

Town of Stephens City

ZONING ORDINANCE

AS RE-ENACTED OCTOBER 3, 2000

AMENDMENTS

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STEPHENS CITY ZONING MAP

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ZONING

ARTICLE I. IN GENERAL

Sec. 23-1. Statement of general intent.

Whereas, by act of the General Assembly of Virginia as provided in Section 15.2-2280-2316 Code of Virginia, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purposes of this chapter, 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;
- (4) The excavation or mining of soil or other natural resources.

Therefore, be it ordained by the Town Council of Stephens City, Virginia, for purposes of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of Section 15.2-2283 that the following provisions of this chapter be adopted as the Zoning Ordinance of Stephens City, Virginia. This chapter has been designed:

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

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- (8) To provide for the preservation of agricultural and forest lands and other lands of significance for the protection of the natural environment.

This chapter shall be known as "The Zoning Ordinance of Stephens City".

Sec. 23-2. Districts.

For the purpose of this chapter, the incorporated area of Stephens City, Virginia, is hereby divided into the following districts:

Residential District R-1.

Residential District R-2.

Residential District R-3.

Residential District R-O.

Business District B-1.

Community Business District B-2.

Travel Business District B-3.

Industrial District I-1.

Floodplain District (overlay district).

Historic District (overlay district).

Newtown Development District (overlay district).

Sec. 23-3. Definitions.

For the purpose of this chapter, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

Accessory building means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Accessory use or structure means a subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

Adjusted tract area means the gross area of the tract less:

- (1) all areas within public and private road rights-of-way;
- (2) 50% of the area of the tract within designated floodplain districts; and
- (3) 50% of the area of the tract exhibiting slopes in excess of twenty percent.

Administrator means the official charged with the enforcement of this chapter. He may be any appointed or elected official who is by formal resolution designated to such position by the town council. He may serve with or without compensation as determined by the town council.

Alley means a public way which affords only a secondary means of access to abutting property.

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All-weather surface means concrete, asphalt, macadam, brick, cobblestone or similar surface paving for business, industrial, multifamily residences or townhouse uses, and gravel, crushed rock, concrete, asphalt, macadam, brick or similar surface paving for single and two-family residential uses, which shall constitute an all-weather surface in conjunction with the provisions of this chapter related to driveways and off-street parking.

Automobile graveyard means any lot or place which is exposed to the weather, upon which more than five unlicensed, uninspected and unregistered motor vehicles of any kind are placed.

Automobile service station means a building used or intended to be used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles, may include the space and facilities for the installation of such commodities and, in addition, the space for facilities for the storage, minor repair and servicing of such vehicles, but not to include body repair, painting, steam cleaning, rust-proofing and refinishing.

Basement means a story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises.

Bed and Breakfast means a dwelling in which lodging and breakfast meals only are provided to travelers and short-term guests for compensation.

Block means the property bounded on all sides by one side of a street or a combination of street line, railroad right-of-way, unsubdivided land, river, live stream or any other barrier to the continuity of development.

Board means the board of zoning appeals of Stephens City, Virginia.

Boardinghouse means a building in which lodging and meals are provided for up to fourteen persons for compensation.

Building means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

Building Height means the vertical distance from the mean finished grade of the ground adjoining the building to the highest point on the roof for flat or shed roofs, to the deck line for mansard roof and to the mean height between eaves and ridges for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennas, or other part of structures which do not include potentially habitable floor space.

Building, main means the principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Cash payment in lieu of open space dedication means a cash payment to the Town of Stephens City, specifically accepted and approved by the Town Council, which may be made by a developer in lieu of setting aside required open space in a development. As a condition to acceptance by the Town Council, the Council must find that the in lieu payment is appropriate to the particular circumstances of the development and the payment shall be reasonably related to the alternative cost of the open space. The in lieu payment shall be deposited and kept by the Town in a special escrow account set up especially for open space payments and may only be appropriated on open space and recreation-related projects within the corporate limits of the Town.

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Cemetery means any land or structures used for the interment of human remains.

Commission means the planning commission of Stephens City, Virginia.

Common Area means any land area, other than Open Space, set aside for common ownership as a result of the Retirement Community Development, including areas for common facilities. The following uses shall be allowed within the Common Area: active recreation such as tennis courts, swimming pools, etc.; and community water and sewer systems.

Common Facilities means buildings which are commonly owned by the property owners within a Retirement Community Development. Community Centers may be proposed but are not required. They may include streets, rights of way, common buildings, wells, water and waste treatment systems, and recreation facilities.

Conservation area means an area of naturally vegetated or landscaped land set aside to serve as a visual and/or recreational amenity within a private development. Such land may include limited paved areas, such as sidewalks, trails, and recreational courts. Such land shall not include streets, parking areas, structures, private yards, or aboveground public facilities, except as may be approved for recreational purposes in a site plan or subdivision plat.

Coverage, building means the percentage of the total lot area which may be occupied by buildings.

Coverage, lot means the percentage of the total lot area which may be occupied by impervious and all-weather surfaces.

Dairy means a commercial establishment for the manufacture and sale of dairy products.

Density means the maximum number of dwelling units permitted per area of land calculated by dividing the total number of dwelling units by the adjusted tract area.

Depth means the average horizontal distance between the front and rear lot lines.

District means districts as referred to in the Code of Virginia, Section 15.2-2280.

Dwelling means any structure which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses, tourist cabins, apartments and automobile trailers.

Dwelling, attached means a dwelling having any portion of each of two walls above ground, above grade, in common with adjoining dwellings.

Dwelling, detached means a dwelling which is entirely freestanding on the same lot.

Dwelling, multiple-family means a structure arranged or designed to be occupied by more than one family.

Dwelling, two-family means a dwelling having two dwelling units, one above the other or a dwelling having two units side by side, both using a common exterior entrance.

Dwelling, single-family means a structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

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Duplex means a residential building with two separate dwelling units, attached above ground, each unit with its own outside entrances.

Family means one or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, lodging house, bed and breakfast or hotel.

Fence means a barrier, usually made of posts and wire or boards, intended to prevent escape or intrusion or to mark a boundary. Fences as used in this ordinance may not be made of fragile, readily flammable materials, such as paper, cloth or canvas. Fences as used in this ordinance shall not be constructed into the street right-of-way, and no fence shall be constructed that obstructs motorists' vision at any intersection, as determined by the zoning administrator and the state department of highways and transportation. Fences as used in this ordinance shall not exceed a height of eight feet, as measured from the topmost point thereof to the ground or surface along the centerline of the fence in commercial or industrial zones, except Fences surrounding public playgrounds, institutions or schools may not exceed a height of fourteen feet.

Flaglot means a lot without required street frontage connected to the street with a strip of land or easement on which a driveway could be located for access.

Flex-Tech means a development concept that accommodates aspects of retail, manufacturing, wholesale and warehousing by an individual user within a single structure. Such development is designed to accommodate users that require flexibility in their square footage allocation. A typical flex-tech user would be small business that initially requires a relatively small square footage but may increase the business' square footage as the strength of the business improves.

Floor area ratio means the ratio of the gross floor area of all buildings, excluding parking structures, to the total area of the lot in square feet.

Floorplate means the horizontal land area occupied by a building at finished grade including projections and overhangs.

Frontage means the minimum lot width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

Floor area ratio means the ratio of the gross floor area of all buildings, excluding parking structures, to the total area of the lot in square feet.

Floorplate means the horizontal land area occupied by a building at finished grade including projections and overhangs.

Frontage means the minimum lot width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

Garage, private means a building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one-and-one-half times as many automobiles as there are dwelling units.

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Garage, public means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

Height of building means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Home occupation means an occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and no one is employed other than members of the family residing on the premises, such as professional offices, including medical, dental, legal, engineering, and architectural offices, conducted within a dwelling by the occupant.

Homeowners Association means a private non-profit organization (corporation association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and open space of a Retirement Community Development, and to enforce certain covenants and restrictions.

Hotel means a building in which lodging is provided to travelers and short-term guests for compensation, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Impervious surface means ground surface covered by paving, buildings, or other structures such that natural rain water is unable to penetrate and be absorbed into the soil.

Inn means an historic building in which lodging is provided to travelers and short-term guests for compensation, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Junkyard means the use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard" as defined in Chapter 304, Acts 1938, Code of Virginia.

Kennel means a place to house, board, feed, handle or otherwise keep or care for dogs and/or cats for sale or in return for compensation.

Lot means a parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

Lot, corner means a lot fronting on two or more intersecting streets.

Manufacture and/or manufacturing means 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.

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Motel means a building with separate outdoor entrances in which lodging is provided to travelers and short-term guests for compensation, without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Natural waterway means a creek, stream, run, or other annual or perennial waterway identified on United States Geologic Survey, Commonwealth of Virginia, or Town of Stephens City maps.

