or club type.
10. Churches, manses, parish houses.
11. Schools.
12. Day care centers.
13. Parks and playgrounds.
14. Community center.
15. Theaters, indoor.
16. Library.
17. Signs as provided in Section 908 herein.
18. Offices.
19. Restaurants, cafés, dining establishments.
20. Lodging facilities.
21. Golf courses, driving ranges, and club houses.
22. Other compatible uses approved by the town council.
23. Emergency services.
24. Utilities intended to serve dwellings and businesses within their service area in the PUD.
25. Private streets in accordance with Section Sec. 18.1-917.09.

**Sec. 18.1-917.04. Minimum acreage of development.**

The minimum acreage for developing a PUD is fifteen (15) contiguous acres.

1. Additional land area may only be added to an existing PUD if approved by the town council as an amendment to the special use permit authorizing the PUD, and provided the additional acreage is adjacent (except for public roads) thereto, forms a logical addition to the existing PUD, and is being developed by the same developer(s).

2. Amendments to special use permits must comply with the requirements of Section 1003.03 related to special use permits generally.

**Sec. 18.1-917.05. Density requirements.**

Within a PUD, the following maximum density requirements shall be adhered to:

| **Residential Use** | **Public Water and On-Site Sewerage Systems** | **Non-public Water and On-site Sewerage System** | **Non-public Water and On-site Sewerage System** |
|---|---|---|---|
| **Single-family dwellings** | 5 dwelling units/acre | 2 dwelling units/acre | 1.5 dwelling units/acre |
| **Two-family dwellings** | 8 dwelling units/acre | 4 dwelling | 3 dwelling |

| | | | |
|---|---|---|---|
| | | units/acre | units/acre |
| **Multi-family dwellings, townhouses and condominiums** | 10 dwelling units/acre | 5 dwelling units/acre | 4 dwelling units/acre |

**Sec. 18.1-917.06. Use coverage.**

The maximum or minimum coverage of the total land area being developed as a PUD shall not exceed the following:

1. Residential uses – Maximum Between 40% - 60%
2. Open space (excluding parking area) – Minimum of 20% usable area
3. Recreational uses (including Golf Courses [but not any accessory commercial uses]) – Minimum of 10% usable area
4. Commercial uses – Minimum of 10%
5. Other uses – Maximum of 10%

**Sec. 18.1-917.07. Application of minimum lot area, lot width and yard setback requirements.**

The minimum lot area, lot width and yard setback requirements herein and in the town's subdivision regulations are hereby waived except as follows:

| **Residential Use** | **Minimum Lot Area (sq ft)** | **Minimum Lot Width** | **Minimum Front** | **Yard Side** | **Setback Rear** |
|---|---|---|---|---|---|
| **Single-family dwellings** | 4,000 | 50' | 20' | 10' | 15' |
| **Two-family dwellings** | 6,000 | 60' | 20' | 10' | 15' |
| **Townhouses** | 1,200 | 16' | 10' | (a) | 25' |

(a) The minimum side yard setback shall be sixteen (16) feet at each end of a group of townhouse units.

**Sec. 18.1-917.08. Maximum height of buildings.**

The maximum height restrictions for residential and other uses within the PUD shall be as follows:

1. Single-family dwellings . . . 35 feet.
2. Two-family dwellings . . . 40 feet.
3. Townhouses . . . 45 feet
4. Multi-family dwellings (including condominiums) . . . 80 feet
5. Other uses . . . 45 feet

**Sec. 18.1-917.09. Streets and utilities.**

All streets and utilities within the PUD shall meet the following requirements:

1. The traffic circulation pattern, the street dimensions, curbs and gutters (if provided) and curb cuts shall meet the specifications of the Virginia Department of Transportation and Section 33.1-197 and 198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of

the Entrances to State Highways and be approved by the resident engineer. The town council may permit private roads designed to adequately handle projected traffic, as shown by a licensed engineer, and which will be perpetually maintained.

2. All dwelling units shall be connected to water and sewerage systems approved by the health department and shall be open to inspection.

3. If a single-family or a two-family dwelling cannot be connected to a public or common on-site sewerage system and must maintain a single on-site sewerage system, the lot area requirements of the respective zoning district in which the PUD is located shall prevail.

4. All utilities shall be underground.

**Sec. 18.1-917.10. Parking requirements.**

Off-street parking and loading spaces shall meet the requirements set forth in Sections 602 and 603 herein. Required parking spaces shall be provided within the perimeter of the PUD and no farther than two hundred (200) feet from the facilities served. Off-street parking and loading areas shall be screened from residential areas and shall be designed to produce the minimum possible interference with pedestrian circulation within the PUD.

**Sec. 18.1-917.11. Maintenance of open space.**

The developer of the PUD shall establish a non-profit association, corporation, trust or foundation of all individuals or corporations owning property within the PUD to insure the maintenance of open spaces. Said organization shall conform to the following requirements:

1. The developer must establish the organization prior to the sale of any lot or property and shall relinquish control of said organization when voted upon by the membership of the organization.

2. Membership in the organization shall be mandatory for all property owners, present and future, within the PUD and said organizations shall not discriminate in its members or shareholders.

3. The organization shall manage all open space, and recreational and cultural facilities, shall provide for the maintenance, administration and operation of said land and improvements and shall secure adequate liability insurance on the land and other common areas.

4. The organization shall conform to the Condominium Act, Sections 55-79.39 through 55-79.103, Code of Virginia, 1950, as amended.

For all dwelling units within the PUD which are leased, the owners/managers of such units shall be responsible for such maintenance.

**Sec. 18.1-917.12. Other amenities.**

In addition to other requirements herein, all PUDs shall meet the following minimum requirements for recreation areas, screenings and walks:

1. Tot lots and swimming areas shall be adequately enclosed, and all recreational areas shall be located away from the concentrations of vehicular traffic.

2. Fencing or vegetation screening shall be provided to a height of six (6) feet and of such a density that no part of the development shall be visible to a casual observer on any side of the

development abutting any yard of a residential or nonresidential structure. Provided that where natural features such as topography or natural vegetation are preserved and prevent the development from being casually visible from adjoining properties, the Board of Zoning Appeals may waive requirements for screening. Fencing where required shall be maintained in a safe condition, shall be painted, and shall be kept in good repair.

3. Common walks or trails, either paved or unpaved, of a width of at least four (4) feet shall be provided on at least one (1) side of all streets, and wherever concentrations of pedestrian traffic can be expected, as between recreational facilities, walks and trails may be incorporated into the street curb. Walk grades shall not exceed ten percent (10%); lights shall be provided to sufficiently illuminate steps.

**Sec. 18.1-917.13. Application Requirements.**

1. Planned Unit Developments shall be established by special use permit in zoning districts where PUDs are permitted. The Application for a PUD shall be accompanied by a development master plan.

2. The development master plan shall contain the following data, together with supplementary data for a particular development, as reasonably deemed necessary by the Zoning Administrator.

    a. Development site information:
        (i) Vicinity map at a scale of not less than one inch equals two thousand feet (1" = 2000').
        (ii) Boundary survey including area of the tract related to true meridian or U.S. Geological Survey State grid north.
        (iii) Total area of the tract.
        (iv) Abutting street names, widths, and route numbers.
        (v) Owners, zoning districts, and uses of each adjoining tract.
        (vi) Topographic map with maximum contour intervals of five (5) feet and a scale of not less than one hundred (100) feet to the inch.
        (vii) Flood plain limits.

    b. Development design information:
        (i) A concept plan, illustrating the location and functional relationship between all proposed land uses.
        (ii) Land use plan or plans showing the location and arrangement of all proposed land uses; the building setbacks from the development boundaries and adjacent streets, roads, alleys and ways; the proposed traffic circulation pattern including the location and width of all streets, driveways, walkways and entrances to parking areas; and all off-street parking and loading areas.
        (iii) A plan showing the location and design of all landscaping and screening.
        (iv) A plan or statement detailing the exact number of improved, developed and recreational open space, and all covenants, restrictions and conditions pertaining to the use, maintenance and operation of common spaces, and the percentage of the tract to be used as open space.
        (v) When the development is to be constructed in phases, a phasing plan and schedule shall be provided showing the order of development for each phase and the approximate completion date. A cost estimate for all on-site and off-

site public improvements within each phase shall be submitted with the site plan for that phase.

(vi) A plan or report indicating the extent, timing, and estimated cost of all on-site and off-site improvements such as roads, water, sanitary sewer, and drainage facilities necessary to construct the proposed development, said plan or report shall correspond to the sequence of development schedule if the development is to be constructed in phases.

(vii) A statement showing the relationship of the planned development to the comprehensive plan.

(viii) A traffic impact analysis.

**Sec. 18.1-917.14. Procedure.**

1. Applicants are required to meet with the zoning administrator and other qualified officials in a pre-application conference to review the proposed development master plan and original proposal prior to submittal. The purpose of such conference shall be to assist in bringing the application and material submitted therewith as nearly as possible into conformity with these or other regulations applying in the case, and/or to define specific variations from the application of these regulations which would otherwise apply which seem justified in view of equivalent service of the public purposes for such regulation.

2. Applications for PUD special use permits shall be heard by the Planning Commission pursuant to the same procedure utilized for other special use permit requests, including procedures adopted to comply with the notice provisions of Section 15.2-2204 of the Code of Virginia.

3. In making a recommendation on a PUD, the Planning Commission shall specifically include findings as to:

    a. the suitability of the tract for the general type of PUD proposed in terms of its relation to the comprehensive plan, physical characteristics of the land, and its relation to surrounding area;
    b. its relation to major roads, utilities public facilities and services;
    c. the adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees or other instruments, or the need for such instruments or for amendments in those proposed; and
    d. specific modifications in PUD or general regulations as applied to the particular case, based on a determination that such modifications are necessary or justified by demonstration that the public purposes of PUD or general regulations as applied would be satisfied to at least an equivalent degree by such modifications.

4. Based on such findings, the Planning Commission shall make a recommendation on the application which recommendation may include, the approval of the PUD special use permit as proposed, approval conditioned upon stipulated modifications, or disapproval.

5. On applications for PUD special use permits, the town council shall proceed in general as provided for other applications for special use permits, including provisions adopted to comply with the notice provisions of Section 15.2-2204 of the Code of Virginia.

6. All terms, conditions, safeguards, and stipulations made at the time of PUD special use permit approval including the approval of the development master plan, with or without specified modifications, shall be binding upon the applicant or any successors in interest. Deviations from approved plans or failure to comply with any requirements, conditions or safeguards shall constitute a violation of these zoning regulations.

7. The granting of the PUD special use permit, and the approval of the development, with or without specified modifications, shall not constitute the recording of a plat, nor shall it authorize the issuance of building permits. Such action shall be undertaken only after the approval of the site plan and the recording of a subdivision plat, if applicable.

**Sec. 18.1-917.15. Effect of approval.**

1. Once a special use permit approving a PUD has been granted, modifications or amendments to the PUD development master plan may only occur through the amendment of the special use permit in accordance with Section 1003.03 related to special use permits generally, except that minor deviations from the development master plan may be permitted when the Zoning Administrator determines that such are necessary due to the requirements of topography, drainage, structural safety or vehicular circulation, and such deviations will not materially alter the character of the approved development plan including the proposed development sequence. In no case shall such deviations include the addition or elimination of any building shown on the approved development, increase the density or increase the floor area.

2. Once a special use permit approving a PUD has been granted, only the uses permitted as part of the special use permit shall be allowed, notwithstanding any other by-right or permitted uses otherwise allowed in the underlying zoning district. Where conflicts occur between the special provisions herein and general zoning, subdivision or other regulations or requirements, these special regulations shall apply unless expressly prohibited by the general law, or unless the town council shall find, in the particular case that:

    a. Provisions in this section do not serve public purposes to a degree at least equivalent to general zoning, subdivision or other regulations or requirements or:
    b. Actions, designs or solutions proposed by the applicant, although not literally in accord with these special or general regulations, satisfy public purposes to at least an equivalent degree.

**Sec. 18.1-918. Adult entertainment establishments.**

Any adult entertainment establishment, including adult book stores, adult motion picture theaters, stores selling sex implements, and/or selling or renting pornographic movies with a rating more restrictive than "R", clubs, bars, lounges and the like where dancers perform nude or partially nude resulting in the display of specified anatomical areas, massage parlors, drug paraphernalia stores, and the like shall be subject to the following standards:

**A. No adult entertainment establishments shall be permitted:**

1. Within two (2) miles of any other existing adult entertainment establishment; and

2. Within one thousand feet (1,000') of any existing residential use or residentially zoned district, or any of the following uses:

a. Churches, monasteries, chapels, synagogues or convents;

b. Public and private schools, up to and including the 12th grade, and their adjunct play areas, and colleges:

c. Public playgrounds, community swimming pools, public parks and public libraries.

3. For the purpose of spacing, distances shall be measured:

From all property lines of any parcel or district.

**B. Signs and other visible messages.**

1. *Signs:*

a. Sign messages shall be limited to verbal description of material or services available on the premises.

b. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.

c. Sign shall meet all additional requirements contained in this ordinance.

2. *Other visible messages.* Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentations of persons performing or services offered on the premises.

**DEFINITIONS**

**Terms defined.**

*Adult book store.* An establishment having a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matte depicting, describing or related to "specified sexual activities" or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such material.

*Adult entertainment establishment.* Any regulated use such as an adult book store, adult motion picture theater, cabaret, massage parlor, drug paraphernalia store, adult video tape stores, strip lounges.

*Adult motion picture theater.* An enclosed building with a capacity of 1 to more than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" for observation by patrons.

*Strip Lounge.* An adult club, lounge, restaurant, or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers exhibiting "specified anatomical areas" or performing "specified sexual activities".

*Drug paraphernalia store.* Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession of is subject to the provisions of the "The Drug Control Act", the Code of Virginia, tit. 54.1, including, but not limited to, water pipes, pipe "screens", hashish pipes, "roach" clips, "coke" spoons, "bongs", and marijuana cigarette rolling paper.

*Massage parlor.* Any place where manipulation of body tissues for any purpose is conducted and the owners and employees are not a physician, chiropractor, osteopath, naturopath or physical therapist duly licensed by the Commonwealth, nor a massage therapist certified by the State Board of Nursing.

*Specified anatomical areas.* Such areas include less than completely and opaquely covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola, and human male genitals in a discernible turgid state, even if completely and opaquely covered.

*Specified sexual activities.* Such activities include human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

**Sec. 18.1-919. Traffic impact review.**

**Sec. 18.1-919.1 Purpose.**

A direct correlation exists between land development decisions and traffic operations. Development pressures within the Town of Amherst have created the potential for the inadequate operation of roadways within the Town. The intent of this section is to establish requirements for the analysis and evaluation of transportation impacts created by proposed developments. Development involving significant amounts of traffic shall be evaluated to ensure that adequate capacity is provided to safely and conveniently accommodate traffic demands.

A traffic impact study assesses the impact of a proposed development, zoning change, or special use approval on the transportation system. Its purposes are (1) to ensure that proposed developments or zoning changes do not adversely affect the existing transportation network, (2) to identify any traffic problems associated with access from the site to the existing transportation network, (3) to outline solutions to potential problems, and (4) to present improvements to be incorporated into the proposed development.

In order to facilitate the planning necessary to accomplish an effective and efficient transportation system, the Town has developed guidelines for a traffic impact study (study) which identifies general criteria that applicants should address in assessing the transportation impacts of their proposed developments. The purpose of the study guidelines is to standardize the submission of information regarding the impact resulting from development on the immediate transportation network. A study, if required, is to be submitted with a rezoning application or special use permit application or submittal of a subdivision plan or site plan.

**Sec. 18.1-919.2 Responsibility.**

The owner/developer (applicant) has the responsibility for assessing the traffic impacts for a proposed development. The Town, with assistance from the local Virginia Department of Transportation (VDOT) office serves in a review capacity only. This determination should be made in the early planning stages of a project through the use of the preliminary conference.

**Sec. 18.1-919.3 Determination of need.**

Each proposed development will be evaluated based on the conditions surrounding the location and the future land use plans as shown in the Comprehensive Plan. Those applications (rezoning and special use permits) and plans (subdivision or site plan) whose development will generate greater than five hundred (500) vehicle trips per day shall submit a study that addresses the criteria outlined in this section. Applications and plans whose development will generate less than five hundred (500) vehicle trips per day shall submit a study that addresses the criteria unless such is waived by the zoning administrator who may use several factors in determining whether a study is required. These factors include, but are not limited to, the following: access onto a roadway classified as an arterial road, the potential impact upon the local and regional road network, the capacity and level of service on the adjacent roadways that will serve the development, roadway geometrics, the type and size of the proposed development, traffic operations at all intersections which provide access to the site, and issues of safety and/or traffic operations.

**Sec. 18.1-919.4 Study area.**

The study area to be addressed by the applicant should be regional in nature and should include all roadways and major intersections affected by the proposed development. The area to be studied should be discussed with during the preapplication conference. The extent of the study area will be determined by the size of the proposed development, type of development, existing and future land uses in the area, and the existing and future transportation network. All traffic proposed to be generated by approved, but unbuilt, development in the study area should be included in the transportation network analysis. This includes all approved subdivision plans, site plans and zoned property. The duration of the study period should include the anticipated build-out of the project plus one additional year to ensure accurate projection of traffic impacts.

**Sec. 18.1-919.5. Trip generation rates.**

Trip generation rates may be obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual (average trip generations), except for residential land uses which should use the following rates:

| *Housing Type* | *Trip Generation Rate* |
|---|---|
| *Single Family Dwelling Unit* | *10 Trips/Day/Unit* |
| *Townhouse* | *8 Trips/Day/Unit* |
| *Apartment/ Condominium* | *6 Trips/Day/Unit* |

Applicants may use other generally accepted documents (such as the Federal Highway Administration's Development of Trip Generation Rates or the Virginia Highway and Transportation Research Council's Special Land Use Trip Generation in Virginia) to obtain trip generation rates, but supporting documentation relative to the rationale for those rates must also be provided. These same general guidelines shall apply to the generation of peak hour flows at major intersections. In the determination of these rates, applicants are encouraged to provide up-to-date (within twelve months from the application date) peak hour traffic counts for all applicable intersections. This may be accomplished through the applicant preparing actual traffic counts (utilizing VDOT performance criteria) or adjusting older VDOT traffic counts (not to be more than three years old) with appropriate population projection data.

In determining the "build out" for undeveloped parcels in the area, three-fourths (75%) of the maximum allowable residential density should be assumed along with a floor area ratio of 0.25 for retail uses, and 0.4 for office uses, except in cases where the Town has been given assurances as to the total residential and commercial development perceived for a given tract of land. Reductions to the figures on

external roadways relative to undeveloped parcels in the area may be allowable to allot for internal development trips. Reduction of the figures for internal capture of vehicle trips within the project may be considered. However, the rationale for these reductions should be documented.

**Sec. 18.1-919.6 Process.**

The applicant shall submit copies of the study to the zoning administrator in a reproducible format at the time of application or plan submittal. The zoning administrator will distribute the study and may request opinions and/or decisions either verbal or written, from other departments, divisions, agencies, or authorities of the Town or State. All agencies shall act in an expeditious manner to review the study and provide comments to the Town. The applicant will be notified in writing of the acceptance of the study.

**Sec. 18.1-919.7 Study submission criteria.**

The study shall be prepared by a person or person(s) professionally qualified to do such work, the identity and qualification to be included. The study shall contain the following information and be provided in the recommended format below:

**Sec. 18.1-919.8 Study contents.**

A**. Introduction** - A brief description of the size and location of the project, general terrain features, roadways that provide access to the site, and other pertinent information. Study area map, including proposed use(s) of the site along with existing uses in the vicinity of the site shall be included. The outline shall include:

1. Site Location and Study Area
2. Existing and Proposed Site Uses
3. Existing and Proposed Nearby Uses
4. Existing Roadways and Programmed Improvements

B. **Analysis of existing conditions** - Existing and proposed zoning for the area, including adjacent parcels, average daily traffic (ADT), peak hour traffic volumes (AM and PM), evaluation of level of service (LOS) and volume/capacity ratio for all intersections and road segments within the study area. All assumptions, which determine projected background traffic and rationale for all assumptions shall be provided. Specific development project names and respective development square footage or residential units shall be provided where appropriate. The phasing of development, as it relates to traffic generation projections, shall be described. All traffic counts and level of service worksheets shall be included as a part of the traffic study. The traffic-modeling program used shall be identified. The outline shall include:

1. Daily and Peak Hour(s) Traffic Volumes
2. Capacity Analyses at Critical Points
3. Levels of Service at Critical Points

C. **Analysis of future conditions without development** - Describe the anticipated traffic volumes in the future and the ability of the transportation network to accommodate this traffic. Study should look at both short-term (3-5 years) forecasts and long-term (10-15 years) forecasts. The traffic study shall include maps depicting the preferred alternative. One map should depict existing versus proposed conditions, drawn to scale. One map should depict existing versus proposed right-of-way. Under most circumstances, the applicant, minimizing disruption to adjoining properties, should implement improvements. In areas of complex traffic patterns, the applicant may propose to implement part of a larger scale solution. The outline shall include:

1. Daily and Peak Hour(s) Traffic Volumes
2. Capacity Analyses at Critical Points
3. Analysis should include Programmed Improvements
4. Level of Service at Critical Points

D. **Trip generation** - The directional distribution of trips generated by the proposed development both internally and externally at major intersections should be documented. The rationale for the distribution should also be provided (i.e. access to major transportation arteries or location of commercial centers). Applicants should give consideration to limiting factors that will affect the capacity of the roadways in the study area and make the appropriate adjustments to the transportation network trip generation rates. These factors include, but should not be limited to, severe horizontal and vertical curvature, heavy truck traffic, poor lateral clearance, poor surface condition, poor shoulder condition, and signalization.

E. **Analysis of future conditions with development** – Documentation of the level of service post development. The applicant may incorporate projected new approach and turn lanes, and pedestrian, transit, and paratransit transportation modes to be provided by the applicant or otherwise assured to the Town through approved site plan, subdivision plans, rezonings, or special use permits. Documentation as to the reasons for traffic generation being mitigated from these projects should be incorporated into the study. Access crossovers, speed limit changes, or traffic signal locations/installations may only be considered upon approval by VDOT. The outline shall include:

1. Future Daily and Peak Hour(s) Traffic Volumes
2. Capacity Analyses at Critical Points
3. Analysis should include Proffered Improvements
4. Levels of Service at Critical Points

F. **Recommended improvements** - If unsatisfactory levels of service are to occur, then the applicant should provide the Town with any proposed improvements (including project phasing) which will mitigate any negative impacts generated by the proposed development. The applicant shall document to the Town some form of assurance that these improvements will be in place prior to the proposed negative impacts being generated. The outline shall include:

1. Proposed Improvements
2. Capacity Analyses at Critical Points (with improvements)
3. Levels of Service at Critical Points (with improvements)

G. **Conclusions** - Executive summary of study's findings.

**Sec. 18.1-919.9 Alternative requirements.**

The requirements in this Section 18.1-919 are intended to supplement requirements imposed by the Commonwealth of Virginia. As such,

~~At such time as the Commonwealth of Virginia or the Commonwealth Transportation Board adopts traffic impact review regulations, such regulations shall supersede the above requirements of this section and the following shall apply:~~

~~1.As used in this section, development proposal shall include the terms comprehensive plan amendment, rezoning, subdivision plat, site plan and any other plan of development requiring approval by the Town of Amherst.~~

~~2.~~1. The study or studies required by traffic impact review regulations shall be submitted to the reviewing authority as required and a full written

response by the appropriate reviewing authority submitted to the zoning administrator along with the application for approval of the development proposal prior to the application being considered complete. As such, the time required for the traffic impact review shall not overlap with the time required for the return of a decision by any Town agency.

~~3.~~2. All fees required for the traffic impact review shall be paid by the person submitting the development proposal.

[J7]~~(Note: The Commonwealth Transportation Board has adopted regulations that are effective in the Town of Amherst on July 1, 2008.)~~

**Sec. 18.1-920. Landscaping.**

**Sec. 18.1-920.01. Introduction and purpose.**

It is recognized that a vegetative landscape is desirable throughout the Town of Amherst. The conservation and planting of vegetation serves to enhance our cultural and physical environment. With landscaping, the appearance of our business, residential and industrial zones is improved, as is the natural beauty of the less developed areas. Vegetation also provides protection against environmental degradation. The converse is also true. Uncontrolled cutting or destruction of trees and vegetated areas can damage the cultural and physical environment. It is appropriate therefore to regulate landscaping through this ordinance in the interests of protecting public health, safety and welfare. It is the intent of these regulations to promote the planting and preservation of landscape materials in order to achieve the following goals:

a. Enhance the outward appearance of all developed sites;

b. Create greater property value;

c. Provide screening between incompatible land uses;

d. Protect ground water and air quality;

e. Provide shade and windbreaks for conservation of energy;

f. Reduce damage due to ultraviolet radiation, noise pollution and light pollution;

g. Decrease erosion and flood damage;

h. Enhance the beauty of vehicular and pedestrian transportation corridors;

i. Buffer unsightly development.

**Sec. 18.1-920.02. Administration.**

All landscaping shall be installed by the first planting season following the issuance of a certificate of occupancy. The applicant shall post a secured bond, cash escrow or letter of credit in favor of the Town equal to the value of material and installation costs prior to the issuance of a certificate of occupancy if the required landscaping has not been installed. ~~One half of the surety may be released upon total implementation of the landscape plan. One half of the surety shall be retained by the Town for twelve (12) months following the planting date. In lieu of a surety equal to the full value of the landscape plan, the applicant may fully implement the landscape plan and post one half the total value of the plan prior to issuance of the certificate of occupancy.~~ Thereafter, landscaping shall be maintained in a healthy condition by the current owner or property owners' association, and replaced when necessary. If at any time the vegetation is not maintained in accordance with the plan such action shall be a violation of the zoning ordinance and subject to Article XV of this ordinance.

**Sec. 18.1-920.03. When landscaping plans are required.**

A landscape plan shall be required as a precedent to final site plan or subdivision approval for the following:

a. All commercial and industrial development including expansions;

b. All entryways and common areas, including the areas along new streets, in residential subdivisions;

c. All other developments if deemed appropriate by the Commission and the Zoning Administrator due to a perceived compromising of the above-mentioned goals a. through i. [in Section 920.01];

d. Designated town street tree areas are subject to additional regulations for those areas.

**Sec. 18.1-920.04. Information to be shown on the plan.**

All information shown on the plan shall be in compliance with this section and include the following:

a. The location, size and species of all proposed plant materials;

b. Existing trees or wooded areas that are being preserved in lieu of new materials in order to satisfy landscaping and screening requirements. In such cases, the landscape plan shall indicate the species and size of trees to be saved; limits of clearing; location and type of protective fencing; grade changes requiring tree wells or walls; and trenching or tunneling proposed beyond the limits of clearing;

c. Any unique amenities such as natural features and scenic or historic vistas.

**Sec. 18.1-920.05. Minimum standards.**

The following minimum standards shall apply to any proposed plantings, retention of vegetation and screening:

a. Any existing tree used to meet the requirements of this ordinance must be at least three (3) inch caliper, in health condition and be protected from construction activity;

b. Removal of health trees over eighteen (18) inches in caliper shall be prohibited except in the building footprint area, construction activity area, right-of-ways or private drives, utility easements and septic areas;

c. One tree per fifteen (15) feet of street frontage and one shrub per 5 feet of street frontage shall be planted in creative groupings. The width of entrances at their narrowest point shall be deducted from the street frontage distance for the purpose of this paragraph. [J8]The trees may be a combination of evergreens and large and small deciduous trees, and both trees and shrubs must meet the size requirements below. The construction of flower/mulch beds of a total area of at least one hundred (100) square feet may be planted in exchange for a tree as stated above;

d. Shade trees shall be a minimum one and one-half (1 1/2) inches caliper (measured six (6) inches above ground level) when planted. Ornamental or flowering street trees shall be a minimum of one (1) inch caliper when planted. Evergreen trees for screening shall be a minimum four (4) feet in height when planted. Shrubs for screening shall be a minimum twenty-four (24) inches in height when planted. Shrubs for street planting shall be a minimum eighteen (18) inches in height when planted;

e. Planting islands shall contain a minimum of fifty (50) square feet per tree, with a minimum dimension of five (5) feet in order to protect the landscaping and allow for proper growth;

f. Trees that obstruct traffic sight lines shall be limbed up to a height of eight (8) feet.

**Sec. 18.1-920.06. Parking lot landscaping.**

Parking lots consisting of five (5) spaces or more:

a. Interior landscaping shall include a minimum of one (1) shade tree per ten (10) parking spaces or portion thereof. Interior landscaping shall be located in reasonably dispersed planting islands or perimeter areas. Shrub plantings adjacent to a building shall not be counted as interior landscaping;

b. Additional plantings along public streets: When a parking lot is located such that the parked cars will be visible from a public street, then additional landscaping of low street shrubs shall be required between the street and the parking lot. Shrubs shall be in a single row planted five (5) feet on center;

c. Screening of parking lots shall not be counted toward the interior landscaping requirement.

**Sec. 18.1-920.07. Screening.**

The following requirements shall apply to screening:

a. When required, screening shall consist of a planting strip, existing or new vegetation, wall, fence, earthen berm or combination thereof. Where only vegetative screening is provided; such screening strip shall not be less than twenty (20) feet in depth. Vegetative screening shall consist of a double staggered row of evergreen trees planted fifteen (15) feet on center, or a double staggered row of evergreen shrubs planted ten (10) feet on center. When a fence or wall is provided, it shall be a minimum of six (6) feet in height and plantings shall be required along such fence or wall. Earthen berms shall be a minimum of three (3) feet in heights;

b. Screening shall be required in the following instances:

1. Commercial and industrial uses and manufactured home parks shall be screened from adjacent residential and rural area districts;

2. Parking lots consisting of five (5) spaces or more shall be screened from adjacent residential and rural area districts;

3. Objectionable features including, but not limited to, the following uses shall be screened from adjacent residential and rural area districts and public streets:

i. Loading areas;

ii. Refuse areas;

iii. Storage yards;

iv. Retention ponds; and

v. Recreation facilities determined to be of objectionable character.

4. The Zoning Administrator and Commission may require screening of any use, or portion thereof, upon determination that the use would otherwise have a negative visual impact on a property listed on the Bona Fide Historic Landmarks Register.

**Sec. 18.1-920.08. Tree canopy.**

In addition to other provisions of this ordinance, a minimum tree canopy shall be provided in accordance with this section. "Tree canopy" or "tree cover" shall include all areas of coverage by plant material exceeding five (5) feet in height at a maturity of ten (10) years after planting.

a. The following minimum canopy requirements shall apply:

1. Ten (10) percent canopy of a site to be developed with commercial, office or industrial uses:

2. Ten (10) percent canopy of a residential site to be developed at a gross density of five (5) dwelling units per acre or more;

3. Fifteen (15) percent canopy of a residential site to be developed at a gross density of less than five (5) dwelling units per acre.

b. In the calculation of land area subject to this section, the following areas may be deducted at the option of the developer:

1. Farm land or other areas devoid of woody material at the time of adoption of this section;

2. Recreation areas;

3. Open space areas;

4. Land dedicated to public use;

5. Playing fields and recreation areas attendant to schools, day care, and the like;

6. Ponds or lakes;

7. Areas required for the preservation of wetlands, flood plain, or other areas required to be maintained in a natural state by this chapter or other applicable law;

Deductions provided above shall be cumulative but shall not be duplicative.

c. Where existing trees are maintained, a canopy bonus shall be granted as follows:

1. The canopy area shall be calculated at ten years of additional maturity;

2. The resultant area shall be multiplied by a factor of 1.25.

**Sec. 18.1-920.09. General.**

The applicant may propose an increase in landscaping and site beautification, or relocation of parking to the rear of the building in exchange for a larger building site, set back alterations, or reduction in parking requirements. Once an agreeable solution has been reached with the Commission, it shall give a favorable recommendation for a variance to the Board of Zoning Appeals.

**Sec. 18.1-920.10. Suggested trees, shrubs and flowers.**

a. Street and shade trees: Green Ash, Red Maple, Sugar Maple, Red Oak, Willow Oak, Japanese Pagoda Tree, Littleleaf Linden, Silver Linden, Zelkova, Yellowwood, Sycamore, European Plane Tree, Sweet Gum;

b. Ornamental or flowering trees: Amur maple, Dogwood, Washington Hawthorn, American Plum, Serviceberry, Redbud, Shadblow, Deciduous Magnolia, Fringe Tree;

c. Evergreen or flowering shrubs: English Yew, Japanese Yew, Azalea, Chinese Holly, Rhododendron, Obelia, Cotoneaster, Forsythia, Viburnum, Winged Euonymus, Flowering Quince, Gray Owl Juniper;

d. Screening: Cedar, Austrian Pine, Norway Spruce, American Holly, Arborvitae, Foster Holly, White Pine, Leland Cyprus;

e. Flowers: Daylily, Daffodil;

f. Other alternative species as approved by the town.