Nonconforming lot means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

Nonconforming activity means the otherwise legal use of a building or structure or a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

Nonconforming structure means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

Off-street parking means space provided for vehicular parking outside the dedicated street right-of-way.

Open space means lands that are conservation areas, cemeteries, or public parks. (2/4/03)

Open Space means an undeveloped land set aside for common or individual ownership as a result of a Retirement Community Development, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of approval under the Retirement Community District is that Open Space may not be further subdivided. Only the following uses shall be allowed within Open Space: passive recreation, trails, gardening, and horticulture. (Ord 12/06/11)

Parking space means a designated area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits, and being fully accessible for the storage or parking of permitted vehicles.

Personal service establishment means a shop in which the principal business is the delivery of personal services directly to its customer, such as a barber shop, stylist or hairdresser, beauty shop in which makeup is applied and similar services.

Professional office means a structure designed for use by a person or persons in offering a service which requires specialized knowledge gained by intensive academic preparation, such as medicine, law, engineering, dentistry and other like endeavors, which are licensed as professional by the Commonwealth of Virginia.

Public park means land owned by the Town of Stephens City that is open to the public and is maintained in a natural or wooded condition and/or is developed into public recreational uses, not including streets.

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Public water and sewer systems means a water or sewer system owned and operated by a municipality or county, or a Sanitation Authority including the Frederick County Sanitation authority ('Frederick Water'), or by any two or more of the aforesaid entities.(Ord6/18-2019)

Restaurant means any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops and refreshment stands which are not temporary (i.e. less than seven days in operation per year).

Restoration, beginning of means the clearing of debris of or from an area, use or structure which has been totally or partially damaged or destroyed.

Retail, stores and shops means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumberyards), such as the following which will serve as illustration: auto parts store, drugstore, newsstand, food store, candy shop, dry goods and notions store, hardware store, household appliance store, furniture store, florist, optician, music and radio store, barber shop and beauty salon, video stores.

Retirement Community Development means a form of residential development designed to meet the needs of residents age 55 and older. Densities of dwelling units are typically higher due to smaller lots sizes and unit types. Additional density may be recommended by the Planning Commission in exchange for the permanent preservation for protected open space, recreational land, forests, and/or farmland.

Sawmill means a sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

Setback means the minimum distance by which any building or structure must be separated from the front lot line.

Shopping center means any conglomeration of commercial activities sharing a parcel of land which is held in single ownership and sharing parking facilities.

Sign means any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to or as a part of a structure, surface or any other thing including, but not limited to, the ground, any rock, tree or other natural object, which is visible beyond the boundaries of the parcel of land on which the same is made. This definition specifically does not include structure numbering/street address numbers, as required under sec. 4-14 of the Town Code.

Sign, business means a sign which directs attention to a product, commodity or service available on the premises.

Sign, directional means a sign (one end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called, four square feet or less in area, giving the name only of the farm or business responsible for the erection of the same.

Sign, general advertising means a sign which directs attention to a product, commodity or service not necessarily available on the premises.

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Sign, home occupation means a sign not exceeding two square feet in area directing attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

Sign, location means a sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

Sign, structure means and includes the supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, v-type or otherwise exhibiting a sign.

Sign, temporary means a sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions or sale of land. Temporary signs shall conform in size and type to directional signs.

Special use permit means a permit issued for uses permitted under conditions as required in this chapter or as deemed necessary by the town council after consideration of recommendations to the planning commission.

Specialty shop means a small shop to serve retail and service needs of the town's residents. Such shops will occupy no more than 2,000 square feet of floor space and will generate a minimum of automobile traffic. Examples of specialty shops include the following: antique shops, artist studios, gallery or frame shops, a small bake shop, special clothing boutiques, gift shops, hobby shops, gourmet or health food shops where merchandise is sold for off-premises use, photo shops and tailor shops. Examples of businesses not intended as specialty shops are those with more regular traffic patterns, such as auto parts stores, newspapers or magazine stores and video stores.

Story means that portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

Story, half means a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the top floor area is finished off for use.

Street line means the dividing line between a street or road right-of-way and the contiguous property.

Street in this zoning ordinance also means a public thoroughfare which affords principal means of access to abutting property.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams or girders, or any change in the width or number of exits, or any substantial change in the roof.

Structure means any form or arrangement of building materials above or below ground involving the necessity of providing proper support, bracing, tying, anchoring or other protection against the forces of the elements, including but not limited to buildings, sheds, mobile homes, and site improvements such as roads, utilities, towers, and earthworks.

Town means the town of Stephens City, Virginia.

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Town council means the town council of Stephens City, Virginia.

Townhouses means attached dwelling units attached above ground forming a continuous structure, each being separated by a common or party walls of masonry construction void of openings or means of ingress or egress from the basement to the roof, with individual exterior entrances at grade.

Travel trailer means a mobile unit less than 29 feet in length and less than 4,500 pounds in weight and designed for human habitation; this does not include a mobile home.

Use means the specific activity for which land or buildings are designed, arranged, and intended.

Variance means a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

Wetlands means areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Width means the average horizontal distance between side lot lines.

Yard means an open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein and includes space required in front, side or rear.

Yard, front means an open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line and extending across the full width of the lot.

Yard area, landscaped means that space on the same zoning lot and contiguous to the principal building or buildings which is either landscaped with shrubs, planted with grass, or developed and maintained for recreational purposes, and excludes that portion of the lot which is utilized for off-street parking purposes.

Yard, rear means an open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

Yard, side means an open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning permit means a permit issued by the zoning administrator to the applicant before the applicant may proceed with any work affected by any provision of this chapter.

Cross reference Definitions and rules of construction, § 1-2.

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Sec. 23-4. Violation; penalty.

- (a) All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter.
- (b) Any person, firm or corporation, whether as principle, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and, upon conviction thereof, may be fined not less than \$10.00 nor more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the Court shall order the violator to abate or remedy the violation in compliance with the Zoning Ordinance, within a time period established by the Court. Failure to remove or abate the Zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, at any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period, punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

Cross references – Classification of and penalties for violation; continuing violations, §1-7.

State law reference – Civil penalties for zoning violations, Code of Virginia, § 15.2-2209.

Sec. 23-5. Amendments.

The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the town council, provided:

- A.
 - (1) That a public hearing shall be held at which parties in interest and citizens shall have an opportunity to be heard.
 - (2) Notices shall be given of the time and place of such hearings by publication in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, following the standards as amended in the Code of Virginia, Section 15.2-2204. After enactment of any such plans, ordinance or amendment, further publication shall not be required.
 - (3) Changes shall be made by the town council in this chapter or the zoning map only after such changes have been referred to the planning commission for a report. Action shall be taken by the town council only after a report has been received from the planning commission, unless a period of ninety days has elapsed after date of referral to the commission, after which time the town council shall assume the commission has approved the change or amendment.
 - (4) Individual property owners may petition the town council to have their property rezoned by submitting their request in writing, accompanied by a certified check for the appropriate fee as set forth in the schedule of fees, to the zoning administrator. After proper public hearing, the planning commission shall make its recommendation to the town council, which will then act upon the applicant's request. If the planning commission makes no

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recommendation within ninety days from the date of referral, the town council shall assume that the commission concurs with the applicant.

B. Impact Analyses.

A report analyzing the impacts of any rezoning shall be required to be submitted by the applicant with any written petition for rezoning as described in Section 23-5(a)(4). The Administrator may exempt rezoning petitions from this requirement, if no significant impacts are anticipated. The report shall be prepared as follows:

- (1) The impact analysis shall assume the maximum density or intensity of development allowed under the rezoning classification, unless a lesser density or intensity is proffered in conjunction with a conditional rezoning. The impact analysis may be based on a particular development or site plan only if that plan is proffered as a condition of the rezoning.
- (2) The impact analysis shall include the following:
 - (a) A description of the use of surrounding land and the potential economic, physical, visual, nuisance and other impacts of the proposed rezoning/proffered development on those surrounding land uses.
 - (b) The anticipated traffic and circulation impacts of the rezoning/proffered development: entrances, trips generated, changes in area traffic patterns and turning movements, impacts on the capacity and efficiency of existing and planned roads, and any other related matters as requested by the Administrator or VDOT.
 - (c) The proposed methods by which sewer and water facilities will be provided to the site.
 - (d) For residential rezonings, the projected increase in total population.
 - (e) The projected additional demand for school facilities, public parks and recreational facilities, solid waste facilities, emergency services facilities and other public facilities.
 - (f) Anticipated storm water impacts and the methods used to reduce those impacts.
 - (g) The location of important environmental features on the site as listed in Section 23-172, anticipated environmental impacts and the methods used to reduce those impacts.
 - (h) The location of historic structures and sites on and in relation to the site, anticipated impacts to those historic resources, and the methods used to reduce those impacts.