**Sec. 18.1-921. Lighting.**

All lighting facilities shall be arranged so that light is directed downward, and not horizontally or at adjacent properties, with special care to as to not negatively impact residential areas.

**Sec. 18.1-922 Ambriar Access Management Area**

**Sec. 18.1-922.01 Purpose**

The intent of this section is to encourage well planned high density development, to provide and manage access to development while preserving the flow of traffic and to ensure adequate infrastructure in the Ambriar area. Major thoroughfares, including highways and other arterials, serve as the primary network for moving people and goods. These transportation corridors also provide access to businesses and homes and have served as the focus for commercial and residential development. Access systems must be properly designed to accommodate the access needs of development while retaining the transportation function.

**Sec. 18.1-922.02 Applicability**

The provisions of this Section shall apply to all property that accesses the Ambriar corridor. The Ambriar corridor is defined as that portion of S. Main Street from Waugh's Ferry Road south to the Town of Amherst corporate limits.

**Sec. 18.1-922.03 Definitions**

The following terms have the following meaning unless the content clearly indicates otherwise:

*AASHTO.* The American Association of State Highway and Transportation Officials.

*Access.* To provide vehicular or pedestrian entrance or exit to a property;

*Access connection/point.* Any driveway or other point of entry and/or exit such as a street, road, or highway that connects to the general street system.

*Capacity.* The ability of the highway to provide service to the volume of vehicles seeking to use the highway. Capacity is most often considered the maximum amount of traffic that can be accommodated by a highway during the peak hours of demand. Sometimes it refers to the entire roadway, and sometimes to a single lane.

*Commercial Entrance.* An entrance serving all access points other than an individual private residence. A residential subdivision entrance is a commercial entrance.

*Connection Spacing*. The distance between connections, measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled roadway.

*Corner Clearance.* The distance from an intersection to the nearest driveway.

*Cross Access.* A service drive providing vehicular access between two or more contiguous sites so that the driver need not enter the public street system.

*Design Speed.* The maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features of the highway govern, as defined in the latest edition of AASHTO's *A Policy on Geometric Design of Highways and Streets*.

*Driveway.* An access that is not a public street, road, or highway.

*Frontage Road.* A public or private street or road auxiliary to and normally alongside and parallel to the main highway, constructed for the purposes of maintaining local road continuity and the controlling of direct access to the main highway while providing access to private properties.

*Functional Classification.* A classification system that defines a public roadway according to its purposes and hierarchy in the state highway system.

*Interchange.* A portion of roadway that provides vehicular access from one road to another.

*Lane.* The portion of a roadway for the movement of a single line of vehicles. It does not include the gutter or shoulder of the roadway.

*Median.* That portion of a highway separating the opposing traffic flows.

*Outparcel.* A parcel of land abutting and external to the larger, main parcel, which is under the same ownership and has roadway frontage.

*Service Road.* A public or private street or road, auxiliary to and normally located parallel to a controlled access facility that maintains local road continuity and provides access to parcels adjacent to the controlled access facility. (Reference Frontage Road)

*Shared Access.* A driveway connecting two or more contiguous sites to the public street system.

*Sight Distance.* The distance visible to the driver of a vehicle measured along the normal travel path of a roadway from a designated location and to a specified height above the roadway when the view is unobstructed by traffic. For crossovers and commercial entrances, sight distance is the distance measured between the height of the driver's eye (3.5 ft) and the height of an object (4.25 ft) without horizontal or vertical obstruction to the line of sight.

*Stopping Sight Distance.* The distance required by a driver of a vehicle, traveling at a given speed, to bring the vehicle to a stop after an object on the roadway becomes visible. It includes the distance traveled during driver perception and reaction times and the vehicle braking distance.

*Stub Road.* A portion of street or right-of-way access drive used as an extension to an abutting property that may be developed in the future.

*Trip.* A single or one-direction vehicle movement with either the origin or the destination inside a study area. A vehicle leaving the highway and entering a property is one trip. Later when the vehicle leaves the property and reenters the highway, it is a second trip.

*Turn Lane.* An auxiliary lane that provides deceleration, so that disruption to through traffic is minimized, and provides adequate storage outside of the through lane which the turn is being made.

**Sec. 18.1-922.04 Variance**

1. The Board of Zoning Appeals may authorize a variance to the application of these access standards and regulations. The granting of a variation shall be in accordance with the purpose and intent of these standards and regulations and shall not be considered until every feasible option for meeting access standards is explored.

2. Applicants for a variance from these standards and regulations must provide proof of unique or special conditions that the strict application of the provisions would deny all reasonable access; endanger public health, welfare or safety; or cause an exceptional and undue hardship on the applicant, as distinguished from a special privilege or convenience sought by the applicant. This shall include proof that:

   a. Indirect or restricted access cannot be obtained.

   b. No engineering or construction solutions can be applied to mitigate the condition.

   c. No alternative access is available from a street with a lower functional classification than the primary roadway.

**Sec. 18.1-922.05 Access Connection and Driveway Design**

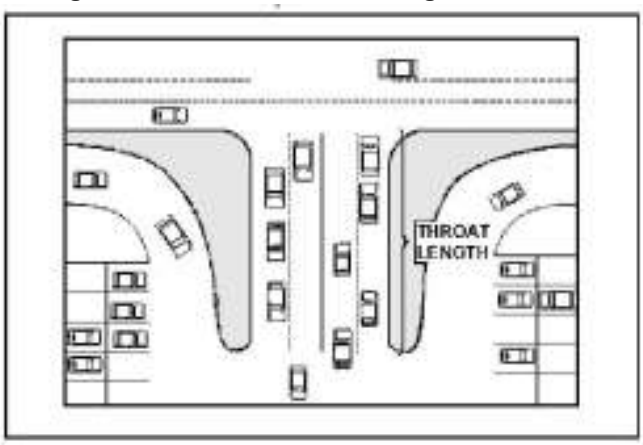
1. Driveway width shall meet the following guidelines:

   a. If the driveway is a one-way in or one-way out drive, then the driveway shall be a minimum width of fourteen (14) feet of pavement and shall have appropriate signage designating the driveway as a one-way connection.

   b. For two-way access, each lane shall have a width of twelve (12) feet.

2. Driveway grades, turnout radii, approaches, and lengths shall conform to VDOT's standards.

**Figure 18.1-922, 1: Throat Length Illustration**



a. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers is prohibited.

b. Driveways shall have sufficient length and size for all vehicular queuing, stacking, maneuvering, standing, and parking to be carried out completely beyond the right of way line. The length of driveways or "throat length" shall be designed in accordance with Table 18.1-992.05. These measures generally are acceptable for the principle access to a property and are not intended for any minor supplemental driveways to that same property.

**Table 18.1-922.05: Throat Length Measurements**

| **Land Use** | **Driveway Length (in feet)** |
|---|---|
| Any major entrance to a development with 4 or more total lanes in the driveway. Typically malls and "Super" retail centers. | 300 or greater, based on traffic study |
| Regional Shopping Centers (over 150,000 square feet) | 250 |
| Community Shopping Center (100-150,000 square feet) (Supermarket, drug store, etc.) | 150 |
| Small Strip Shopping Center | 50 |
| Smaller Commercial Developments (convenience store with gas pumps) | 30 |

**Source: Vergil Stover unpublished course notes*

c. Where a site is being redeveloped on a small property with no reasonable alternative access, it may be difficult to get these driveway lengths. In these cases, the driveway may be positioned to take advantage of the on-site location with the most depth.

d. Driveways that enter the major thoroughfare at traffic signals must have at least two (2) outbound lanes (one for each turning direction) of at least twelve (12) feet width and one (1) inbound lane with fourteen (14) feet width of pavement.

**Sec. 18.1-922.06 Requirements for Outparcels and Phased Development Plans**

1. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one (1) building site shall not be considered separate lots for the purpose of the application of access standards and regulations. The number of connections permitted shall be the minimum number necessary to provide adequate access to these properties, not the maximum available for that frontage. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of these access standards and regulations

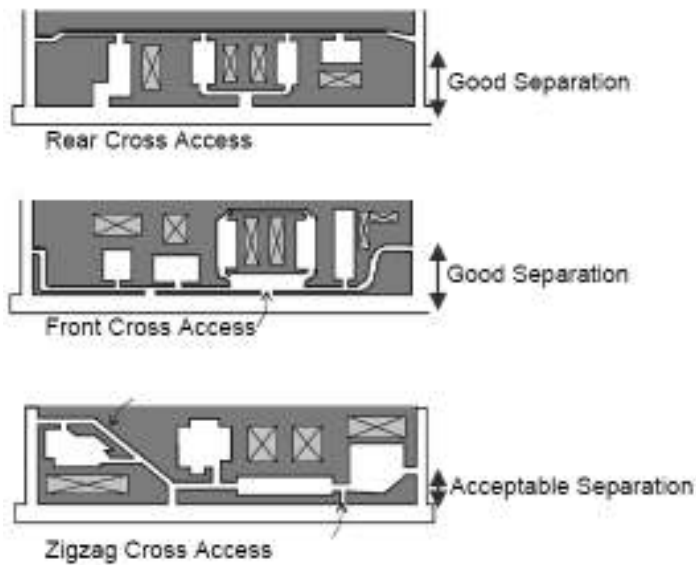
2. All access to outparcels must be internalized using the shared circulation system of the principal development or retail center. This access shall be designed to avoid excessive movement across parking aisles and queuing across surrounding parking and driving aisles.

**Sec. 18.1-922.07 Subdivision of Land**

1. Each lot shall be entitled one (1) driveway/ connection per parcel as of right on said public thoroughfares(s). When subsequently subdivided, access to all newly created lots shall be provided via the permitted access connection. This may be achieved through subdivision roads, shared and cross accesses, and service drives installed as per 18.1-992.07.

   a. Parcels existence as of January 1, 2008 with frontages that exceed minimum driveway spacing requirements as shown in the Driveway and Corner Clearance Spacing section may be permitted additional access connections.

**Figure 18.1-922.07: Cross Access Types**



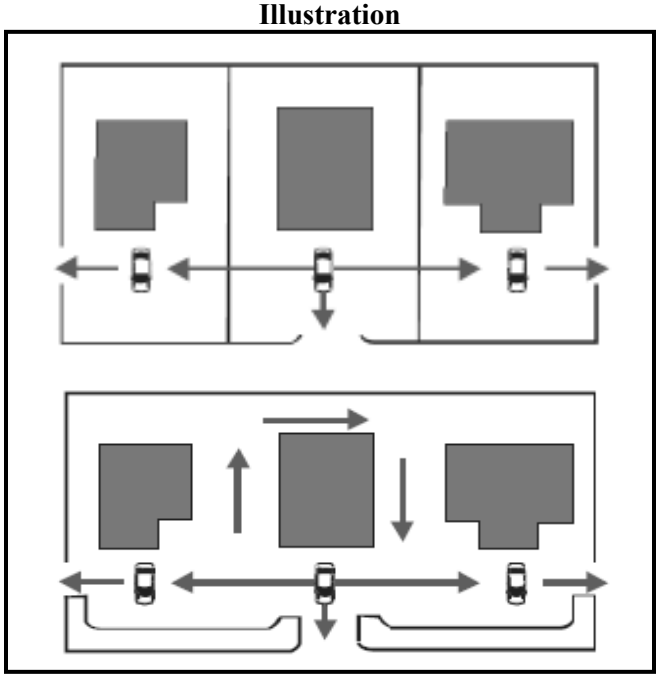

**From Model Regulations and Plan Amendments for Multimodal Transportation Districts*

   b. Existing parcels with frontage less than the minimum connection spacing for that corridor may not be permitted a direct connection to the thoroughfare under this Section where the Planning Commission determines alternative reasonable access is available to the site. For example, the Planning Commission could allow for a temporary driveway with the stipulation that joint and cross access be established as adjacent properties develop.

**Sec. 18.1-922.08 Shared and Cross Access**

1. Adjacent commercial or office properties classified as major traffic generators (i.e., shopping center, office parks) shall provide cross access, pedestrian access and bicycle access to allow circulation between sites.

**Figure 18.1-922.08: Shared and Cross Access Illustration**



**Florida Driveway Handbook*

2. A system of shared use driveways and cross access easements as shown in Figure 18.1-992.08 shall be established wherever feasible and the building site shall incorporate the following:

   a. A continuous service drive or cross access extending the entire length of each block served to provide for driveway separation consistent with the access classification system and standards.

   b. A design speed of ten (10) miles per hour (mph) and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles.

   c. Stub roads and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive.

   d. A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged.

3. Pursuant to this section, the owner shall record an easement with the deed, in a form approved by the Town Attorney, allowing cross access to and from other properties served by the shared use driveways and cross access or service drives.

4. Shared parking areas shall be permitted a reduction in required parking spaces if peak demand periods for proposed land uses do not occur at the same time periods.

5. The Planning Commission may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:

   a. Joint access driveways and cross access easements are provided wherever feasible in accordance with this section.

   b. The site plan incorporates a unified access and circulation system in accordance with this section.

c. The property owner shall enter a written agreement with the Town of Amherst, recorded in deed in a form acceptable to the Town Attorney, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

6. The Planning Commission may modify or waive the requirements of this section during the site plan or subdivision review process where the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical.

**Sec. 18.1-922.09 Interchange Areas**

The distance to the first connection of an interchange shall be at least 660 feet where the posted speed limit is greater than 45 miles per hour (mph) or 440 feet where the posted speed limit is 45 mph or less. This distance shall be measured from the end of the taper for that quadrant of the interchange.

**Sec. 18.1-922.10 Access Standards: Driveway and Corner Clearance Spacing**

1. All access connections on roadway segments shall maintain a 440 foot separation from any other driveway or intersection where the posted speed limit is above 45 miles per hour (mph), and a 245 foot separation from any other driveway or intersection where the posted speed limit is 45 miles per hour (mph) or below with the exception of access connections for single family residential and agricultural land uses to the extent possible.

2. Driveway spacing shall be measured from the closest edge of the pavement to the next closest edge of the pavement (see to Figure 4 for points of measurements).

3. Additional access connections may be allowed where the property owner can demonstrate upon review of a traffic impact analysis of the proposed connection submitted by the applicant that safety and efficiency of travel on the thoroughfare will be improved by providing more than one access to the site.

4. If the access connection spacing standards listed above cannot be achieved, the Planning Commission may reduce required separation distances of access points provided that:

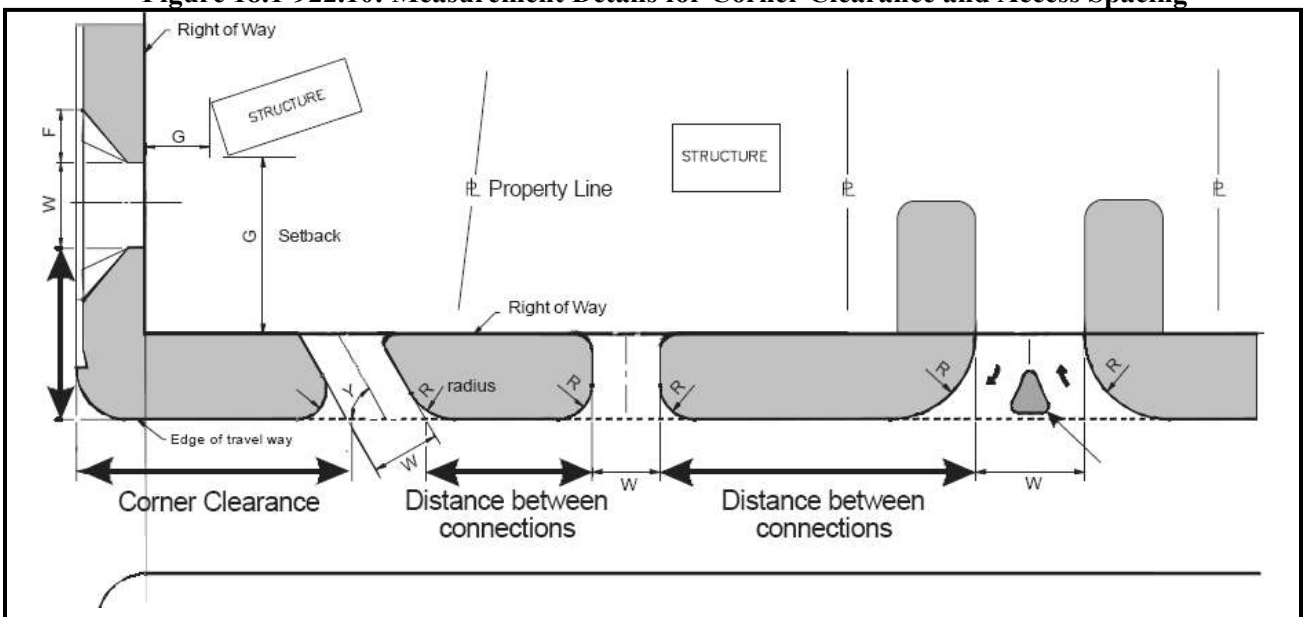
   a. Shared access driveways and cross access easements are provided wherever feasible in accordance with these regulations; or

   b. The connection does not create a safety or operational problem upon review of a site specific traffic impact analysis of the proposed connection prepared by a licensed engineer and submitted by the applicant; or

   c. At an intersection, where no other access to the property is available and shared access driveways and cross access easements are not feasible, the Planning Commission may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e., right in/out) may be required.