Cross references – Classification of and penalties for violation; continuing violations, §1-7.

State law reference – Civil penalties for zoning violations, Code of Virginia, § 15.2-2209.

Sec. 23-6. Conflicting ordinances; effective date; certified copies.

A certified copy of the Zoning Ordinance of Stephens City, Virginia, shall be on file in the Town Office at Stephens City and in the Office of the Clerk of the Circuit Court of Frederick County, Virginia.

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Sec. 23-7 – 23-9. Reserved.

Sec. 23-10. Fee Schedule.

The fee schedule for zoning matters are as set forth below:

<u>Zoning Permit</u>	\$	50.00
<u>Rezoning</u>		
Minor (1 lot) < 1 acre	\$	500.00
2+lots or > 1 acre	\$	3,000.00 + \$100.00 per acre
<u>Master Development Plan</u>	\$	2,000.00 + \$100.00 per acre
<u>Subdivisions</u>		
Residential Minor (2-4 lots)	\$	500.00 + \$100.00 per acre
Residential 5 + lots	\$	2,500.00 + \$100.00 per acre
Non-residential	\$	1,000.00 + \$100.00 per acre
Boundary Line Adjustment	\$	250.00
Lot Consolidation	\$	250.00
<u>Site Plans</u>		
Minor Residential	\$	50.00
Residential 2 + lots	\$	2,500.00 + \$200.00 per unit plus \$100.00 for each unit over 20
Non-residential	\$	1,500.00 + \$200.00 per acre Plus \$100.00 per acre over 5 acres
Special Use Permit	\$	250.00
Variance	\$	250.00
Zoning Certification Letter	\$	25.00
Zoning Determination Letter	\$	25.00
Residential Erosion Control Permit	\$	600.00 plus \$100.00 per building unit
Commercial Erosion Control Permit	\$	500.00 plus \$100.00 per disturbed acre

Sec. 23-11 – 23-30. Reserved.

ZONING

ARTICLE II. ADMINISTRATIVE PROVISIONS

DIVISION 1. IN GENERAL

Sec. 23-31. Administration.

(a) This chapter shall be enforced by the administrator who shall be appointed by the town council. The administrator shall serve at the pleasure of the town council. Compensation for such shall be fixed by resolution or salary appropriation by the town council.

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(b) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to the effective date of this chapter. However, such construction must commence within thirty days after this chapter becomes effective and be completed within a period of one year after construction is initiated. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which such operation is located.

Sec. 23-32. Interpretation.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such centerlines or lines at right angles to such centerlines shall be construed to be such boundaries, as the case may be.
- (2) Where a district boundary is indicated to follow a river, creek or branch or other body of water, such boundary shall be construed to follow the centerline at low water or at the limits of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
- (3) If no distance, angle or 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 such zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

Sec. 23-33. Special use permits.

A special use permit is a permit which the zoning administrator may issue upon application only for such special uses as allowed within the terms of this chapter upon which the town council specifically acts upon. The granting of a special use permit, when specifically authorized by the terms of this chapter, shall be subject to the following standards and criteria:

- (1) Such use shall be one which is specifically authorized as a special use in the zoning district where the applicant seeks a special use permit.
- (2) Such permits shall only be granted subject to any applicable condition and safeguards as required by this chapter.
- (3) Such permit may be granted subject to additional reasonable conditions and safeguards as may be deemed by the town council to be advisable and appropriate.
- (4) Such use shall be found by the town council to be in harmony with the general purpose and intent of this chapter.
- (5) Such use shall not adversely affect the character of the zoning district, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.

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- (6) Such use shall be of such size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
- (7) Such use shall not conflict with any comprehensive plan or portion thereof which has been adopted by the town council.
- (8) Applications for special use permits may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with rules adopted by the town council. The application and accompanying maps, plans or other information shall be transmitted promptly to the clerk of the town council who shall place the matter on the agenda. No such special use permits shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia. The zoning administrator shall also transmit a copy of the application to the commission, which shall send a recommendation to the council or appear as a party at the hearing.

Sec. 23-34. Zoning administrator – Generally.

The zoning administrator shall be appointed by the governing body to administer and enforce this chapter. The zoning administrator may hold any other office within the town.

Sec. 23-35. Same – Duties and powers.

It shall be the duty of the zoning administrator to enforce the provisions of this chapter and he shall have such duties and powers as are conferred on him by this chapter and as are reasonably implied for that purpose. The zoning administrator's duties shall include, but are not limited to, the following:

- (1) Receive applications for and issue zoning permits and sign permits as permitted by the terms of this chapter.
- (2) Keep an official record of all business and activities including complaints of violation of any of the provisions of this chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection, except the names of the complaining party, which the zoning administrator may keep confidential. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as they remain in existence.
- (3) Make inspections as required to fulfill his duties.
- (4) Issue permits for special exception uses after approval by the town council or for variances only after the variances have been approved by the board of zoning appeals in accordance with the regulations of this chapter.
- (5) Be responsible for keeping this chapter and the zoning map up-to-date so as to include all amendments.
- (6) Issue certificates of use and occupancy in accordance with the terms of this chapter.

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- (7) Be responsible for the identification and registration of nonconformance in accordance with section 23-561.

Sec. 23-36. Zoning permits.

(a) No buildings or structures shall be started, repaired, reconstructed, enlarged or altered until after a zoning permit has been obtained from the administrator.

(b) Each application for a zoning permit shall be accompanied by three copies of an adequately dimensioned drawing. The drawing shall show the size and shape of the parcel of land on which the proposed use of the building or land is to be constructed, the nature of the proposed use of the building, land, the location and arrangement of off-street parking, the location of such building or use with respect to the property line of such parcel of land and to the right-of-way of any street or highway adjoining such parcel of land, and the developer's drainage plan for properly distributing surface water. Any other information which the administrator may deem necessary for the consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit. If the application requires a special use permit, the administrator shall transmit the application immediately to the town council and the planning commission so that it can be placed on the agenda for review and action.

(c) No application for zoning or for a special use permit shall be permitted within one year from the date the same or substantially the same application was denied by the zoning administrator, board of zoning appeals or town council. The determination that an application is the same or substantially the same as that previously submitted, by the zoning administrator, shall be conclusive but subject to appeal to the board of zoning appeals as provided for in this chapter.

Sec. 23-37. Certificate of occupancy.

(a) Land may be used or occupied, and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the administrator.

(b) Such a certificate of occupancy shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy, either for the whole or a part of a building, shall be applied for simultaneously with the application for a zoning permit. The certificate of occupancy shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter.

Sec. 23-38. Widening of highways and streets.

Whenever there shall be plans in existence, approved by either the state department of highways and transportation or by the town council, for the widening of any street or highway, the commission may recommend additional front 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.

Sec. 23-39 – 23-60. Reserved.

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DIVISION 2. OFF-STREET PARKING AND LOADING

Sec. 23-61. Minimum off-street parking.

(a) There shall be provided at the time of erection of any main building, or at the time any main building is enlarged or use changed to more intensive use, a minimum off-street parking space with adequate provisions for entrance and exit.

(b) A driveway or parking space shall be at least three feet from a property line, and no parking space for a multiple-family dwelling shall be less than 15 feet from a residential structure. Shared driveways shall be permitted provided easements and maintenance agreements approved by the town are provided for each lot and recorded in the deeds for each lot.

(c) There shall be provided at the time of the erection of any principal building or structure, or at the time that any principal building or structure is altered, enlarged or increased in size, not less than the parking space in the amounts stated herein. Minimum off-street parking space required may be reduced when the capacity and use of a particular building is changed in such a manner that the new use or capacity would require less space than before the change.

(d) The parking spaces required for one-, two- and three-family dwellings shall be located on the same lot as the dwelling; the parking spaces required for other land uses shall be located on the same lot as the principal use or on a lot which is within 300 feet of the principal use, such distance to be measured along lines of public access to the property.

(e) Collective provision of off-street parking facilities for two or more structures or uses is permissible, provided that the total number of parking spaces is at least equal to the sum of the minimum number of required spaces computed separately for each use. Collective parking is subject to all stated parking requirements.

(f) Off-street parking shall be provided, either in a private garage or on the lot, at the rate of two spaces per dwelling unit for all new buildings, and per each dwelling unit added in the case of the enlargement of an existing building.

(g) Bed and breakfasts, inns, hotels, motels, and boardinghouses shall provide on the lot parking space for one automobile for each guest room or residence unit, plus one additional space for each ten guest rooms or residence units, plus required parking for any restaurant and/or assembly space.

(h) For church or school auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, there shall be provided at least one off-street parking space for every four fixed seats, based on the maximum seating capacity in the main place of assembly for the building. For assembly halls without fixed seats, there shall be provided one parking space for each 100 square feet of usable floor area. For schools, there shall be provided one parking space for each teacher, employee or administrator, in addition to the requirements of the auditorium. Parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments lying within 300 feet of the place of public assembly as measured along lines of public access, and which are not normally in use on Sundays or between the hours of 6:00 p.m. and midnight on other days, may be used to meet not more than seventy-five percent of the off-street parking requirements of a church or other similar place of public assembly.

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(i) For medical and dental clinics, there shall be provided at least one parking space for each 200 square feet of floor area.

(j) For retail stores selling directly to the public, there shall be provided at least one parking space for each 100 square feet of retail floor space in the building.

(k) For office buildings, offices of professionals and personal service establishments, there shall be provided one parking space for each 200 square feet of floor space occupied by the office of personal service.

(l) For industrial establishments or wholesale establishments, there shall be provided one parking space for each two employees, computed on the basis of maximum number of individuals employed within an eight-hour shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

(m) Any commercial building not listed above and hereafter erected, converted or structurally altered shall provide one parking space for each 100 square feet of business floor space in the building.

(n) Every parcel of land thereafter used as public parking area shall have an all-weather surface. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas shall be so arranged as to direct the light away from adjoining premises and streets, as well as to ensure the illumination is directed downward only.

(o) Where a commercial, church, or business use is made of any lot within the town limits which involves the parking or stopping of ten or more vehicles upon the premises and which adjoins a lot used for residential purposes, a six-foot ornamental fence, a six-foot masonry wall or an adequate hedge shall be erected and maintained near the property line. Provided, however, that (a) such wall, fence or hedge shall not extend into the front yard required on the lot on which it is located; (b) any lights used to illuminate such parking area shall be so arranged and hooded as to confine all direct light rays entirely within the boundary. The fence design and construction must be approved by the zoning administrator and shall meet all requirements set forth in section 23-3.

Sec. 23-62. Off-street loading requirements.

On the same premises with every building, structure or part thereof, erected and occupied for uses involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services in order to avoid interference with public use of the streets and alleys.

Sec. 23-63. Parking lot standards.

(a) 180 square feet (9 ft. x 20 ft.) of lot or floor area shall be deemed parking space for one vehicle, except that the paved area of parking spaces may be reduced to nine feet by eighteen feet were pervious, landscaped islands are incorporated between rows of spaces.

(b) At least one parking space for each twenty-five parking spaces provided shall be handicapped accessible. Accessible parking spaces shall comply with the requirements of the Council of American Building Officials (CABO) ANSA A117.1 standards and the Uniform Federal Accessibility Standards FED-STD-795.

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(c) All parking spaces and access driveways shall be covered with an all-weather surface and shall be graded and drained to dispose of surface water. However, no surface water from any parking area shall be permitted to drain onto adjoining property.

(d) Parking spaces shall be clearly delineated by suitable markings and shall open directly to an access aisle.

(e) Access aisles shall have a minimum width of twenty feet. Such aisles shall be designed to prevent blockage of vehicles entering and exiting the site at anticipated peak traffic demands, and to direct traffic in a logical and safe manner within the parking lot. Planting islands shall be used to help delineate travel lanes.

(f) A landscaped island shall be located at the ends of each row of parking spaces and shall divide rows such that a maximum of ten spaces are contiguous. Each landscaped island shall be a minimum of 180 square feet in area.

(g) A landscaped buffer strip of a minimum eight foot width shall separate facing rows of parking spaces. The buffer strip may include two feet from the required twenty foot length of each facing parking space.

(h) Each required landscaped island shall have one deciduous canopy tree per 180 square feet or fraction thereof. The interior buffer strip and exterior perimeter of each parking lot shall have one three-inch caliper deciduous canopy tree for every twenty-five linear feet. If there are no existing trees preserved to satisfy these requirements, new trees shall be planted in groupings compatible with the surrounding landscape character to provide generally equal shade coverage over all paved surfaces within the parking area.

(i) Planting areas shall be protected from encroachment of vehicles by use of curbing, wheel stops, bollards, fencing, or other approved barrier.

Sec. 23-64 – 23-90. Reserved.

DIVISION 3. SIGNS

Sec. 23-91. Sign Requirements.

The purpose of this Article is to regulate the size, location height, and construction of all signs placed for public observance; to protect the public health, safety, convenience and general welfare; to facilitate the creation of a convenient, attractive and harmonious community; to protect property values; and to further the urban design and economic development objects of the Town Plan. To these ends, these regulations are intended to promote signs that are:

- (1) Compatible with the landscape/streetscape and architecture of surrounding buildings, including historic sites and structures;
- (2) Legible and appropriate to the activity to which they pertain;
- (3) Not distracting to motorists; and
- (4) Constructed and maintained in a structurally sound and attractive condition.

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Sec. 23-92. Applicability.

These sign regulations shall apply to all signs erected within the Town of Stephens City following the effective date of this ordinance.

Sec. 23-93. Sign Permit Required.

Except as provided herein, no sign shall be erected, installed, used, altered, relocated, replaced or reconstructed until a Sign Permit has been issued and approved by the Zoning Administrator if applicable. For the purpose of this ordinance, all signs are considered accessory uses and, unless specifically qualified, shall be located on the same lot with the principal use to which they pertain.

Sec. 23-94. Special Definitions.

For the purpose of these sign regulations, unless the context otherwise requires, the following terms shall have the meanings established below:

Animated Sign - Signs which involve the use of motion, rotation, or the appearance of motion.

Awning/Canopy Sign - A sign placed directly on or attached to the surface of an awning or canopy.

Banner - Cloth, paper, balloons or material of any kind intended to attract attention. Governmental flags or symbolic flags of religious, charitable, public or non-profit organizations shall not be considered banners.

Billboard Sign - See "Off-premises sign"

Changeable Copy Sign - A sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.

Change of Use - Any use which substantially differs from the previous use of a building or land.

Construction Sign - A temporary sign identifying those engaged in construction of any building site.

Directional Sign - An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One Way" or similar directional instruction, but not including any advertising message.

Directory Sign - A sign on which the names and locations of occupants or the use of a building or group of buildings is given.

Flashing Sign - A sign used for identification, direction, advertising or promotion that includes lights which flash, blink, or turn on and off intermittently.

Freestanding Sign - A sign that is mounted on one or more freestanding poles or similar supports.

Gasoline Station Signs - Signs permitted by Section 23-103(5) for buildings and premises in which the primary source of revenue is the retail dispensing of motor fuels. This information must be verified by the applicant prior to the issuance of sign permits.

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Ground-mounted Signs - A sign which is supported by structures or supports in or upon the ground and independent of any support from any building.

Identification Sign - A sign which displays only the address and name or crest, insignia or trademark, occupation or profession of any building on the premises.

Illuminated Sign - A sign illuminated in any manner by an artificial light source, whether internally or externally lit.

Institutional Bulletin Board Sign - A sign containing a surface upon which is displayed the name of a religious institution, school, library, community center or similar institutional or community service use, and the announcement of its services or activities.

Marquee - A permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Marquee Sign - A sign attached to and made a part of a marquee or any other similar projection from a building.

Monument Sign - A structure building on-grade in which the sign and the structure are an integral part of one another; not a pole sign.

Off-premises Sign - A sign which directs attention to a business, commodity, service or establishment conducted, sold, or offered at a location other than the premises on which the sign is erected.

Projecting Sign - A sign, other than a wall, awning or marquee sign, which is affixed to a building and is supported only by the wall on which it is mounted.

Roof Sign - A sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

Sign - Any letters, words, symbols, etc. used or intended to attract the attention of the public from the streets sidewalks or other outside public right-of-way. For the purposes of this Article, the term "sign" shall include all structural members.

Sign Area - See Section 23-98.

Temporary Sign - A sign or advertising display designed or intended to be displayed for a specified period of time, as provided in Section 23-108.

Wall Sign - A sign attached to a wall or painted on or against a flat vertical surface of a structure, which displays only one advertising surface.

Window Sign - All signs attached to or applied directly onto the surface, or any sign visible from the public right-of-way through the window.

Sec. 23-95. Prohibited Signs.

The following signs are expressly prohibited unless specifically stated otherwise.