5. Corner clearance for connections shall be measured from the closest edge of pavement of the intersection to the next closest edge of pavement of the first access point from the intersection (see Figure 18.1-992.10).

**Figure 18.1-922.10: Measurement Details for Corner Clearance and Access Spacing**




**Florida Driveway Handbook*

6. Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.

7. New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this ordinance, unless:

    a. No other reasonable access to the property is available, and

    b. The Planning Commission determines that the connection does not create a safety or operational problem upon review of a site specific study of the proposed connection prepared by a registered engineer and submitted by the applicant.

8. Where no other alternatives exist, the Planning Commission may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e. right in/out, right in only, or right out only) may be required.

9. In addition to the required minimum lot size, all corner lots shall be of adequate size to provide for required front yard setbacks and corner clearance on street frontage.

**Sec. 18.1-922.11 Minimum Frontage**

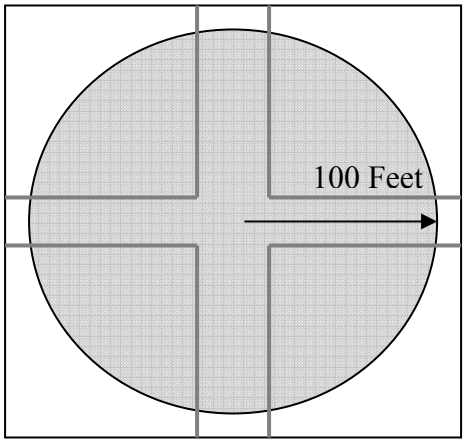
1. The minimum lot width for all parcels with frontage on S. Main Street shall not be less than the minimum connection spacing standards of that thoroughfare, except as otherwise provided in this Section. Flag lots shall not be permitted direct access to the thoroughfare and interior parcels shall be required to obtain access via a public or private access road in accordance with the requirements of this section.

    a. Existing parcels with frontage less than the minimum connection spacing for that corridor may not be permitted a direct connection to the thoroughfare under this Section where the

Planning Commission determines alternative reasonable access is available to the site. For example, the Planning Commission could allow for a temporary driveway as provided in the Access Standards Section with the stipulation that joint and cross access be established as adjacent properties develop.

b. Additional access connections may be allowed where the property owner demonstrates that safety and efficiency of travel on the thoroughfare will be improved by providing more than one access to the site.

**Figure 18.1-922.12: Limits of Use Diagram**




**Sec. 18.1-922.12 Limits of Use Designation**

Key locations within the Traffic Impact Overlay have been identified for the future installation of traffic calming devices, preferably roundabouts. The intersections targeted for these devices are at S. Main Street and Lancer Lane, S. Main Street and the U.S. Route 29 Bypass ramps, and S. Main Street and the northern most entrance to the Ambriar Shopping Center. There shall be a 200 feet in diameter limit of use designation that is measured from the center point (see Figure 18.1-922.12) of the intersections listed above.

Prior to the construction of parking or any other accessory uses within the "limits of use" area, the applicant must demonstrate that the accessory use or parking required by the Town of Amherst Zoning Ordinance could not be adequately accommodated elsewhere on the property. Execution of a shared parking agreement per the zoning ordinance may be used to satisfy the zoning ordinance parking requirements.

In the event that VDOT determines that all or a portion of said area is required for public road improvements and thus initiates the process of acquiring the necessary right of way, the property owner shall be responsible for relocating any parking or other accessory use installed within the designated "limits of use" area. The relocation of such uses shall occur at the owner's expense. Any costs associated with design and reconstruction of the "limits of use" area for purposes of public road improvements (to include removal of existing accessory uses) shall be the responsibility of VDOT.

The limits of use area shall be marked on any applicable site plan submitted to the Town of Amherst Planning Commission for review.

**Sec. 18.1-922.13 Pedestrian Accommodations**

1. Bicycle and pedestrian ways shall be established in new construction and reconstruction projects along South Main Street unless one or more of these conditions are met:

   a. Bicyclists and pedestrians are prohibited by law from using the roadway. In this instance, a greater effort may be necessary to accommodate bicyclists and pedestrians elsewhere within the right of way or within the same transportation corridor.

   b. The cost of establishing bikeways or walkways would be excessively disproportionate to the need or probable use. Excessively disproportionate is defined as exceeding twenty percent of the cost of the larger transportation project.

2. Bicycle and pedestrian facilities shall be provided on any new or reconstructed streets in accordance with VDOT regulations.

3. Bicycle racks shall be located in convenient, visible, well-lit areas, with easy access, near main entrances. The racks should not interfere with pedestrian traffic and should be protected from potential damage by motor vehicles. They may be located within the public right-of-way with Town of Amherst and VDOT approval. The following requirements shall also apply:
   a. All vehicle parking facilities containing less than ten parking spaces shall provide one bicycle rack with no less than four (4) spaces.
   b. For vehicle parking facilities containing more than ten parking spaces the applicant shall provide one bicycle rack with no less than four spaces plus two bicycle parking spaces for each additional ten parking spaces in the lot. However, no more than twenty (20) bicycle parking spaces shall be required in any one (1) parking facility.
4. Bicycle and pedestrian facilities shall be designed with security considerations including street lighting, bushes no greater than two (2) feet in height, and tree branches no lower than six (6) feet in height. To provide clear visibility of pedestrians approaching intersection crosswalks at night, the approaches to and all street corners should be well-illuminated. All intersection lighting should illuminate the crossing and waiting areas and/or create backlighting to make the pedestrian silhouette clearly visible on the approach.
5. Pedestrian facilities shall include shade trees where possible.
6. A sidewalk shall be provided between all new building entrances and all streets adjacent to the development site. The sidewalk shall provide a direct connection to existing public right-of-way and public sidewalks or transit stops.
7. A sidewalk shall be provided between any new building entrance and all other new or existing building entrances on the same development site. Entrances used for loading and unloading freight are not subject to this standard. Internal pedestrian paths provided in conformance with this subsection shall provide weather protection features such as awnings or arcades within thirty (30) feet of all customer entrances.
8. A sidewalk shall be provided immediately adjacent to the exterior wall of a new building greater than 100 feet in length when the wall is located next to a street or parking lot. A pedestrian path shall also be provided along the entire length of the wall when the public entrance is located in that area. Exceptions to this standard include:
   a. If the edge of the building is within twenty (20) feet of a public sidewalk and the building entrance is connected to the public sidewalk by an on-site pedestrian facility.
   b. If the edge of the building is bordered by a perimeter of landscaping that does not exceed thirty (30) feet in width and an on-site pedestrian facility is constructed at the edge of the landscaped area.
9. A twenty (20) foot wide bicycle/pedestrian easement shall be provided to connect cul-de-sacs, or to pass through blocks in excess of 660 feet.
10. Where needed for purposes of traffic safety or access to nearby schools, playgrounds, public parks, trails, shopping facilities, or other community facilities, new developments may be required to dedicate a public right of way for bicycles and pedestrians, not less than twenty (20) feet in width.

11. Pedestrian access points at property edges and to adjacent lots shall be coordinated with existing development to provide pedestrian circulation between developments.

12. All on-site pedestrian walkways located in vehicle use areas shall be distinguished from driving surfaces through the use of durable, low maintenance smooth surface materials to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

**Sec. 18.1-922.14 Connectivity**

1. The street system of a proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets outside of the subdivision as provided in this section.

2. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the Town to provide access to abutting properties or to logically extend the street system into the surrounding area. The restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

**Sec. 18.1-922.15 Nonconforming Access Features**

1. Permitted access connections in place as of January 1, 2008 that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with applicable standards under the following conditions:

    a. When new access connection permits are requested;

    b. Increase in trip generation of 100 or more additional peak hour trips due to new building construction or change in use; or

    c. As roadway improvements allow.

2. If the principal activity on a property with nonconforming access features is discontinued for a consecutive period of two (2) years or discontinued for any period of time without a present intention of resuming that activity, then that property must thereafter be brought into conformity with all applicable connection spacing and design requirements, unless otherwise exempted by the permitting authority. If the activity is discontinued and renewed with a different activity, property owner must provide a traffic impact analysis to show that the new activity will not increase the number of trips.

**Sec. 18.1-922.16 Site Plan/Subdivision Plan Review Standards**

1. In addition to the existing Town site plan and subdivision plat review, applicants shall submit the information listed below for:

    a. Location of all properties' access point(s) on both sides of the road where applicable.

    b. Location of all proposed and existing access points for the site.

    c. Plat map showing property lines, right-of-way, and ownership of abutting properties.

    d. Distances to neighboring existing exit/entrance points, median openings, traffic signals, intersections, and other transportation features on both exit/entrance sides of the property.

    e. Number and direction of lanes to be constructed for the driveway.

    f. All planned transportation features (such as auxiliary lanes, signals, etc.).

g. Pedestrian and bicycle accommodations.

h. Trip generation data or appropriate traffic impact studies.

i. Parking and internal circulation plans.

j. Location of "limits of use" boundaries when applicable.

k. A detailed description of any requested variance and the reason the variance is requested.

2. The Town of Amherst reserves the right to require traffic and safety analysis where safety is or may be an issue or where significant problems already exist. (Refer to Section 18.1-919 Traffic Impact Review Regulations)

*(Adopted June 11, 2008)*

## ARTICLE X. ADMINISTRATION

**Sec. 18.1-1001. Appointment of zoning administrator.**

This article shall be administered by the zoning administrator in accordance with the provisions herein. The zoning administrator for the Town of Amherst shall be the duly appointed Town Manager of the Town of Amherst or his designee

**Sec. 18.1-1002 Powers and duties of the zoning administrator.**

**Sec. 18.1-1002.01 Powers and duties relating to zoning.**

The zoning administrator is authorized and empowered on behalf of and in the name of the Town Council to administer and enforce the provisions set forth herein to include receiving applications, inspecting premises, issuing zoning certificates for uses and structures which are in conformance with the provisions of this article. The zoning administrator shall have all necessary authority on behalf of the Town Council to administer and enforce this article, including the ordering in writing of the remedying of any condition found in violation of this article, and the bringing of legal action, including injunction, abatement, or the appropriate action proceeding, to insure compliance with this article. The zoning administrator does not have the authority to take final action on applications, of matters involving variances nor on special uses, on which final action is reserved to the Town Council.

**Sec. 18.1-1002.02 Powers and duties relating to subdivision regulation.**

The zoning administrator is authorized and empowered to act as the agent of the Town Council and planning commission in dealing with subdivision procedures and shall have the following duties and responsibilities:

1. Establish such administrative rules and procedures as are necessary to the proper administration of subdivision procedures.

2. Consult, as required in the performance of duties specified herein, with other departments or agencies of the town in considering details of any submitted plat.

3. Waive procedural and design requirements, if appropriate, provided land subdivided is along a publicly dedicated and approved street accepted for maintenance by the resident engineer and where no new streets, water or sewer lines are involved.

4. Verify that any conditions or stipulations made by the commission in the preliminary review are performed; and upon the satisfactory completion of such conditions and other requirements of the final plat as specified in Section 18.1-1204 herein, approve the final plat.

**Sec. 18.1-1002.03 Case management.**

**Sec. 18.1-1002.03.01 Promulgation of ordinances, policies and regulations.**

The zoning administrator shall make a copy of the Zoning and Subdivision Ordinance and all other documents containing Town of Amherst policies and regulations that affect community development available for review by the Town's residents and property owners.

**Sec. 18.1-1002.03.02 Preapplication conference.**

The zoning administrator is authorized and empowered to encourage and organize a preapplication conference or conferences, to be attended by the property owner and any individual that the zoning administrator or property owner may deem appropriate, prior to the formal initiation of any zoning or subdivision process. However, the preapplication conference shall not be organized until

adequate information, in the form of maps, studies, narrative description or other appropriate materials, sufficient to show the location, type, scope and scale of development proposal, has been submitted in hard copy form to the zoning administrator. The purpose of the preapplication conference(s) is to outline the specifics of the project proposed, to confirm what rules, regulations or processes apply, and to identify other issues that may affect the development or approval processes at the earliest practical time.

**Sec. 18.1-1002.03.03 Single point of contact.**

The zoning administrator is authorized and empowered to require the owner of any property for which any zoning or subdivision process is initiated, including any site plan, subdivision, special use permit, variance, conditional zoning, or rezoning, to name a project manager who would have the authority to represent him before the various agencies and committees of Town of Amherst in the matter. As such, this individual shall be the Town of Amherst's sole point of contact from the time of appointment to the issuance of a certificate of occupancy. Such certification shall be in writing on a form provided by the zoning administrator, and the owner shall retain the right to certify another single individual to replace the previously certified project manager during the course of the project.

**Sec. 18.1-1002.03.04 Notice Signs**

**a.** *Posting required.* Signage for the purpose of notifying interested individuals of a requested action shall be posted on property for which any site plan, subdivision, special use permit, rezoning, conditional zoning, variance, appeal or similar action is to be considered by the Planning Commission, Town Council or Board of Zoning Appeals. The signage shall be installed by the applicant as soon as practical before the meeting date for which the matter is scheduled to be heard but at least 21 days prior to the meeting. Such signage shall be located as near as is practical to the right-of-way of a public street or road upon which said the property and/or proposed use fronts. The applicant shall provide certification to the Zoning Administrator as to when the signage was erected and where the signage is located.

The signage shall contain no additional advertisement or words other than that which is specified herein. The signage shall remain posted and maintained by the applicant until final action has been taken on the application or the application has been withdrawn. After final action has been taken or the application has been withdrawn, the signage shall be removed within ten (10) calendar days by the applicant at his expense.

**b.** *Large sites.* A sign meeting the requirements herein shall be required, but if the property involved in the application has more than five hundred (500) feet of road frontage then one sign shall be required for every five hundred (500) feet of road frontage or fraction thereof. The Zoning Administrator may reduce the required number of signs or approve the relocation of signs in those cases for which the applicant can present in writing a sufficient justification to warrant a deviation, provided the spirit and intent of the signage requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or the relocation of signs would not reduce the effectiveness of the public notice. The sign shall read as follows:

**ZONING NOTICE**

**Name of Applicant:**
**Telephone No.:**
**Address of Property:**
**Present Zoning:**
**Proposed Zoning:**
**Proposed Use of Property:**

**For additional information,Call Town Hall at 946-7885**

The sign shall be made of sturdy wood, plastic or metal; the sign face at least seventy-two (72) inches wide by forty-eight (48) inches high in size; the top of the sign no less than six (6) feet or more than eight (8) feet above the ground; and the lettering thereon shall be black letters at least three (3) inches in height on a white background. Said sign may be single sided if the sign face is oriented parallel to the road.

**c.** *Small sites.* If the property involved in the application has less than two hundred (200) feet of road frontage then, in lieu of the signage required for large sites, one sign twenty-four (24) inches wide by eighteen (18) inches high shall be required. Signs for small sites shall be provided by the Zoning Administrator who shall specify the content. Such signs shall be affixed to a pole, post, fence or other structure to be clearly visible from each public road abutting the property. If no public roads abut the property, then the sign shall be posted at a location where it would have the highest public visibility. Signs for small sites shall be returned to the Zoning Administrator immediately after their removal from the site by the applicant.