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- (1) Off-premises Signs, Including Billboards except as provided in Section 23-97(c).
- (2) Portable Signs - Any sign not permanently affixed to a building, structure or the ground. This category includes, but is not limited to, A-frame signs, signs attached to or placed on vehicles not used for the daily conduct of the business, banners, balloons, and similar devices used to attract attention. This category of signs will not apply to authorized temporary signs listed in Section 23-97.
- (3) Changeable Copy Signs excluding approved institutional bulletin boards, theater signs and fuel price signs as permitted by this ordinance.
- (4) Simulated Traffic Signs or any sign which may be confused with or obstruct the view of any authorized traffic sign or signal.
- (5) Animated Signs - Signs which involve or simulate motion or rotation, including but not limited to pennants, propellers, disks, streamers and flags. This prohibition shall not apply to the hands of a clock, a weather vane, or flags meeting the requirements in Section 23-96(4).
- (6) Flashing Signs except for time and temperature signs.
- (7) Glaring Signs or signs with light sources of such brightness as to constitute a hazard or nuisance as determined by the Zoning Administrator.
- (8) Strings of Lights outlining property lines, sales areas, or any portion of a structure, unless part of an approved sign or sign-structure. This prohibition shall not apply to seasonal decorations.
- (9) Roof Signs.
- (10) Sign Affixed to a Tree or other natural vegetation or rocks.
- (11) Sign Affixed to Utility Poles.
- (12) Signs that Obstruct the visibility at intersections or block any window, door, fire escape, stairway, or any opening intended for light, air, or access to any building.
- (13) Signs Erected in or Over a Public Right-of-Way or on public land except as permitted in Section 23-97 of the Town Code.

Sec. 23-96. Exempt Signs.

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

- (1) Address or Identification Signs - Signs indicating the address and/or names of occupants of premises, not exceeding two square feet in area.
- (2) Changing the Message Content of an approved directory, institutional bulletin board or theater marquee sign.

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- (3) Commemorative Plaques and historical markers erected by a recognized historical agency or governmental body.
- (4) Flags, Emblems and Insignia of any governmental agency or religious, charitable, public or nonprofit organization; provided, however, that no single flag shall exceed fifty square feet in area and no individual building shall display more than three flags or exceed 100 square feet in area.
- (5) Handicapped Parking Space Sign.
- (6) Directional Signs not exceeding one square foot in area or located closer than five feet to any lot line. Directional signs may be internally lit or illuminated by white light only.
- (7) Security or Warning Signs - Signs posted on private property warning the public against trespassing or similar messages, provided that any such sign does not exceed 1.5 square feet in area.
- (8) Private Drive Signs - One per drive entrance, not exceeding two square feet in area, with the message content limited to the words "Private Drive" and the address of any residences utilizing the private roadway.
- (9) Public Signs including traffic, utility, and other regulatory signs.
- (10) Seasonal or Temporary Displays of patriotic, religious or civic character on private property, not advertising a product or service, not displayed for a period to exceed thirty days.
- (11) Signs not Visible beyond the Boundaries of the lot or parcel upon which they are located or from any public right-of-way.
- (12) Temporary Political Campaign Signs on Private Property not to exceed nine square feet in area and six feet in height. Such signs shall not be erected more than forty-five days prior to the election and shall be removed within five days after the election. If, after reasonable notice, such signs are not removed, the town may remove them and the candidate, organization or person who caused the sign to be erected may be charged for the removal.
- (13) Temporary Private Yard Sale Signs not exceeding three in number per yard sale and not placed in a public right-of-way. All such signs are to be removed within twenty-four hours of the end of the sale.
- (14) Temporary Real Estate Signs located on the premises, not exceeding four square feet in area for single family residential uses, or nine square feet in area for other uses. No real estate sign shall exceed a height of six feet. One real estate sign shall be permitted per property, except for corner lots, which may have two such signs. Temporary real estate signs shall be removed within seven days of the settlement or lease of the property.
- (15) Temporary Window Signs covering no more than twenty-five percent of the window area and not displayed above the first floor unless it is a separate business. Such signs shall not remain in place for more than four weeks.

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- (16) Vehicle Safety Inspection - Signs not exceeding ten square feet in area. Such signs may be either a wall sign or attached to an existing authorized ground mounted sign structure (one per business) not to exceed the height of the ground mounted sign.
- (17) Government Signs which are approved by the Town Council or installed for the public benefit by the Town of Stephens City.
- (18) Town sponsored special event signs or banners.

Sec. 23-97. Sign Requiring Temporary Sign Permit.

The following signs shall require the issuance of a Temporary Sign Permit by the Zoning Administrator prior to their erection. The permit shall cite the length of time any such sign may be displayed. If after the expiration of the Temporary Sign Permit, such signs are not removed, the town may remove them and charge the cost of removal to the enterprise or proprietor responsible.

- (1) Special Event Sign - The sign will be attached to an existing principal structure or sign, and not exceed twenty square feet in area or six feet in height. Display of the sign is limited to fourteen continuous days, twice a year. The sign shall be removed within five days following the end of the event. Holiday promotions are exempt.
- (2) Temporary and Seasonal Produce Stand Signs - The total area of all such signs shall not exceed twenty square feet, nor shall any sign exceed six feet in height.
- (3) Construction Signs - installed at the time of zoning permit issuance not to exceed one per street frontage, limited to a maximum six-foot height and twenty square foot area. Such signs shall be removed prior to the issuance of a temporary or permanent certificate of occupancy.
- (4) Temporary Business Identification - A wall mounted temporary sign not to exceed twenty square feet to identify a new business for a period of not more than two months prior to approval of permanent signage.
- (5) Temporary Real Estate Sign (Leasing/Sale Information) - In addition to the temporary signs allowed by this Ordinance without a permit, Leasing/Sale information can be displayed for all uses other than single-family residential developments. One sign is permitted for each street frontage, limited to twenty square feet in area, and six feet in height. The sign may be displayed for a six month time period. Another temporary sign permit may be granted at the end of the six-month period, which is not subject to extension.
- (6) Temporary Residential Subdivision and Model Home Identification Signs - One sign may be erected for not more than two years at each principal entrance to the development. Such signs shall not exceed six feet in height or twenty square feet in area. Individual model homes may maintain a sign not exceeding six square feet in area.
- (7) Temporary Signs Announcing a Civic, Philanthropic, Educational or Religious Event - Such signs shall not exceed twenty square feet in area or six feet in height. The location of the sign shall be determined by the Zoning Administrator. The sign will not be displayed more than fourteen days prior to the event and will be removed within five days after the event.

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Sec. 23-98. General Sign Standards.

- (1) Determination of Sign Height - The height of a sign shall be measured from the average elevation of the edge of pavement at the points most nearly adjacent to the subject parcel corners.
- (2) Number of Sign Faces - No sign shall have more than two sign faces.
- (3) Determination of Monument Sign Area - The surface area of the largest face of the structure will determine the total square footage of the monument sign. This calculation will exclude the first eighteen inches of the base, provided it does not include any sign copy. In addition, a planter structure which does not exceed one foot in height or include sign copy will also be excluded from the area calculation.
- (4) Determination of Sign Area - This is a measure of the surface area which encompasses any regular geometric figure (square, circle, rectangle, etc.) enclosing all parts of the sign face.
- (5) Area of Signs With Two Signs Faces - The area of a sign with two sign faces shall be computed according to the following:
 - a. Sign faces separated by an interior angle of 45 degrees or greater, both sign faces shall be included.
 - b. Sign faces separated by an interior angle of less than 45 degrees, one sign face shall be included, provided, however, the area of the largest sign face shall be used when two faces are unequal in area.

Sec. 23-99. Development Standards for Permitted Sign Types.

All new signs and all existing signs which are replaced, reconstructed, extended or changed structurally shall comply with the following development standards unless the building size, location or orientation may result in a circumstance which is not adequately addressed in this Article, and may necessitate a modification to the standards provided herein. Any such modification must demonstrate to the satisfaction of the Zoning Administrator that compliance with the purpose and intent of sign regulations provided in Section 23-98 will not be compromised.

- (1) Monument Sign - Development Standards
 - a. Road Frontage Requirements - Monument signs shall be permitted only on lots with eighty feet or more of road frontage.
 - b. Maximum Height - Six feet.
 - c. Maximum Size - One square foot per five linear feet of street frontage, up to a maximum size of forty square feet.
- (2) Projecting Sign - Development Standards
 - a. Frontage Requirements - Eighteen feet of ground level frontage.