**Sec. 18.1-1003. Zoning certificates.**

Zoning certificate shall be issued in accordance with the following provisions and procedures:

**Sec. 18.1-1003.01 Issuance and display.**

The zoning administrator shall issue a zoning certificate, in conjunction with a building permit, if necessary, for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. The zoning certificate shall indicate whether the use is a permitted use, a special use, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction. A zoning certificate must be obtained from the zoning administrator prior to the issuance of a building permit by the building inspector. All zoning certificates shall expire and be null and void 12 months after they are issued if construction has not begun.

**Sec. 18.1-1003.02 Application procedures for permitted uses.**

Applications for a zoning certificate shall be submitted to the zoning administrator according to the following provisions:

1. An application for a zoning certificate for a permitted use shall be accompanied by documentation appropriate to the application which shall include, at the sole discretion of the zoning administrator, floor plans, elevation plans, and plot plans showing setbacks and building size if a site plan is not otherwise required by this ordinance

2. If the proposed documentation is in conformity with the provisions set forth herein, and other appropriate codes and regulations of the Town then in effect, the zoning administrator shall issue a zoning certificate. The zoning administrator shall retain the application and one (1) copy of the documentation submitted with the application for a zoning certificate for his records.

3. If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the zoning administrator shall not issue a zoning certificate, 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 site plan does not comply. The zoning administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal.

**Sec. 18.1-1003.03 Application procedures for special use.**

Applications for a zoning certificate for a special use shall be submitted to the zoning administrator, who shall refer the application to the Planning Commission, for a public hearing. Applications for zoning certificates for special uses must be submitted in accordance with the following procedures:

1. An application shall be accompanied by an approvable site plan with all associated documentation as required under Article XI hereunder.

2. The application shall be sent to the commission. The commission shall present its recommendations to the Town Council. Failure of the commission to report 100 days after the first meeting of the commission after the proposed special use permit has been referred to the commission shall be deemed approval unless the application has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed special use permit shall cease without further action as otherwise would be required.

3. The Town Council shall consider the proposed special use after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. All motions, resolutions or petitions for the proposed special use permit shall be acted upon and a decision made within such reasonable time as may be necessary but not exceeding 12 months from the date the applicant files a complete application unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for a special use permit. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this section.

4. In addition to the specific requirements for special use as specified in this article, the Town Council shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

    a. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Town's comprehensive plan and/or this article;

    b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the

general vicinity and that such use will not change the essential character of the same area;

c. Will not be hazardous or disturbing to existing or future neighboring uses;

d. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

e. Will not create excessive additional requirements at public costs for public facilities and services and will not be detrimental to the economic welfare of the community;

f. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or water pollution;

g. Will have vehicular approaches to the property which shall be so designed as not to create any interference with traffic on surrounding public streets or roads; and

h. Will not result in the destruction, loss or damage of a natural scenic or historic feature of major importance.

5. Conditions set forth above and in Article XI for the various special use are minimum. In approving a proposed special use, Town Council may stipulate such additional requirements as are necessary to the public interest. The Town Council may require the applicant to furnish a performance bond in an amount sufficient for, and conditional upon, the fulfilling of any and all conditions and requirements stipulated by the respective board.

6. If the Town Council approves the application for a zoning certificate for a proposed special use, the zoning administrator shall issue a zoning certificate in accordance with paragraph 18.1-1003.02 herein, indicating the special nature of the use.

7. If the Town Council disapproves the application for a zoning certificate for a proposed special use, the Town Council shall inform the applicant of the decision in writing within sixty (60) days from the date of the public hearing, stating the reasons for disapproval. The zoning administrator shall retain one (1) copy of the site plan and two (2) copies of the refusal, and keep them as a public record.

8. Substantially the same petition affecting the same land shall not be considered within any twelve (12) month period.

9. Prior to an expansion of an approved special use, the owner, or his agent, must submit an application for an amended zoning certificate application for a special use, in accordance with the special use provisions herein, whenever the cumulative expansion, or expansions, exceeds twenty-five (25) percent in the aggregate of floor area of the structure, or use, originally approved for the current special use.

**Sec. 18.1-1003.04 Expiration.**

A zoning certificate shall automatically expire twelve (12) months from the date of issuance if the persons, firm, or corporation to which the certificate was issued has not clearly demonstrated that the certificate 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 twelve (12) months.

**Sec. 18.1-1003.05 Certificate of zoning compliance.**

It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator, or his appointed agent, stating that the proposed use of the building or land conforms to the requirements of this ordinance in accordance with the approved zoning certificate or variance. A certificate of use or occupancy, as required in Section 119.0 of the county building code, shall not be issued by the building inspector until a certificate of zoning compliance has been issued. For convenience and at the discretion of both the zoning administrator and the building inspector, the certificate of zoning compliance and certificate of use or occupancy may be combined as one certificate.

**Sec. 18.1-1004. Procedure for requesting a zoning amendment.**

The Town Council may, from time to time, after examination, review and public hearing thereon, amend, supplement or change the provisions herein or subsequently established. Proposals for zoning amendments, whether initiated by the Town Council, the commission, or by written petition of the owner, contract purchasers with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed zoning map amendment, shall be treated in accordance with the following procedure:

**Sec. 18.1-1004.01**

An application must be submitted in writing to the zoning administrator on a form provided by him and must be accompanied by two (2) copies of an approvable site plan, where applicable, of the proposed amendment in accordance with Article XI herein and with such other reasonable information shown thereon as be required by the zoning administrator. The zoning administrator shall submit said application to the commission.

**Sec. 18.1-1004.02**

The commission shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. The commission shall present its recommendations to the Town Council. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission shall be deemed approval unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required.

**Sec. 18.1-1004.03**

The Town Council shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. All motions, resolutions or petitions for amendment to the zoning ordinance and/or map shall be acted upon and a decision made within such reasonable time as may be necessary but not exceeding 12 months from the date the applicant files a complete application unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the zoning ordinance or map, or both. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this section.

**Sec. 18.1-1004.04**

Any petition for a zoning 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.

**Sec. 18.1-1004.05**

Substantially the same petition affecting the same land shall not be considered within any twelve (12) month period.

**Sec. 18.1-1005. Conditional zoning.**

**Sec. 18.1-1005.01 Purpose of conditional zoning.**

The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar specific circumstances indicate that the provisions herein are not adequate. In these cases more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. In such instances reasonable conditions voluntarily proffered by the owner of the subject property to which such conditions are applicable for the protection of the community (which conditions are not generally applicable to other land similarly zoned) when considered with existing zoning ordinance district regulations should cause the requested rezoning to be compatible with existing zoning and uses in the area.

**Sec. 18.1-1005.02 Approval of conditions as part of an amendment to the zoning map.**

The owner of the property which is the subject of a request of a zoning amendment under Section 18.1-1004 herein shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall establish, but in any event before the commission makes its recommendation to the Town Council. The written conditions shall be part of the site plan of the property required under Article XI herein.

In the event that additions thereto or modifications thereof are desired by the owner of the property which is the subject of the proposed zoning amendment, the same shall be made in writing no less than twenty-one (21) days prior to the time at which the commission makes recommendation to the Town Council unless the commission:

1. Specifically waives such time period; or

2. Specifically establishes such greater or lesser time period as it deems reasonable.

The Town Council may consider additional proffers, deletions, and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the proposed zoning amendment prior to advertising the public hearing at which the Town Council renders its decision thereon.

If the conditional zoning is approved the applicant must apply for a zoning certificate as required under Section 18.1-1003 herein. The application for a zoning certificate may be submitted concurrently with the conditional zoning application.

**Sec. 18.1-1005.03 Permitted conditions as part of an amendment to the zoning map.**

The Town Council may approve reasonable conditions to a zoning amendment provided that the following criteria are met:

1. The zoning amendment itself must give rise to the need for the conditions;

2. Such conditions shall have a reasonable relation to the zoning amendment;

3 Such conditions shall not include a cash contribution to the Town;

4. Such conditions shall not require mandatory dedication of real or personal property for open space, parks, schools, fire stations, or other public facilities not otherwise authorized by law;

5. No condition shall be proffered that is not related to the physical development or physical operation of the property;

6. All such conditions shall be in conformity with the Town's comprehensive plan; and

7. The provisions of this article shall not be used for the purpose of discrimination in housing.

**Sec. 18.1-1005.04 Records of conditional zoning.**

1. The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning.

2. The zoning administrator shall maintain a conditional zoning index which shall be available in the office of the zoning administrator for public inspection during office hours. The index shall provide ready access to the action taken by the Town Council creating such conditions in accordance with the provisions herein and shall clearly list all conditions applicable to each.

3. Before any permits can be issued to begin construction or for the occupancy of an existing structure, the applicant shall file and record in the office of the clerk of the circuit court of the county the conditions approved by the Town Council.

These conditions shall be indexed under the names of the landowners of the property being conditionally zoned. The applicant shall submit a notarized letter to the zoning administrator and the building inspector certifying that the conditions have been recorded with the clerk of the circuit court.

**Sec. 18.1-1005.05 Enforcement and guarantees.**

In order to insure the intent and purpose of conditional zoning approved in accordance with the provisions herein, the zoning administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to an amendment to the zoning map including:

1. Ordering, in writing, compliance with such conditions;

2. Bringing of appropriate legal action or proceeding to insure compliance;

3. Requiring a guarantee or contract or both for construction of physical improvements approved as condition(s) of the zoning amendment;

4. Denial of a zoning certificate prior to the issuance of any occupancy or building permit; and

5. Making an annual compliance report to the commission and Town Council on the anniversary of such approval certifying compliance with such conditions.

**Sec. 18.1-1005.06 Review of decision(s) by the zoning administrator.**

Any applicant who is aggrieved by any order, requirement, or decision made by the zoning administrator relating to the administration or enforcement of this ordinance may appeal the order, requirement, or decision to the Board of Zoning Appeals. The decision on such appeal shall be based on the board's judgment of whether the zoning administrator was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision. A petition documenting such appeal shall be filed with the zoning administrator who shall forward the petition and justification for the decision to the Board of Zoning Appeals at the earliest practical date. Notice of the hearing on the matter shall be given as required by the Code of Virginia, 1950 as amended.

**Sec. 18.1-1005.07 Amendments and variations of conditions.**

1. All amendments and/or variations of adopted conditions shall be made in accordance with provisions of Section 18.1-1004 herein and other applicable law.

2. After the Town Council has taken official action either granting, denying, or permitting withdrawal of a petition for any change in zoning involving zoning conditions, or any change of zoning conditions, no other petitions for substantially the same change (s) shall again be considered in less than twelve (12) months from the date of such official action.

**Sec. 18.1-1006. Procedure for requesting a variance or an interpretation of the zoning district map.**

Request for a hearing before the board of appeals for a variance or an interpretation of the zoning district map shall observe the following procedure:

**Sec. 18.1-1006.01**

Applications for a variance, or an interpretation of the zoning district map, as provided for under Section 18.1-1402 herein, shall be submitted in writing to the zoning administrator and shall be accompanied by two (2) copies of an approvable site plan, where applicable, of the proposed request in accordance with Article XI herein and with such other reasonable information shown thereon as shall be required by the zoning administrator. The zoning administrator shall submit said application concurrently to the commission and the Board of Zoning Appeals.

**Sec. 18.1-1006.02**

The commission may consider the proposed request and may present its recommendations to the Board of Zoning Appeals, or appear as a party at the hearing.

**Sec. 18.1-1006.03**

The Board of Zoning Appeals shall consider the proposed request after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed request within sixty (60) days from the date of the public hearing.

**Sec. 18.1-1006.04**

Any petition for a variance or interpretation of the zoning district map may be withdrawn prior to action thereon by the Board of Zoning Appeals at the discretion of the person, firm, or corporation initiating such a request , upon written notice to the zoning administrator.

**Sec. 18.1-1006.05**

Substantially the same petition affecting the same land shall not be considered within any twelve (12) month period.

**Sec. 18.1-1006.06**

Each application for a variance or interpretation of the zoning district map shall be accompanied by payment of a fee in accordance with Section 18.1-1009 herein to help defray the cost of publicizing and conducting the public hearing.

**Sec. 18.1-1007. Request for subdivision plat approval.**

Whenever the owner or proprietor of any tract of land located within the Town desires to subdivide the same, he shall submit a plat of the proposed subdivision to the zoning administrator for processing.

**Sec. 18.1-1007.01 Pre-application review.**

Whenever the subdivision of a tract of land within the Town is proposed, the subdivider is encouraged to consult with the zoning administrator for advice and assistance. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout of the subdivision. The zoning administrator shall return the submitted sketch plans to the subdivider with written comments indicating where the plans do not comply with the requirements set forth herein. Submission of said sketch plans and accompanying data shall not constitute the official filing of a proposed subdivision.

**Sec. 18.1-1007.02 Preliminary plat review.**

Any person proposing a subdivision of land shall submit to the zoning administrator four (4) copies of a preliminary plat showing the general design and layout of the subdivision, of which one copy each shall be delivered by the zoning administrator to the resident engineer, and if individual water and sewer is proposed, one (1) copy to the health department. The preliminary plat shall be reviewed in accordance with the procedures set forth in Articles XII and XIII herein.

**Sec. 18.1-1007.03 Commission action on preliminary plat.**

Within forty-five (45) days after submission of the preliminary plat and accompanying documents to the zoning administrator, the commission shall approve, approve with conditions, or disapprove the preliminary plat; the commission shall cause to have prepared two (2) copies of a statement noting reasons for commission disapproval or conditional approval, if applicable, and shall return one (1) copy of statement and plat to the subdivider with notification in writing of the action of the commission. One (1) copy of said statement and preliminary plat shall be retained by the zoning administrator for comparison with future preliminary or final plats, where applicable, submitted by the subdivider.

**Sec. 18.1-1007.04 Final plat review.**

Within one (1) year of conditional approval or full approval of the preliminary plat, subject to extension by the commission, the subdivider shall submit to the zoning administrator five (5) copies of a final plat including all or any part of the area covered by the preliminary plat, of which one (1) copy shall be transmitted to the health department, if individual water and sewer facilities are proposed, and to the resident engineer. The final plat shall be reviewed in accordance with the procedures set forth in Articles XII and XIII herein.

In such cases in which the zoning administrator determines that a plat does not constitute a subdivision as defined herein, the zoning administrator shall retain four (4) copies of the plat. Such plats shall be reviewed by the zoning administrator in accordance with the requirements of Section 1207 herein.

1. The zoning administrator shall act on the final plat within sixty (60) days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. 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.

2. If the zoning administrator fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days written notice to the zoning administrator, may petition the circuit court to decide whether the plat should or should not be approved. The circuit court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

**Sec. 18.1-1007.05 Action on final plat.**

Upon satisfactory completion of all requirements set forth in this article and all other requirements specified by the commission in the preliminary review, the zoning administrator shall sign approval of the final plat.

**Sec. 18.1-1007.06 Recordation of plat after final plat approval.**

Within six (6) months following approval by the zoning administrator of the final plat, one (1) copy of the final plat shall be recorded by the subdivider in the office of the clerk of the circuit court and six (6) copies shall be filed with the zoning administrator. The zoning administrator may, upon written request by the subdivider, grant an extension of this time limit; otherwise, he shall mark the plat null and void and return the same to the subdivider. Approval of the final plat shall not constitute acceptance of any offers of dedication by the Town, or the resident engineer of the VDOT.

**Sec. 18.1-1007.07 Final plat submitted as preliminary plat.**

The final plat may be submitted as the preliminary plat, provided no change, erasure, or revision shall be made on the preliminary plat nor on any accompanying data sheets after the preliminary plat has been approved by the commission in accordance with the provisions herein, unless authorization for such changes has been granted by the zoning administrator.

**Sec. 18.1-1008. Appeals procedures.**

**Sec. 18.1-1008.01 Appeals on final subdivision plat decisions**.

If the zoning administrator disapproves a plat and subdivider contends that such disapproval was not properly based on the provisions of this article, or was arbitrary or capricious, he may appeal to the circuit court. The circuit court shall hear and determine the case as soon as may be practical, provided that his appeal is filed with the circuit court within sixty (60) days of the written disapproval by the zoning administrator.

**Sec. 18.1-1008.02 Appeals of other decisions by the zoning administrator.**

Decisions of the zoning administrator relating to the administrative enforcement of the provisions herein are subject to an appeal to the Board of Zoning Appeals by any person aggrieved by any officer, department, or board of the Town affected by said decision or decisions.

1. An appeal shall be submitted in writing to the zoning administrator who shall immediately refer the written appeal to the Board of Zoning Appeals; such appeals shall specify the grounds for appeal.

2. Each appeal shall be accompanied by payment of a fee in accordance with Section 18.1-1009 herein to help defray the cost of publicizing and conducting the public hearing.

3. The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeals referred to said board; the Board of Zoning Appeals shall consider appeals after notice and hearing as required by Section 15.2-2204 Code of Virginia, 1950, as amended, and decide the same within sixty (60) days from the date of such public hearing.

**Sec. 18.1-1008.03 Appeals on decisions by the Town Council.**

All decisions by the Town Council are subject to an appeal to the circuit court by any person, firm, corporation, or governmental agency aggrieved by said decision or decisions.

**Sec. 18.1-1009. Administrative fee structure.**

In order to cover costs incurred by the town council, the commission, the board of zoning appeals and the zoning administrator incidental to the review, hearing and reporting of the processing applications for a zoning certificate for a permitted use or a special use permit, a zoning amendment, an administrative review, a variance, a site plan and subdivision plats, the following fees shall be required to accompany appropriate applications:

| Application Type | Application Fee |
|---|---|
| Permitted Use | No fee |
| Special Use Permit | $ 300 |
| Zoning Ordinance Amendment | $ 300 |
| Variance | $ 150 |
| Any other application to the Board of Zoning Appeals | $ 300 |
| Site Plan subject to special review under Section 1103 | $ 200 |
| Other Site Plan | No fee |
| Subdivision Pre-application review | No fee |
| Preliminary Plat | $ 40 |
| Final Plat | $60+$15/lot |

**Sec. 18.1-1010. Performance bond requirements.**

Dedication for public use of any right-of-way located within any subdivision which as constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved on the final plat by the zoning administrator and other appropriate officials as required under Section 18.1-1204 herein, financed or to be financed in whole or in part by private funds, shall be accepted by the Town Council or resident engineer only if the owner or the subdivider: (1) certifies to the zoning administrator that the construction costs have been paid to the person constructing such facilities; or (2) furnishes to the Town a certified check in the amount of the estimated costs of construction or a bond, the cash escrow, or other financial arrangement satisfactory to the Town Attorney, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned. The bond, in an amount calculated by the Town, shall be based upon a two (2) year projection of cost from the date of starting construction of said improvements to insure that required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the Town. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the zoning administrator and the resident engineer, where applicable.

**Sec. 18.1-1010.01**

Within seven (7) days after notification by the owner that the construction is complete, the zoning administrator or his duly designated agent shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The Town may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete, provided the owner certifies that all construction costs have been paid to persons constructing the facilities and the zoning administrator or his duly designated agent has inspected the facilities to insure that fifty (50) percent of the work is complete.

**Sec. 18.1-1010.02**

The developer and the development principals thereof shall provide the Town with a guarantee or warranty against defects in water and sewerage facilities for a period of one (1) year following acceptance by the Town of the subdivision public improvements under Town authority, unless said improvements were installed by the Town.

**Sec. 18.1-1011. Application deadlines.**

For any proposal which requires a public hearing, including those for zoning map amendments, variances, and special use permit, all application materials shall be submitted for review at least 45 days prior to a normal meeting date of the body that will hold the hearing.

For any application which does not require a hearing but a decision by any public body other than the zoning administrator, including subdivisions and site plans requiring planning commission approval, all full applications received 14 days prior to ~~by~~ a regular monthly meeting shall be reviewed at that first meeting [J9]and, barring irregular circumstances, a decision rendered at the next regular monthly meeting.

## ARTICLE XI. SITE PLAN REVIEW REQUIREMENTS

**Sec. 18.1-1101. Intent.**

Site plan review is intended to insure proper design in types of development which can have deleterious effects on their surroundings. These effects are subject to modification or reduction through the physical design of such development. Review of the design, therefore, is aimed at the greatest possible benefit to the community as a result of building and site design.

**Sec. 18.1-1102. Procedure for site plan review.**

Whenever the owner or proprietor of any tract of land located within the Town desires to develop any class of use listed in Section 18.1-1103 herein, he shall submit a plan of the proposed development to the zoning administrator for processing.

The owner or his representative is encouraged to consult with the zoning administrator for advice and assistance on the development. The owner may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout of the development. The zoning administrator shall return a copy of the submitted sketch plans to the developer with written comments indicating where the plans do not comply with the requirements set forth herein. Submission of said sketch plans and accompanying data shall not constitute the official filing of a proposed subdivision.

When the zoning administrator determines that an application involves development requiring site plan review, the zoning administrator shall notify the applicant that such review is required and shall require the documentation listed in this section. Any development meeting the criteria in Section 18.1-1103 may be reviewed and be made subject to approval by the Planning Commission. The Planning Commission may approve, approve with conditions, or deny approval of a site plan.

Any person proposing a development that requires a site plan under Section 18.1-1103 shall submit to the zoning administrator six (6) copies of a site plan showing the general design and layout of the development. The zoning administrator shall transmit copies of the site plan to VDOT, the health department, the erosion and sediment control officer, or any other relevant agency or department.

The site plan shall be reviewed in accordance with the procedures set forth in this section.

Within forty-five (45) days after submission of the site plan and accompanying documents to the zoning administrator, the commission shall approve, approve with conditions, or disapprove the site plan; the commission shall cause to have prepared two (2) copies of a statement noting reasons for commission disapproval or conditional approval, if applicable, and shall return one (1) copy of statement and plat to the developer with notification in writing of the action of the commission. One (1) copy of said statement and preliminary plat shall be retained by the zoning administrator for comparison with future site plans, where applicable, submitted by the developer.

The approval for any site plan approved by the Planning Commission shall expire and be null and void 12 months after the vote for approval if construction has not begun.[J10]

**Sec. 18.1-1103. Developments subject to special site plan review.**

The following types of development shall be subject to the site plan review provisions under Section 1104 of this article:

**Sec. 18.1-1103.01**

All commercial, ~~and~~ industrial and institutional buildings that have 2,000 square feet or more in floor area, including buildings converted from any other use to commercial, industrial or institutional use.[J11]

**Sec. 18.1-1103.02**

All institutional facilities such as schools, hospitals and clubs;

**Sec. 18.1-1103.03**

All residential developments involving more than four (4) dwelling units in one building or three on one lot;

**Sec. 18.1-1103.04**

Mobile home parks.

**Sec. 18.1-1103.05**

Special use applications involving more than 2,000 sq. ft. of new building area.

**Sec. 18.1-1103.06**

Conditional zoning applications.

**Sec. 18.1-1103.07**

Townhouse development projects.

**Sec. 18.1-1103.08**

Any proposed building that has 2,000 sq. ft. or less in floor area will require only an informational sketch for review.

**Sec. 18.1-1103.09**

Any use listed as specifically requiring a site plan.

**Sec. 18.1-1104. Documentation.**

The following requirements shall govern documents submitted for site plan review:

**Sec. 18.1-1104.01**

Site plans shall be submitted at a scale of not less than one (1) inch equals one hundred (100) feet.

**Sec. 18.1-1104.02**

Six (6) clearly legible blue-line or black-line copies of the site plan shall be submitted. Additional copies may be required by the zoning administrator if deemed necessary by the zoning administrator.

**Sec. 18.1-1104.03**

The names and addresses of owner and developer and a scale and north arrow shall be included on all maps.

**Sec. 18.1-1104.04**

The following information shall be included on the map of existing conditions:

1. Names and addresses of owners of record of all adjacent properties;

2. Current zoning boundaries, including surrounding areas to a distance of one hundred (100) feet from the property in question;

3. Easements, rights-of-way, or other reservations affecting the property;

4. Topography;

5. Location of watercourses, marshes, rock out-cropping and wooded areas;

6. Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of one hundred (100) feet, indicating whether existing buildings on the tract are to be retained, modified or removed; and

7. Location of existing water mains, culverts, drains, pipe sizes, grades and direction of flow.

**Sec. 18.1-1104.05**

The following information shall be included on the map of proposed development:

1. Stormwater management and erosion control measures as required by the Soil Erosion and Sedimentation Control Ordinance. Approval of the measures by the applicable stormwater management or erosion control regulatory agency shall not be required prior to the Town's site plan review, but significant alterations of the site plan as may be required to obtain approval from the stormwater management or erosion control regulatory agency will void the Town's approval of the site plan.

2. Location and size of proposed buildings and uses thereof;

3. Proposed topography;

4. Proposed streets and other access and egress facilities (indicating curblines, sidewalk lines and public right-of-way lines); profiles and cross-sections of streets. Certification from VDOT that the site plan meets all appropriate VDOT criteria shall accompany the site plan.

5. Layout of off-street parking;

6. Location of proposed utility lines, indicating where they already exist and whether they will be underground;

7. Proposed water and sanitary sewer facilities, including pipe type, size, grades and design factors as appropriate. Certification from the Town of Amherst that a satisfactory plan to install the proposed new facilities has been provided shall accompany the site plan.

8. Proposed location, direction of, power, and time and use of outdoor lighting. Lighting facilities shall be provided and arranged so that light is directed downward and not horizontally or at adjacent properties with special care to as to not negatively impact residential areas;

9. Proposed planting, including all landscaping and screening, and indicating existing trees to be retained and areas to be left undisturbed;

10. Location, size and design of proposed signs;

11. Facilities for disposal of trash and other solid waste;

12. Elevations of buildings to be built or altered on site; and

13. Vicinity map at a scale no smaller than six hundred (600) feet to one inch, showing all streets and property within one thousand (1000) feet of the property for which the application is made. All properties owned or controlled by the applicant in this area shall be identified.

**Sec. 18.1-1104.06**

The planning commission may require additional information for a special use to determine its eligibility under this ordinance.

**Sec. 18.1-1105. General site plan review.**

For those permitted uses not requiring special site plan review under Section 1103 of this ordinance, two (2) copies of an acceptable site plan and sketch reasonable information shown thereon shall be submitted to the zoning administrator along with the zoning certificate application. 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); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

## ARTICLE XII. SUBDIVISION PLATTING REQUIREMENTS

**Sec. 18.1-1201. Platting required.**

**Sec. 18.1-1201.01 Plat to be prepared.**

Each subdivision plat shall be prepared by a surveyor duly certified by the ~~State~~ Commonwealth of Virginia, who shall endorse upon each plat a certificate setting forth the source of title of the land subdivided and the place of record of the last instrument in the chain of title. Where more than one (1) tract is involved, the outlines of the several tracts shall be indicated upon the plat as provided in Section 1203.02 (13).

**Sec. 18.1-1201.02 Recordation of plat and its effect.**

A final plat shall be recorded in the office of the clerk of the circuit court in accordance with Section 1007.06 herein. No street shall be opened, dedicated, or accepted by the Town nor the right-of-way of any existing street in any way impinged upon, nor any public water or sewer service provided, nor any property in a subdivision transferred unless and until a final plat of said subdivision shall have been prepared, approved and recorded, as provided for herein, and until all other requirements specified in this ordinance shall have been met. Penalties for noncompliance of this subsection are provided for in Section 1503.02 herein.

**Sec. 18.1-1202. Vacation of plats.**

**Sec. 18.1-1202.01 Vacation of plats with no lots sold.**

Where no lots have been sold, any plat, or part thereof, recorded under the provisions of this article may be vacated with the consent of the commission by the owners, proprietors, and trustees, if any, who signed the Certificate of Owner's~~'~~ Consent to Subdivision, as provided in Section 1203.(7) declaring same to be vacated by a written instrument, duly executed, acknowledged, and recorded in the office of the clerk wherein the plat to be vacated is recorded. The execution and recording of such instrument shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and revest in such owners, proprietors, and trustees, if any, with the title to the streets, alleys, easements for public passage, and other public areas described in such plat.

**Sec. 18.1-1202.02 Vacation of plats with lots sold.**

In cases where any lot has been sold, a plat or part thereof may be vacated according to either of the following methods:

1. By written instrument agreeing to said vacation signed by all owners of lots shown on said plat and by the zoning administrator on behalf of and with the approval of the Town Council. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage. The instrument of vacation shall be acknowledged in the manner of a deed and recorded in the office of the clerk wherein the plat to be vacated is recorded.

2. By ordinance of the Town Council on motion of one of its members or an application of any interested person, after notice and public hearing in accordance with requirements of Section 15.2-2204 of the Code of Virginia, 1950, as amended. An appeal from the adoption of the ordinance may be filed within thirty (30) days with the circuit court of the county. Upon such appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably~~e~~ damaged. If no appeal from the adoption of the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the office of the clerk wherein the plat to be vacated is recorded.

**Sec. 18.1-1202.03 Effects of vacation.**

The recordation of the instrument provided in Section 1202.01 or 1202.02 (1), or of the ordinance as provided in Section 1202.02 (2), shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the centerline of any streets, alleys, or easements for public passage so vacated in the owners of abutting lots free and clear of any rights of the public or any owners of lots shown on the plat, but subject to the rights of the owners of any public utility installation which have been previously erected therein. If any such street, alley, or easement for public passage is located on the periphery of the plat, such title for the entire width thereof shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be ~~reverted~~ revested in the owners, proprietors and trustees, if any, who signed the Certificate of Owner's~~'~~ Consent to Subdivision, as provided in Section 1203.03(7) free and clear of any rights of public use in the same.

**Sec. 18.1-1202.04 Vacation of boundary lines.**

The boundary lines of any lot or parcel of land may be relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision provided such action does not involve the relocation or alteration of streets, public easements or other public areas; and provided further, that no easement or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

**Sec. 18.1-1203. Preparation of preliminary plat.**

**Sec. 18.1-1203.01 Preliminary plat requirements.**

The preliminary plat shall be legibly drawn in accordance with the following requirements:

1. One (1) or more sheets may be used, each to be numbered as "page (number) of (total number of pages)'; if two (2) or more sheets are used, each sheet shall show the name of the subdivision and match lines shall be provided to indicate where sheets join.

2. The scale shall not be less than one (1) inch equals one hundred (100) feet. The zoning administrator may accept a scale which is sufficient to clearly show all required details on the plat.

3. Where the complete plat cannot be shown on one sheet, an index map shall be provided on a separate sheet at a reduced scale.

**Sec. 18.1-1203.02 Preliminary plat information.**

The preliminary plat shall include the following information:

1. Date of plat and name of surveyor preparing it, shown on each ~~street~~sheet.

2. Scale and north meridian, designated "true" or "magnetic" and oriented to the top of each sheet, where practical.

3. The name and signature of the owner, shown on the first sheet.

4. Sources of data used in preparing the plat, including the deed book and page number of the last instrument in the chain of title.

5. Locations, lengths, and bearings of lines of the proposed subdivision, with names of all adjoining property owners and the location of each of their common boundaries including established streets and waterways; and adjoining streets with their names.

6. All pertinent natural and historical features and landmarks; including existing and finished contour lines as needed for review of drainage and sewer facilities, and including watercourses, marshes, lakes, impoundments, and areas of significant vegetation.

7. All subdivisions, jurisdiction~~s~~ boundary lines, streets, alleys, or other public ways; and other landmarks, if any, within two thousand (2000) feet of the proposed subdivision shown on an insert on the first sheet at a scale no smaller than six hundred (600) feet to one inch.

8. Total acreage of the proposed subdivision and the acreage remaining in the original tract, if any.

9. The location of existing buildings in and within one hundred (100) feet of the subdivision, and the location and description of all existing markers.

10. The proposed locations, widths, and names of all streets and alleys.

11. Proposed lot lines with proposed dimensions, building lines and easements, and the proposed use of each lot and other areas, including significant natural features, and those areas to be used for parking, open space, recreation, commercial purposes, or public or governmental use, and existing and proposed utility installations.

12. Proposed lot numbers and block letters.

13. If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be shown and identified on the index map.

14. A map showing the location of the proposed subdivision with respect to any designated flood plain district, including information, but not limited to, the one hundred (100) year flood elevations, boundaries of the flood plain districts, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.