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- b. Angle of Projection - Ninety degrees
 - c. Limit on Projection - Three feet six inches or one-half of the width of the sidewalk whichever is greater.
 - d. Projection Over Right-of-Way - Permit required as provided in Section 23-107 of the Town Code.
 - e. Minimum Clearance - Seven feet 6 inches.
 - f. Maximum Height - Fourteen feet or the bottom sill of any second story window, whichever is greater.
 - g. Maximum Size - One square foot per linear foot of building frontage on which the sign is to be attached, up to twelve square feet.
- (3) Freestanding Signs - same as above.
- (4) Wall/Marquee Sign - Development Standards
- a. Placement, Generally - No wall sign shall cover, cross, or otherwise hide columns belt courses or other decorative architectural features of the building, including balconies.
 - b. Maximum Height of Wall Signs - Twenty-five feet or the height of the bottom sill of any second story window, whichever is lowest.
 - c. Maximum Size - One square foot per linear foot of building frontage on which the sign or signs are to be attached, up to a maximum aggregate of sixty-four square feet.
 - d. Limit on Projection - Twelve inches.
 - e. Permanent Window Signs; Additional Restrictions - Permanent window signs shall be limited to twenty-five percent of the window area and shall be included in the calculations of the permissible square footage for wall signs.
- (5) Awning and Canopy Signs - development Standards
- a. Location - Parallel to and not projecting above or below the face of the awning or canopy.
 - b. Limit on Projection - To within one foot of the vertical placement of curbs, but shall in no way interfere or obstruct either pedestrian or vehicular traffic. Any sign which projects over the public right-of-way shall comply with Section 23-99-2(e).
 - c. Maximum Size - One square foot per linear foot of the awning or canopy, up to a maximum ten square feet.

Sec. 23-100. Construction and Maintenance Standards.

- (1) Building Code Compliance - All signs shall be constructed in compliance with the Virginia Uniform Statewide Building Code.

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- (2) Condition of Signs - All signs and components shall be maintained in good repair and in a safe, clean and attractive condition.
- (3) Repair or Removal of Nuisance Signs - Any sign which is declared to be an immediate or imminent hazard to life or property may be caused to be immediately removed or repaired. All costs associated with the removal or repair shall be charged to the owner of the premises. No signs will impair safety, visual traffic distance or adjacent signage.
- (4) Removal of Obsolete Signs - Any sign which is obsolete, because of discontinuance of the advertised activity or any other reason which would cause the sign to be obsolete, shall be removed within six months.

Sec. 23-101. Pre-Existing Signs.

- (1) Any sign which was lawfully in existence at the time of the effective date of this ordinance which does not conform to the provisions herein, and any sign which is accessory to a lawful non-conforming principal use, shall be deemed a lawful pre-existing sign. The owner of any property on which there is located a pre-existing sign shall, upon notice from the Zoning Administrator, submit verification within sixty days that the sign was lawfully in existence at the time of the adoption of these sign regulations. Pre-existing signs may remain, subject to the following conditions:
 - a. Pre-existing signs must be kept in good repair and condition. However, any sign which is declared to be unsafe or unlawful by the Zoning Administrator as a result of physical condition may not be restored, repaired or rebuilt, must fully comply with the existing zoning ordinances.
 - b. Pre-existing signs may not be displayed on or moved to another property.
 - c. Pre-existing signs may not be enlarged, extended, reconstructed or structurally altered unless in conformance with the existing zoning ordinances.
 - d. A pre-existing sign which is destroyed or damaged to an extent exceeding fifty percent of its appraised value is considered totally destroyed and no longer may be considered a pre-existing sign and instead may not be altered, replaced, or reinstalled unless it is in conformance with the current requirements for signs as contained in this Article. If the damage or destruction is fifty percent or less of the appraisal value, the sign may be restored within two years of the damage, provided the existing or more restrictive use for which the sign serves continues and such use is not discontinued within the two years and shall not be enlarged in any manner.
 - e. A pre-existing sign must be removed if the structure, building or use to which it is accessory is destroyed, demolished, or if the then existing use or a more restrictive use ceases and such use is discontinued for more than two years.
 - f. The sign copy of pre-existing signs may be changed to accommodate similar business occupying the same location. However, whenever a substantial change of use or structural alteration occurs upon a lot containing a pre-existing sign, such sign shall not be permitted unless modified to be in full compliance with the current provisions of this ordinance.

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Sec. 23-102. R1, R2, R3 Zoning Districts B Permitted Signs.

(1) General Regulations

- a. Minimum Setback - Three feet from all public right-of-way unless further restricted by provisions of this Article.
- b. Illumination of Signs in Residential Districts - The following signs may be illuminated by white light only: institutional bulletin boards.

(2) Signs for Permitted Principal Uses

- a. Single-Family and Two-Family Dwellings - None except for those signs exempt from permit requirements temporary signs, and political signs as set forth below, all as authorized in this Section respectively.
- b. Residential Developments - Permanent subdivision or development identification signs indicating only the name and/or address of the premises. The identification sign shall be designed as monument signs with the maximum sign area as follows: One monument sign at each major entrance not to exceed forty square feet in area or six feet in height. An alternative to construction of a monument sign is providing an architectural entrance feature on both sides of the main entrances not to exceed six feet in height with up to ten square feet of sign area for each feature, subject to the Stephens City Historic Preservation Commission approval.
- c. General Farming Activities - Two ground mounted farm signs per property up to eight feet in height, with a combined area not to exceed twelve square feet.

(3) Signs for Accessory Uses

- a. Accessory Management or Rental Offices - One wall or freestanding projecting sign up to four square feet in area.
- b. Other Accessory Uses - One wall or projecting sign or freestanding up to a four (4) square feet in area.
- c. Home Occupation.

Sec. 23-103. Business B1, B2, B3 and RO Zoning Districts B Permitted Signs

(1) Signs in Business Districts - General Regulations

- a. Development and Construction Standards - All signs requiring a permit shall comply with the requirements of Sections 23-98 and 23-99.
- b. Minimum Setback of Monument Signs and Freestanding Signs - Five feet from any public right-of-way, service drive or entrance.
- c. Freestanding Signs - to be behind right-of-way.

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- d. No signs will obstruct traffic vision.
- (2) Signs for Individual Businesses - A single business located on one lot may erect signs as follows:
- a. Maximum Number of Signs per Business - Two. However, a business shall not be permitted to have both a monument sign and a freestanding sign.
 - b. Types of Signs Permitted - Wall, monument, awning, projecting, canopy, or marquee.
 - c. Maximum Size of Signs:
 1. Wall or Marquee Sign - One square foot per linear foot of building frontage on which the sign or signs are to be attached, up to a maximum of sixty-four square feet.
 2. Monument Sign - One square foot per five linear feet of lot frontage on which the sign is to be located, up to a maximum of forty square feet and a maximum height of six feet.
 3. Awning or Canopy Sign - One square foot per linear foot of the awning or canopy, up to ten square feet.
 4. Projecting Sign - One square foot per linear foot of the building frontage on which the sign is to be attached, up to twelve square feet.
 5. Freestanding Sign - same as above.
 6. Window Sign - same as above.
- (3) Signs for Multiple Businesses - Multiple businesses located on a single lot may erect signs as follows:
- a. Maximum Number of Signs Per Lot - No lot shall be permitted to have erected both a freestanding sign and a monument sign.
 - b. Maximum Number of Signs Per Business - Two, plus a directory sign.
 - c. Types of Signs Permitted - Wall, window, monument, projecting, awning, canopy, or marquee.
 - d. Maximum Size of Signs - Same as for individual businesses.
 - e. Directory Sign - One wall mounted sign per building placed near the principal entrance, up to fifteen square feet in area. Identification of a business on the directory sign will not be included with the number of signs permitted in (b) above.
 - f. Wall Signs B Multiple signs, one for each business; harmonious with other wall signs as to color and lettering. The total combined size of the multiple signs shall be limited to one square foot per linear foot of building frontage for establishment, up to a

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- (6) Signs for Theaters - In addition to the otherwise permitted signage, theaters are authorized to erect one of the permitted wall or marquee signs for a changeable copy board displaying the name(s) and time(s) of the current motion picture or theatrical production.
- (7) Signs for Other Uses Within Business and Employment Districts - In cases where the regulations within this Section do not address a sign for a permissible use within a business or employment district, the Zoning Administrator shall make a written interpretation of the ordinance, which shall be kept on file and used as a guide for future determination.
- (8) Unusual Site Constraints - When unusual building site conditions prohibit the ability to obtain effective signage, the Zoning Administrator may issue sign permits which comply with the intent of this Article upon authorization and approval of the Town Council.
- (9) Political Signs - For signs which will be displayed longer than provided for in the temporary political signs category; the sign shall not exceed nine square feet in area and six feet in height.

Sec. 23-104. Signs in the Historic District.