15. Indicate current zoning of the parcel of land to be subdivided as provided herein.

**Sec. 18.1-1203.03 Items to accompany preliminary plat.**

The following items shall accompany the plat at the time it is submitted to the zoning administrator:

1. A statement by the resident engineer that the subdivider has consulted with him as to the plans and specifications of any streets, water lines and sewer lines and public parking areas that are included in the subdivision and as to any special treatment which will be required in their construction, including the drainage system which will be required.

2. A statement by the health department or the town, where applicable, that the subdivider has consulted with respect to providing water supply and/or sewage disposal facilities and that an adequate proposal for providing each building lot with a safe water supply and an adequate means of sewage disposal has been prepared.

3. A statement by the administrator of the Erosion and Sedimentation Control Ordinance of Amherst County, as designated by the Town Manager, stating that the subdivider has consulted with him as to the requirements of said program.

4. A statement by the subdivider acknowledging that requirements of the health department and applicable approving authorities will be carried out at the expense of the subdivider.

5. A statement by the subdivider acknowledging that requirements of the resident engineer will be carried out at the expense of the subdivider.

6. A statement by the subdivider acknowledging that an Erosion and Sedimentation Control Plan has been prepared and that requirements of the Erosion and Sedimentation program will be carried out at the expense of the subdivider.

7. A statement by the subdivider, in accordance with Section 15.2-2264 of the Code of Virginia, 1950, as amended, to the effect that the subdivision is with free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, as applicable, and setting forth all restrictive covenants, reservations, and dedications applicable to the proposed subdivision, giving an outline of the terms proposed and acreage involved.

**Sec. 18.1-1204. Preparation of final plat.**

**Sec. 18.1-1204.01 Final plat requirements**.

The final plat shall be legibly drawn and submitted in accordance with the following requirements:

1. Copies shall be permanent copies of original tracings.

2. One or more sheets may be used, each to be numbered as "page (number) of (total number of pages)"; if two or more sheets are used, each sheet shall show the name of the subdivision, and match lines shall be provided to indicate where the several sheets join.

3. The scale shall not be less than one (1) inch equals one hundred (100) feet. The zoning administrator may accept a scale which is sufficient to clearly show all required details on the plat.

4. Where the complete plat cannot be shown on one sheet, an index map shall be provided on a separate sheet at a reduced scale.

**Sec. 18.1-1204.02 Information Contained on Final Plat.**

The final plat shall include the following information:

1. All of the information required of preliminary plats in Section 1203.02

2. Bearings, lengths, widths, centerlines, easements and rights-of-way~~s~~ of every street and alley within the subdivision; data for all curves and angles in streets and alleys; location or iron pipes marking street corners, angles in streets, and the beginning (marked "PC") and end ("PT") of each curve in street.

3. Building setback lines, with distance to street right-of-way and length of the setback line for each lot.

4. Location, bearings, and dimensions of all lot lines with location of markers shown.

5. Land or water areas to be dedicated or reserved for streets, alleys, parking areas, or other public use, or for common use of future property owners in the subdivision.

6. All restricted covenants or reference to where such covenants are filed.

7. An execution of the owners consent to subdivision, in accordance with Section 15.2-2264~~1-477~~ of the Code of Virginia, 1950, as amended, to the effect that the subdivision is with free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, as applicable, and setting forth all restrictive covenants, reservations and dedications applicable to the proposed subdivision.

8. A certificate signed by the surveyor setting forth:
   a. The source of title of the owner of the land subdivided.

   b. The place of record of the last instrument in the chain of title.

   c. All markers are shown and described in the plat and are in place as shown.

9. Space for signature of approval of the zoning administrator, a Virginia Department of Transportation representative, and a Virginia Department of Health representative, as appropriate;

10. Name and signature of any owners of property over which a right-of-way traverses which is intended to provide required access to the subdivision. The signature block shall include the following statement: "The owners understand and accept the prescribed right-of-way on their property as a means of access to a subdivision of property. It is understood and accepted that maintenance of the access road will take place within the right-of-way."

11. For properties not served by public sewer, a signature block for the developer's Virginia Certified Onsite Soil Evaluator, stating "I Certify that soils evaluation work for this subdivision has been done in accordance with both state law, and Amherst County ordinances relating to onsite sewage disposal. Data resulting from soil work, including treatment systems, pre-treatment systems, primary and reserve drainfields, has been appropriately evaluated and approved by the Virginia Department of Health."

**Sec. 18.1-1204.03 Items to Accompany Final Plat.**

The following items shall accompany the final plat at the time of submission to the zoning administrator:

1. An unexecuted copy of the proposed deed of dedication, accompanied by a certificate signed by the subdivider and duly acknowledged before an officer authorized to accept acknowledgements of deeds, certifying that the copy is a true copy of the proposed deed of dedication which will be presented for recording. Said deed shall contain language except as provided herein such that when the deed is recorded it shall operate to transfer in fee simple to the county such portion of the platted premises as is set apart on the final plat for streets, alleys, easements, or other public use, and shall create a public right of passage over same; and shall contain a complete description of the land subdivided and any restrictive covenants and reservations applicable to the subdivision. . When public water and/or sewerage facilities

shall be involved, a grant of easement to the Town for maintenance and servicing public utilities shall be established; and further it must be provided that all individuals and entitles providing public services requiring ingress and egress for themselves, their agents, and employees, and equipment shall have the necessary easements to accomplish said public service. Public service shall include, but not be limited to, the following: public refuse collection service; public school bus service; U.S. postal service; fire, police and rescue service; telephone and power repair and maintenance trucks and any and all similar services.

2. A statement signed by the administrator of the ~~Soil and Sedimentation Control Program~~Erosion and Sediment Control Ordinance of the county certifying approval of the Soil Erosion and Sedimentation Control Plan submitted by the subdivider, as provided for in the Soil Erosion and Sedimentation Control Ordinance.

3. A certificate signed by representatives of the health department and the town, where applicable, and in the case of subdivisions to be served by onsite sewage disposal systems, by the developer's Virginia Certified Onsite Soil Evaluator, stating that the water and sewer systems proposed are acceptable and in conformity with current requirements of the State Department of Health and Town of Amherst ordinances, and that each lot will have an adequate and safe water supply and an adequate means of sewage disposal, if applicable. In lieu of the certificate the signature of the appropriate health department and/or Town official may be required to appear on the plat.~~A certificate signed by the health department or the Town, where applicable, stating that the water and sewer systems proposed are acceptable and in conformity with current requirements, and that each lot will have an adequate and safe water supply and an adequate means of sewage disposal, if applicable.~~

4. A certificate signed by the resident engineer stating that the plans for all streets, street signs, and drainage systems are acceptable and in conformity with applicable requirements, and certifying approval of any installation of such improvements already undertaken. In lieu of the certificate the signature of the appropriate Virginia Department of Transportation official may be required to appear on the plat.

5. A performance bond in accordance with Section 18.1-1010 herein.

**Sec. 18.1-1205. Acceptance of Improvements.**

The subdivider shall dedicate to the town, county, and the highway department, where applicable, all land required for streets, easements and alleys and other public facilities as required in this ordinance. The zoning administrator or his duly designated agent and the resident engineer, where applicable, shall make such inspections during and after final installation of the improvements required herein as shall be deemed necessary, and no installation shall be accepted as completed until approved by the zoning administrator or his duly designated agent, and the resident engineer, where applicable, except as otherwise provided for in Section 18.1-1010 herein.

**Sec. 18.1-1206. Administrative review of certain plats~~Subdivisions not Exceeding Four (4) Lots~~**

1. Notwithstanding the provisions stated elsewhere in this ordinance, the zoning administrator is hereby delegated the authority to give preliminary and final approval in the name and on behalf of the commission to applications for approval of a subdivision not exceeding four (4) lots in size provided no new street, and water and sewage facilities are involved; the required certifications have been approved by the appropriate agent; no variances are involved; and all

the requirements set forth herein are met. Any actions by the zoning administrator pursuant to this section herein shall be reported to the commission at its subsequent meeting.

2. In the case of reconfigured lots, the applicant shall submit three copies of the plat to the zoning administrator for review and approval. Once a determination has been made that the plat meets the standards of this ordinance, the zoning administrator shall approve and sign the plat, retain one, and return the others to the applicant. The reconfiguration plat shall clearly show the following information:
    a. Every plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor who shall endorse upon each such plat a certificate signed by him or her setting forth the source of title of the owner(s) of the land(s) involved in the reconfiguration and the place of record of the last instrument(s) in the chain of title;
    b. Date of plat;
    c. Scale;
    d. North arrow;
    e. Adjoining property owners;
    f. Bearings and distances of all lines surveyed as part of the reconfiguration;
    g. Name and signature of owner(s) notarized;
    h. The acreage and frontage width of the reconfigured properties or a statement certifying the surveyor's knowledge that the reconfigured properties meet the minimum acreage and frontage width requirements;
    i. Tax map section, block and lot number;
    j. Plat clearly labeled RECONFIGURATION by the surveyor;
    k. Signature block for the zoning administrator.

    The applicant shall be responsible for recording the plat in the office of the Clerk of the Circuit Court within one year of approval or it will become invalid.

## ARTICLE XIII SUBDIVISION DESIGN STANDARDS AND REQUIREMENTS

### Sec. 18.1-1301. Design Requirements

### Sec. 18.1-1301.01 General Requirements.

The following general design requirements shall apply to all subdivisions :

1. Land subject to flooding, improper drainage, or erosion, or which is for topographical, geological or other reasons unsuitable for residential use shall not be platted for residential use nor for any other uses that will increase the danger to health, safety, or property destruction, unless the hazards can be and are corrected.

2. The name of the subdivision must have the approval of the planning commission. The name shall not duplicate nor closely approximate the name of an existing subdivision.

3. Access to every lot in a subdivision shall be provided over a public street. Street names shall require the approval of the commission. Road signs shall be constructed and installed to Amherst County specifications at the expense of the subdivider.

4. All proposed subdivisions shall conform to the Town comprehensive plan and development policies in effect at the time of submission to the commission.

### Sec. 18.1-1301.02 Street Requirements.

The design of subdivision streets shall meet the following requirements:

1. All location, geometric design and construction of streets within a subdivision shall be in accordance with the following regulations and plans, where applicable, and shall be approved by the resident engineer:

    a. The ~~*Subdivision Street Requirements* manual~~*subdivision streets requirements* and other applicable regulations of the highway department;

    b. The county's current six-year highway improvement plan or its equivalent, including requests of the Town.

    c. The Town's comprehensive plan.

    d. The current transportation plan for the Lynchburg urbanizing area and adopted by the Town Council and the Central Virginia Transportation Planning Council.

2. Additional street design requirements for subdivision streets shall be met:

    a. Existing street right-of-ways shall be continued at the same or greater width, but in no case shall the right-of-way of any subdivision street be less than fifty (50) feet in width.

    b. Street intersections shall be as nearly at right angles as possible with no street intersection being at any angle of less than sixty (60) degrees;~~.~~

    c. Street intersections with center-line offsets of less than one hundred twenty-five (125) feet shall not be permitted~~.~~;

d. Streets shall be reserved at strategic locations to provide for future access to adjoining properties which may be subdivided in the future. Each street connection shall intersect property lines at a ninety (90) degree angle or as otherwise approved by approving authority;~~.~~

e. Cul-de-sacs, or dead-end streets, shall be not less than two hundred (200) feet in length. They shall be provided at the closed end with a turn-around of at least sixty (60) feet in radius, unless otherwise approved by the resident engineer for reasons of area traffic volumes or the likelihood of future extensions of the street;~~.~~

f. Where a subdivision abuts or contains a railroad right-of-way or a non-accessible street, which shall include any limited access highway or major street, as defined in the State Highway Improvements Plan, as amended, or any street with a proposed future right-of-way width of sixty-five (65) feet or greater in said plan, or any street on the state system of primary highways, the commission may require a street approximately parallel to and on each side of such right-of-way either as a marginal access street, at a distance suitable for an appropriate use of intervening land, with a non-access reservation suitable platted. Due regard should be given to requirements for approach grades and future grade separations in determining distances. Residential lots have access only to secondary streets; the commission may require through lots;~~.~~

g. Subdivisions that adjoin existing streets shall dedicate additional right-of-way if needed to meet the minimum street width requirements set forth in Section 1301.02 (2) (a).

(1) The entire right-of-way shall be provided where any part of subdivision is on both sides of the existing streets.

(2) When the subdivision is located on only one side of an~~y~~ existing street, one-half (1/2) of the required right-of-way, measured from the centerline of the existing roadway, shall be provided.

(3) When lots in a subdivision abut on one side of any street which has been included in the state system of secondary highways, the subdivider shall be required to dedicate twenty-five (25) feet of right-of-way, as measured from the centerline of the street to the subdivision property line. The subdivider shall not be responsible for grading or surfacing such street~~.~~;

h. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations; where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract~~.~~;

i. The requirements for providing alleys within a subdivision are as follows:

(1) No alley right-of-way shall be less than twenty (20) feet in width.

(2) Alleys shall be provided in commercial and industrial districts, except where other definite and assured provision is made for service access, such as off street parking, loading and unloading, consistent with and adequate for the uses proposed~~.~~;

(3) Alleys shall not be provided in residential subdivisions and development unless the subdivider provides evidence satisfactory to the commission of the need for alleys~~.~~;

(4) Alley intersection and sharp changes in alignment shall be avoided, but where necessary corners shall provide sufficient radius to permit safe vehicular movements.

(5) Dead-end alleys shall be avoided where possible but, if unavoidable, shall be provided with adequate turn around facilities at the dead-end, as determined by the commission;~~.~~

j Street names shall require the approval of the commission which shall not approve new street names until after a recommendation is received from Amherst County. Streets that are obviously in alignment with streets already in existence and already named shall be given the name of those of existing streets.

3. The subdivider shall be responsible for securing written approval of the street design by VDOT prior to approval of the final plat. All new public and private streets shall be subject to this requirement.

**Sec. 18.1-1301.03 Block l~~L~~engths and w~~W~~idths.**

Block lengths and widths shall be determined based on the following requirements:

1. Blocks shall not be greater than two thousand (2000) feet nor less than two hundred (200) feet in length, provided, however, the Planning Commission may waive this provision when in the judg~~e~~ment of the commission extreme topographic conditions would cause undue hardship if the subdivider complied with this provision.

2. Blocks shall be wide enough to provide two tiers of lots of minimum depth, except where abutting upon major streets, limited access highways, or railroads or topographical or other situations make this requirement impracticable in which case the Planning Commission may approve a single tier of lots of minimum depth.

3. Blocks intended for non-residential use shall provide adequate space for service access and off-street parking in accordance with Article VI of this ordinance.

**Sec. 18.1-1301.04 Lot d~~D~~esign r~~R~~equirements**

1. Lot areas and dimensions and yard areas shall conform to applicable requirements of Articles VII and VIII, or, if applicable, Section 1301.03 herein.

2. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area or street footage which would be unusable for normal purposes.

3. Every lot shall front on a public street, and the side lines of lots shall be approximately at right angles, or radial to the street line unless otherwise approved.

4. In the case of lots for residential purposes, the lot area shall conform to the requirements of Article VIII. The lot area may be greater than the minimum specified if the

commission finds that condition of health and/or safety so require, based on recommendations of the health department, or other appropriate agencies.

5. Double frontage lots should be avoided except where essential to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided a long the line of lots abutting such a traffic artery or other disadvantageous use.

6. Drain fields and reserve drain fields must be located within the main body of the lot they serve. Peculiar lot configurations to accommodate drain fields located remotely from the main building site shall not be permitted.

**Sec. 18.1-1301.05 Environmental d~~D~~esign r~~R~~equirements.**

Land to be subdivided shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading and cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil. An Erosion and Sediment Control plan must be submitted and approved prior to removal of any ~~No~~ topsoil~~,~~ and/or gravel or any grading activity. All grading activity shall be done ~~, shall be removed from any lots shown on any subdivision plat, except~~ in accordance with the provisions of the county Erosion and Sedimentation Control Ordinance. Calculations shall be submitted as part of the erosion and sedimentation plan which justify the design of run off control measures.

**Sec. 18.1-1301.06 Easements.**

Easements having a minimum width of twenty (20) feet shall be provided as are necessary for utility lines, and underground mains and cables, where appropriate. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a stormwater drainage easement of adequate width, but not less than eight (8) feet. Parallel streets may be required by the commission in connection therewith.

**Sec. 18.1-1301.07 Private streets.**

All new streets shall be designed and constructed in accordance with VDOT's subdivision street requirements. Private streets are discouraged but may be allowed in planned unit developments and other special applications upon issuance of a special use permit by the Town Council.

**Sec. 18.1-1302. Physical Improvements**

The subdivider shall install the following physical improvements at his cost in accordance with the provisions of this ordinance.

**Sec. 18.1-1302.01 Markers.**

Markers shall be installed in accordance with the following provisions:

1. Markers shall be iron pipes or steel pins ~~three fourths (3/4)~~five-eighths (5/8) of an inch in diameter and fifteen (15) inches long and driven so as to be flush with finished grades at all street corners, angles in streets, the beginning and end of all curves in streets, at all points where the street intersects the exterior boundaries of the subdivision and all lot corners and angles.

2. Where rock is encountered, a hole shall be drilled four (4) inches deep, 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.

**Sec. 18.1-1302.02 Water and s~~S~~ewage f~~F~~acilities.**

Water and sewage facilities shall be provided in all subdivisions and shall adhere to the following requirements:

1. All public water and sewage facilities shall be constructed in accordance with the current specifications of the health department, or the Town, whichever is applicable.

2. All public water and sewage systems shall be installed at the expense of the subdivider, and where oversized lines or pumping stations are required by the health department, or the Town, whichever is applicable, to provide capacity to handle flow originating from outside the subdivision, the subdivider shall install the additional water and sewage facilities as provided for in the current line extension policies of the agency requiring the additional facilities.

3. All lots located within the subdivision shall be connected to existing public systems under the following conditions:

    a. Whenever the subdivision is one thousand (1,000) feet or less from an existing public water and/or sewage system, the subdivider shall be required to install the appropriate connecting lines to the existing systems as provided for in the current policies of the health department or the Town, whichever is applicable.

    b. Whenever the subdivisions is more than one thousand (1,000) feet from an existing public water and/or sewage system, the Town Council may require the subdivider to install the appropriate connecting lines as provided for in the current policies of the health department or the Town, whichever is applicable.

4. Non-public water systems and/or on-site sewage systems may be installed provided that public water and/or sewage systems cannot be constructed in the subdivision as determined by the Town Council.

5. All water and sewage facilities shall be inspected and approved by the appropriate official in accordance with Section 1204.04 herein. All water and sewerage facilities installed by a developer shall be inspected by a licensed engineer who shall (a)certify that the installation was done according to a set of as-built plans and (b)certify to the Town, VDOT, and the Virginia Department of Health that all required testing was performed and approved.

6. All private waste disposal systems including their reserve areas shall be located on the same property as the building site that the private waste disposal system benefits.

**Sec. 18.1-1302.03. Streets and d~~D~~rainage.**

Streets and drainage facilities shall be constructed in accordance with the following requirements:

1. Extensions of existing streets or new streets of subdivision shall be paved before being opened to the public. In lieu of completion of pavement, a bond or surety shall be provided as in Section 1010. Pavements shall be in the entire length of the portion of the street opened to the public. Streets shall be constructed in accordance with the specifications of the Virginia Department of Highways and Transportation.

2. Street identification signs approved by the zoning administrator shall be installed at all street intersections in any subdivision by the subdivider.

3. All street and drainage improvements shall be inspected and found in compliance with requirements of this ordinance and standards of the Virginia Department of Highways and Transportation, as evidenced by the written approval of the resident engineer, as provided in Section 1204.04 herein.

**Sec. 18.1-1302.04 Other i~~I~~mprovements.**

1. Where outdoor recreation facilities are provided in connection with common open space, they shall be of a design and construction approved by the commission.

2. Where the subdivider wishes to plant trees between the pavement edge and the adjacent right-of-way lines, he shall first confer with the zoning administrator to determine the side of the street on which the utility pole for power, street lights and telephone will be located. On the side of the street on which the utility pole will be placed, the trees shall be limited to those not exceeding twenty (20) feet in mature height. On the side of the street opposite the utility pole line, the planting of trees shall not be restricted.

3. The subdivider shall obtain approval from the Town Council for the design of a street lighting system. The subdivider shall fund the installation, install or have installed any street lighting system serving the subdivision and make appropriate arrangements for its maintenance.

**Sec. 18.1-1303. Reservation of l~~L~~and for c~~C~~ommunity f~~F~~acilities and o~~O~~pen s~~S~~pace**

**Sec. 18.1-1303.01**

Where features of the Town comprehensive plan, such as school sites, parks, and other public spaces are located in whole or in part in a proposed subdivision such features shall be reserved by the subdivider. Whenever such reserved land, or any portion thereof, is not acquired, optioned, or condemned by the appropriate public agency within a one (1) year period from the date of recording the subdivision, the subdivider may claim the original reservation, or portion thereof, and cause it to be subdivided in a manner suitable to the subdivider subject to the provisions herein. The commission may waive this reservation requirement whenever the public body responsible for land acquisition executes a written release stating that such a planned feature is not being acquired.

**Sec. 18.1-1303.02.**

Whenever the plat proposes the reservation of land to public use and the Planning Commission or the appropriate agency finds that such land is not required or suitable for public use, the Commission may either refuse to approve said plat or it may require the arrangement of lots within such land.

## ARTICLE XIV. RELATIONSHIP OF THIS ORDINANCE TO PUBLIC BODIES

**Sec. 18.1-1401. Intent**

This article serves to present clearly the responsibilities of the public bodies that administer this ordinance. The responsibilities include those delegated by Section 15.2 Chapter 22, Articles 1-8, of the Code of Virginia, 1950, as amended, as well as those responsibilities left to local option and assigned by enactment of this ordinance.

**Sec. 18.1-1402. The Board of Zoning Appeals**

The Town of Amherst Board of Zoning Appeals, hereinafter referred to as the board of appeals, is hereby reestablished and continued.

**Sec. 18.1-1402.01 Membership.**

A board of consisting of five (5) members shall be appointed by the circuit court of the county, with appointments and terms of office as follows:

1. The board of appeals members appointed hereunder shall serve respectively for terms of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years. Subsequent appointments shall be for terms of five (5) years each. Members may be reappointed to succeed themselves.

2. No member shall hold any public office; however, one (1) member may be a member of the Planning Commission.

3. A member whose term expires shall continue to serve until his successor qualifies and is appointed.

4. The secretary of the board of appeals shall notify the circuit court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.

5. Any member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the circuit court after hearing held after at least fifteen (15) days notice.

**Sec. 18.1-1402.02 Rules of Procedure.**

The board of appeals shall observe the following procedures:

1. The board of appeals shall adopt rules in accordance with the provisions of this ordinance and consistent with other ordinances of the Town and general laws of the Commonwealth of Virginia for the conduct of its affairs.

2. The board of appeals shall elect a chairman and vice-chairman from its own membership who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. The election of officers shall be held at the first meeting of the board of appeals after July first of each year.

3. The board of appeals shall keep a full public record of its proceedings and shall submit a report of its activities to the Town Council at least once each year.

4. All meetings of the board of appeals shall be open to the public.

5. Any member of the board of appeals shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

6. The meetings of the board of appeals shall be held at the call of the chairman and at such other times as a quorum of the board of appeals may determine.

7. The chairman, or in his absence the vice-chairman or acting chairman, may administer oaths and compel the attendance of witnesses.

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

9. A favorable vote of at least three (3) members of the board of appeals shall be necessary to reverse any order, requirement, decision, determination of any administrative official or to decide in favor of the applicant on any matter upon which the board of appeals is required to pass.

**Sec. 18.1-1402.03 Duties and Powers.**

The board of appeals shall have the following duties and powers:

1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

2. To authorize upon appeal or original application in specific cases such variance as defined in §15.2-2201 of the Code of Virginia from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

   When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

   No such variance shall be authorized by the board unless it finds:

a. That the strict application of the ordinance would produce undue hardship relating to the property;

b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized except after notice and hearing as required by §15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by §15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by §15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather

than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

~~1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance.~~

~~2. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, when owning to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done as follows:~~

~~a. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board of appeals is satisfied, upon demonstrable hardship approaching confiscation,~~ [J12]~~as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~

~~b. No such variance shall be authorized by the board of appeals unless it finds that all three of the following conditions apply: (1) that the strict application of the ordinance would produce undue hardship; (2) that such hardship is not shared generally by other properties in the same district and the same vicinity; and (3) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

~~c. No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended.~~

~~d. No variance shall be authorized unless the board of appeals finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

~~e. In authorizing a variance the board of appeals may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.~~

~~3. To hear and decide appeals from the decision of the zoning administrator as provided in Section 1008 of this ordinance.~~

~~4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, utilizing the rules for determining boundaries as prescribed in Section 505 of this ordinance. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, the board of appeals may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The board of appeals shall not have the power to change substantially the locations of district boundaries as established by this ordinance.~~

~~5. No provision of this ordinance shall be construed as granting the board of appeals the power to rezone property.~~

**Sec. 18.1-1402.04. Financing the Board of Appeals.**

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

**Sec. 18.1-1402.05. Appeals to the Board of Appeals.**

Requests for special use approvals, administrative review, or variances shall follow procedures specified by Article X herein.

**Sec. 18.1-1402.06. Decision of Board of Appeals**

1. Any person or persons jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer or any officer, department, board of bureau of the Town may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board of appeals.

2. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of appeals and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the appeals and on due cause shown, grant a restraining order.

3. The board of appeals shall not be required to return the original paper(s) acted upon by it, but it shall be sufficient to return certified or sworn copies thereof (or) of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, said court may take evidence or appoint a commission(er) of the court to take such evidence as the court may direct and report the same to the court with his finding(s) of fact and conclusions of law, which shall constitute a part of the proceeding(s) upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

5. Costs shall not be allowed against the board of appeals unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

**Sec. 18.1-1403. The Planning Commission**

**Sec. 18.1-1403.01. Creation.**

The Town of Amherst Planning Commission is hereby reestablished and continued in order to promote the orderly development of the Town of Amherst and its environs. In accomplishing the objectives of Section 15.2-2200 of the Code of Virginia, 1950 (as amended) the planning commission shall serve primarily in an advisory capacity to the Town Council.

**Sec. 18.1-1403.02. Cooperation of planning commission with other agencies.**

The planning commission may cooperate with other local planning commissions or legislative and administrative bodies and officials of other localities so as to coordinate planning and development among the localities. The planning commission may appoint committees and may adopt rules as needed to effect such cooperation. The planning commission may also cooperate with state and federal officials, departments and agencies. The planning commission may request from such departments and agencies, and such departments and agencies of the Commonwealth shall furnish, such reasonable information which may affect the planning and development of the Town of Amherst.

**Sec. 18.1-1403.03. Qualifications, appointment, removal, terms and compensation of members of the planning commission.**

The planning commission shall consist of seven members, appointed by the Town Council of the Town of Amherst, all of whom shall be residents of the Town of Amherst, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. Planning commissioners shall be required to take an oath of office before the Clerk of the Circuit Court before assuming their duties.

One member of the commission may be a member of the Town Council of the Town of Amherst, and one member may be an appointed member of the administrative branch of government of the Town. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the Town Council, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The Town Council may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing Town Council. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.

The Town Council may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.

**Sec. 18.1-1403.04. Meetings.**

The planning commission shall fix the time for holding regular meetings and shall meet at least once each year. Special meetings of the planning commission may be called by the chairman or by two members upon written request to the secretary. The secretary shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof.

Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.

**Sec. 18.1-1403.05. Quorum majority vote.**

A majority of the members shall constitute a quorum and no action of the planning commission shall be valid unless authorized by a majority vote of those present and voting.

**Sec. 18.1-1403.06. Facilities for holding of meetings and preservation of documents; appropriations for expenses.**

The Town Council may provide the planning commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the commission.

**Sec. 18.1-1403.07. Officers, employees and consultants; expenditures; rules and records; special surveys.**

The planning commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. If authorized by the Town Council the commission may (i) create and fill such other offices as it deems necessary; (ii) appoint such employees and staff as it deems necessary for its work; and (iii) contract with consultants for such services as it requires. The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the governing body.

The commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record. Upon request of the commission, the Town Council or other public officials may, from time to time, for the purpose of special surveys under the direction of the commission, assign or detail to it any members of the staffs of the Town, or such governing body or other public official may direct any such department employee to make for the commission special surveys or studies requested by the commission.

**Sec. 18.1-1403.08. Duties of commissions.**

To effectuate this chapter, the planning commission shall:

1. Exercise general supervision of, and make regulations for, the administration of its affairs;
2. Prescribe rules pertaining to its investigations and hearings;
3. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Town Council;
4. Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
5. Make recommendations and an annual report to the Town Council concerning the operation of the commission and the status of planning within its jurisdiction;
6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;
7. Prepare and submit an annual budget in the manner prescribed by the governing body of the county or municipality; and
8. If deemed advisable, establish an advisory committee or committees.

**Sec. 18.1-1403.09. Expenditures; gifts and donations.**

The planning commission may expend, under regular local procedure as provided by law, sums appropriated to it for its purposes and activities.

A locality may accept gifts and donations for commission purposes. Any moneys so accepted shall be deposited with the Town in a special nonreverting commission fund to be available for expenditure by the commission for the purpose designated by the donor. The Treasurer of the Town of Amherst may issue warrants against such special fund only upon vouchers signed by the chairman and the secretary of the commission.

**Sec. 18.1-1404. The Amherst Town Council**

The Town Council shall have the following responsibilities in the administration of this ordinance:

**Sec. 18.1-1404.01**

Review and decide requests for amendments to the text of this ordinance as specified in Section 1004 herein.

**Sec. 18.1-1404.02**

Review and decide requests for amendments to the official zoning map as specified in Section 1004 and Article V herein.

**Sec. 18.1-1404.03**

Review and decide requests for zoning certificates for special use approvals, in accordance with Section 1003 herein.

## ARTICLE XV. LEGAL STATUS PROVISIONS

**Sec. 18.1-1501. Violations**

**Sec. 18.1-1501.01 All Permits and Licenses to Conform.**

All departments, officials, and public employees of the Town who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. Any such permit, if issued on conflict with the provisions of this ordinance, shall be null and void.

**Sec. 18.1-1501.02 Relation to Subdivision of Land.**

Upon effective date of this ordinance, the following provisions shall be in effect:

1. No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this ordinance.

2. No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the zoning administrator.

3. No person shall sell or transfer any land of a subdivision, before such plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to June 4, 1956, provided that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

4. No clerk of any court shall file or record a plat of a subdivision required by this ordinance to be recorded until such plat has been approved as required herein.

**Sec. 18.1-1502. Complaints Regarding Violations**

Whenever a violation of this ordinance 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. The zoning administrator shall record such complaint, immediately investigate, and take action thereon provided by this ordinance.

**Sec. 18.1-1503. Penalties**

**Sec. 18.1-1503.01 General Penalties.**

Any person, firm or corporation, whether as principal agent, employed or otherwise, violating, causing or permitting the violation of any of the provisions of this ordinance, except as provided for in Section 1503.02 herein, shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to three hundred (300) dollars. Such person, firm, or corporations shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as herein provided.

**Sec. 18.1-1503.02 Other Penalties Relating to Subdivision of Land.**

The following penalties for violation of the subdivision of land provisions of this ordinance shall apply:

1. Any person, firm or corporation, whether as principal agent, employed or otherwise, violating the provisions in Section 1501.02 (1) through (3) herein shall be subject to a fine of not more than five hundred (500) dollars 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 except the transaction form such penalties or form the remedies herein provided.

2. Any clerk of any court violating the provisions in Section 1501.02 (4) herein shall be subject to the penalties of Section 17-59, Code of Virginia, 1950, as amended.

**Sec. 18.1-1504. Conflict with Other Laws and Private Contracts**

**Sec. 18.1-1504.01 Governmental Laws.**

Wherever the requirements 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 higher standards shall govern.

**Sec. 18.1-1504.02. Private Contracts.**

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor does this ordinance grant the authority to any public official the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein. In the enforcement of the provisions herein, where such provisions are more restrictive than those required by private contracts, the provisions of this ordinance shall govern.

**Sec. 18.1-1505. Validity.**

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 this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this ordinance.

**Sec. 18.1-1506. Repealed Resolutions and Ordinance.**

This ordinance is a comprehensive enactment of all the resolutions and ordinances of the Town relating to zoning and the regulation of subdivisions. All prior ordinances affecting zoning and subdivisions regulation are hereby repealed.

**Sec. 18.1-1507. Effective date.**

This ordinance, and any amendment thereto, shall take effect and be in force at the time of adoption of this ordinance, or any amendment thereto.