- (1) Historic District Zoning Permit Required - Signs within the H-1 Historic District require the approval of a Certificate of Appropriateness by the Stephens City Historic Preservation Commission and the issuance of a sign permit by the Zoning Administrator.
- (2) Additional Review Criteria- Any sign erected within the Historic District shall also satisfy all applicable criteria established in this Article.
- (3) Area, height, number, and location standards for the underlying zoning district shall be applicable to all signs erected within the Historic District. The maximum sign area per use shall not exceed forty square feet for wall signs, sixteen square feet for freestanding signs, and ten square feet for projecting signs.

Sec. 23-105. Signs in Planned Unit Development Districts.

- (1) Signs, Generally - Applicants submitting a petition for Newtown Development District shall submit the proposed maximum size, height, and number of signs including proposed limitation and requirements on all private signs, as required by this Ordinance.
- (2) Optional Comprehensive Signage Plan - In order to allow greater design flexibility, planned development applications shall include a comprehensive signage plan indicating the types, general location, size, height, and design of proposed signs. Such a comprehensive signage plan shall be reviewed by the Stephens City Planning Commission and approved by the Town Council as part of the final development plan procedures.

Sec. 23-106. Comprehensive Signage Plans.

- (1) Signs, Generally – In order to encourage unified compatible signage, any existing or proposed multiple tenant development may submit a comprehensive signage plan which indicates the proposed sign types, location, size, height, design, materials, and color.

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- (2) Review Authority - If any of the New town Development District lies within the historic district, the Comprehensive signage plans will be reviewed by the Stephens City Historic Preservation Commission. The design criteria contained in Section 23-546 will be utilized to evaluate the relationship of the proposed signage with the architectural design of the building. Any individual sign which exceeds the size limitations contained in this Article must be authorized by the Town Council upon recommendations by the Stephens City Historic Preservation Commission.

Sec. 23-107. Sign Permit Procedures.

- (1) Applicability - A sign permit shall be required for all signs erected after the effective date of this Article, except for those signs which are specifically excluded from the sign permit requirements as provided in Section 23-96.
- (2) Filing of Application; Fees - Applications for sign permits shall be filed on a form provided by the Zoning Administrator, shall contain information required herein, and shall be accompanied by a fee of \$25.00 for signs less than six square feet, \$35.00 for signs more than six square feet, and \$35.00 for a temporary sign permit of any size.
- (3) Pre-Existing Sign Permits - There will not be a fee associated with the submittal of a Pre-Existing Sign Permit verification.
- (4) Information Required - All applications for sign permits shall contain, or have attached thereto, the following information in either written or graphic form:
 - a. Name, address, and telephone number of the sign erector and the sign owner.
 - b. Position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections.
 - c. Type of sign and general description of structural design and construction materials to be used.
 - d. Purpose of the proposed sign.
 - e. Drawings of the proposed sign which shall contain specifications indicating the height, perimeter, and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
 - f. Any other information requested by the Zoning Administrator in order to carry out the purpose and intent of these regulations.
- (5) Recording of Sign Permit - The Zoning Administrator shall maintain a record of all sign permits issued. All sign permits shall be numbered in order of their issuance.
- (6) Inspections - A final inspection shall be completed after installation of approved signs. Any discrepancies between the approved sign and the sign constructed shall be identified and may result in the halt of construction or sign removal if so ordered by the Zoning Administrator.

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- (7) Revocations - The Zoning Administrator may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans.

Sec. 23-108. Temporary Sign Permit Procedures.

For all signs requiring the issuance of a Temporary Sign Permit, as established in Section 23-97, the applicant shall submit all information requested by the Zoning Administrator prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of said permit for good cause. A temporary sign(s) remaining after the expiration of the permit shall be considered as an obsolete sign.

Sec. 23-109. Expiration of Sign Permits B Signs Not Constructed.

A sign permit shall expire and become null and void if the approved sign is not erected within a period of twelve months from the date the permit was originally issued. The Zoning Administrator may grant one extension of the sign permit for a period of 6 months, but in no case shall a permit be valid for more than a total of eighteen months. Extensions may be granted only when the proposed sign is in compliance with all current applicable requirements.

Sec. 23-110. Removal of Illegal Signs.

The Zoning Administrator may remove or order the removal of any illegal sign at the expense of the property owner. An illegal sign is any sign erected without a permit as described in Section 23-95 of this Article or does not comply with any provision of this Article.

Sec. 23-111---23-130. Reserved.

DIVISION 4. TOWNHOUSES; APARTMENT BUILDINGS; SHOPPING CENTERS

Sec. 23-131. Special provisions for townhouses.

(a) Density: The maximum permitted density for townhouses shall be ten dwelling units per gross acre.

(b) Required open space and recreation space: The required open space shall not be less than thirty-five percent (35%) of the adjusted tract area. All floodplains shall be included in the open space. In townhouse developments, all open space shall be classified as conservation area. For developments of 30 or more units, at least 200 square feet per unit within the open space set aside shall be developed into recreation space to include a playground, multi-purpose court, swimming pool, paved trail, or regulation softball, baseball or soccer field. For adults-only developments, an adult-oriented recreation space shall be provided to include any recreation facility listed above and/or a landscaped park with seating, tables, and trails. Design standards for open space and recreation space are included in DIVISION 11. OPEN SPACE, Section 23-531.

(c) Lot size: For townhouses in this district, there shall be a minimum lot area of 1,800 square feet for each townhouse.

(d) Setback: Townhouse structures shall be located twenty feet from any street or highway right-of-way. This shall be known as the "setback line."

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- (e) Lot width: For townhouse structures, the minimum lot width at the setback line shall be eighteen feet, and the property line shall be in the middle of the common wall.
- (f) In case of a lot at the end of a group of townhouses, the minimum width at the setback line shall be thirty feet.
- (g) Rear yards for townhouses: Each townhouse dwelling shall have a minimum rear yard of twenty feet.
- (h) Attached dwellings shall be separated by noncombustible party walls to the roof line, with a fire resistance of not less than two hours duration.
- (i) Each townhouse shall front on a dedicated public street or a thirty-four foot minimum width access easement. If access easement, the following minimum standards of development shall be observed:
- (1) Concrete curb and gutter on both sides of streets or easements.
 - (2) Sidewalk four feet in width on at least one side of the easement, constructed of concrete, brick, stone, or some other material of reasonable durability and safeness.
- (j) The radius of all cul-de-sacs shall be at least fifty feet.
- (k) The facades of dwelling units in a townhouse development shall be varied by changed front yards of not less than two feet and variation in materials and design, so that not more than four abutting units will have the same front yard depth or the same or essentially the same architectural treatment of facades and roof lines.
- (l) Architectural treatment: If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated road, provided the parcel borders a publicly dedicated road. Corner lots may face any of the public roads which border the property.
- (m) Ownership and management of open space: All open space land, including recreation space and facilities, in a townhouse development shall be deeded to and managed and maintained for their intended purposes as shown on the final site plan by a property owners association as defined in subsection (n).
- (n) There shall be an establishment of a nonprofit association, corporation, trust or foundation of all individuals or corporations owning residential property within the planned development to insure the maintenance of open space.
- (o) When the development is to administer open space through an association, nonprofit corporation, trust or foundation, such organization shall conform to the following requirements:
- (1) The developer must establish the organization prior to the sale of any lots/or units.
 - (2) Membership in the organization shall be mandatory for all residential property owners, present or future, within the planned community, and such organization shall not discriminate in its members or shareholders.

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- (3) The organization shall manage all open space and recreational and cultural facilities, shall provide for the maintenance, administration and operation of such land and improvements and shall secure adequate liability insurance on the land.
 - (4) The organization shall conform to the Condominium Act, in the Code of Virginia (1950); as amended.
 - (5) In the event the organization fails to maintain an active status or fails to maintain the open space or facilities in conformity with the other requirements of the Town Code, the Town may, in its discretion, bring the open space or facilities into proper Code compliance and assess the costs, including all administrative fees, as an additional lien upon the individual properties.
- (p) All townhouse units shall be connected to public water and public sewer systems.

Sec. 23-132. Special provisions for apartments.

Apartment construction shall comply with all regulations set forth in the district regulations and also the following:

(1) General regulations.

- a. There shall be no more than 24 units contained in any one structure and no more than eight units per floor.
- b. A site plan drawn in accordance with section 23-161 shall be reviewed by the planning commission and approved or rejected by the town council.
- c. Each apartment structure and/or apartment parking area shall have access on a dedicated public street.
- d. All apartments must be connected to a public water and public sewer connection.

(2) Management of open space.

- a. Should the units be for rental purposes, the developer or rental agent shall be responsible for maintenance and management of open space.
- b. If the units are to be sold separately, a nonprofit association, corporation, trust or foundation of all individuals or corporations owning residential property within the planned development shall be established to own and insure the maintenance, management and/or operation of the open space land, including recreation space and facilities, for their intended purposes as shown on the final site plan in accordance with the Condominium Act, Code of Virginia, as amended.
- c. The developer must establish the organization prior to the sale of any lots/or units.
- d. Membership in the organization shall be mandatory for all residential property owners, present or future, within the planned community.
- e. The horizontal distance between groups of apartment structures shall be:
 1. Two times the average height of the two groups of apartments for front or rear walls facing front or rear walls;
 2. Equal to the height of the highest building for side walls facing side walls.

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- f. Required open space and recreation space: The required open space shall not be less than forty percent (40%) of the adjusted tract area. All floodplains shall be included in the open space. In apartment developments, all open space shall be classified as conservation area. For developments of 30 or more units, at least 200 square feet per unit within the open space set aside shall be developed into recreation space to include a playground, multi-purpose court, swimming pool, paved trail, or regulation softball, baseball or soccer field. For adults-only developments, an adult-oriented recreation space shall be provided to include any recreation facility listed above and/or a landscaped park with seating, tables, and trails. Design standards for open space and recreation space are included in DIVISION 11. OPEN SPACE, Section 23-531.

(3) *Landscaping.*

- a. Site screening needs shall be a part of the site plan as reviewed by the planning commission and approved by the town council. Screening shall conform to all other requirements of the Town Code.
- b. A planting plan specifying the type, size and location of existing and proposed planting material shall be submitted with the application for the permit.

(4) *Parking facilities.*

- a. Off-street parking, whether in a garage or on-lot, shall be provided on the premises at the rate of two spaces for each apartment unit as referenced in Section 23-61.
- b. Required parking spaces shall be provided on the same lot as the building served and shall be reviewed by the planning commission and approved by the town council.
- c. All streets, cul-de-sac, parking areas and parking area drives shall be suitably paved with all-weather surface coverings.
- d. Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.
- e. Entrance and exit ways to parking areas shall have a minimum width of twelve feet for each lane of traffic entering or leaving the site, but shall at no time exceed thirty feet in width at the street line.

(5) *Drainage.*

- a. A storm runoff and drainage system shall be installed by the developer in accordance with best management engineering practice so as to adequately drain the project site, to adequately dispose of all runoff and drainage away from the project site, and so as not to permit excess flow of water across streets or adjoining properties. Plans for such drainage system shall be submitted and approved with the application for the permit.
- b. All provisions of town ordinances and regulations regarding storm drainage shall be complied with.

- (6) *Lighting.* Lighting of buildings, accessways and parking areas shall be provided for safety and convenience of the residents, but it shall be so arranged as not to reflect toward public streets or cause disturbance to building occupants or surrounding land; and shall be downward directed lighting only.

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- (7) *Storage of trash and rubbish.* Exterior storage areas for trash and rubbish shall be well screened on three sides and contain vermin-proof containers. Interior storage areas for trash and rubbish shall at all times be kept in an orderly and sanitary fashion.
- (8) *Architectural treatment.* If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated road, provided the parcel borders a publicly dedicated road. Corner lots may face any of the public roads which border the property.

Sec. 23-133. Shopping centers; development requirements.

(a) The general plan for a shopping center shall include evidence and facts showing that it has considered and made provision for, and the development shall be executed in accordance, with the following essential conditions:

- (1) The development shall consist of a selection of uses in such manner as to constitute a grouping of buildings, service and parking areas, circulation and open spaces, planned and designed as an integrated unit, in such manner as to constitute a safe, efficient and convenient retail shopping center.
- (2) The proposed development shall be constructed in accordance with an overall plan and shall be designed as an architectural unit with appropriate landscaping.
- (3) No more than twenty percent of the lot area shall be occupied by buildings.
- (4) The distance at the closest point between any two buildings or groups or units of attached buildings shall not be less than twelve feet.
- (5) The maximum height of any building or structure erected or enlarged in this district shall be thirty-five feet, except that the height of any such other building may be increased to a maximum of sixty-five feet when approved by the town council; provided, that for every foot of height in excess of thirty-five feet there shall be added to each yard requirement one corresponding foot of width or depth.
- (6) Adequate areas shall be provided for loading and unloading of delivery trucks and other vehicles; servicing of shops by refuse collection, fuel, fire and other service vehicles; automobile accessways; and pedestrian walks. Service areas shall be screened from view from any abutting roadway and from within the parking area.
- (7) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways servicing the center without undue congestion to or interference with normal traffic flow. All points of vehicular access to and from public streets shall be located not less than two hundred feet from the intersection of any public street lines. The town council shall satisfy itself as to the adequacy of the thoroughfare to carry the additional traffic engendered by the shopping center.
- (8) No building may be located closer than one hundred feet to the ultimate right-of-way of any public street, no closer than fifty feet to a side or rear property line adjacent to an agricultural or residential district, or within twenty-five feet of any property line.

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- (9) No parking access and service area may be located closer than twenty-five feet to a side or rear property line adjacent to a residential district.
- (10) Not less than one automobile parking space with suitable access shall be provided for each 100 square feet of floor area devoted to patron use.
- (11) Parking, loading or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.
- (12) Lighting facilities shall be arranged in a manner which will protect the highway and neighboring properties from unreasonable direct glare or hazardous interference of any kind; lighting shall be directed downward only.
- (13) The shopping center shall be permanently fenced from adjoining and contiguous residential districts by a wall, fence, adequate evergreen hedge and/or other suitable enclosure a minimum height of five feet and a maximum height of seven feet, placed at least ten feet inside the property line, and allowing no separation between elements of the fence, except for driveways. The area between such enclosure and the property line shall be landscaped to form a permanent screening area. The town council may waive the requirement for a screening enclosure and/or screening area if equivalent screening is provided by existing parks, parkways, recreational areas, or by topography or other natural conditions.
- (14) A landscaped planting area shall be provided along street frontage occupied by a shopping center at least seven feet in width and must be located between the property line and a line parallel to and seven feet inside the property line.
- (15) No shopping center shall be erected or used that is not adequately served with both sanitary sewers and public water unless authorized as a special exception and upon submission of satisfactory evidence to the fact that sanitary sewers and public water supply are not feasible in the particular location in question. Such evidence may include, but shall not be limited to, a specific recommendation from the county engineer, official representative of the state health department, and/or the county sanitation authority.
- (16) For the purpose of calculating the minimum area, lot dimension and yard requirements established by this section, a single planned shopping center district cannot lie on two sides of a public street or alley. Any area designated as being a shopping center and lying on both sides of a public street shall be deemed to be two shopping centers, and all minimum requirements shall be met by buildings on each side of such public street as separate districts.

Sec. 23-134 – 23-160. Reserved.

DIVISION 5. SITE PLANS

Sec. 23-161. Requirements.

(a) Statement of intent: The purpose of these requirements is to promote the orderly development of certain activities in the town and to insure that such activities are developed in a manner harmonious

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with surrounding properties and in the interest of the general public welfare. More specifically, the site plan shall be used to review the following:

- (1) Compatibility with the environment.
- (2) Ability of the traffic circulation system to provide for the convenient and safe internal movement of vehicles and pedestrians.
- (3) Quantity, quality, utility and type of project.
- (4) Required community facilities.
- (5) Location and adequacy of the project's provision for drainage and utilities.

(b) *A site plan is required:*

- (1) For all buildings, structures or uses as noted in this chapter.
- (2) Where a change of use of an existing structure requires additional parking or other requirements applicable to a new use.

(c) *Waiver of requirements:*

- (1) Any requirement of this division may be waived in writing by the administrator where the waiver is not adverse to the purpose of this division and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this division or that the requirement is unreasonable.
- (2) The administrator may waive the requirements for site plan review for additions to buildings, structures and uses if, in his opinion, such addition does not substantially affect the purpose and intent of this division.

(d) *Site plan specifications:* Every site plan shall be prepared in accordance with the following specifications:

- (1) The scale shall not be smaller than one inch equals fifty feet.
- (2) All site plans shall be submitted on twenty-four inch by thirty-six inch sheets.
- (3) If the site plan is prepared on more than one sheet, match lines shall clearly indicate where the sheets join.
- (4) Horizontal dimensions shall be in feet and decimals of feet to the closest one-hundredth of a foot.

(e) *Site plan contents:* The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture or land surveying shall be prepared by qualified persons and shall be certified by an architect, engineer or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall provide the following:

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- (1) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor and/or developer and a signature panel for the administrator's approval.
- (2) The north point, scale and date.
- (3) Vicinity map at a scale of between one inch equals one foot to one inch equals 4,000 feet. Such map shall show the location of the project in relation to corporate limits and streets in the town.
- (4) Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties.
- (5) The present use of all contiguous or abutting property.
- (6) The boundaries of the property involved by bearings and distances, certified by a land survey or licensed to practice in the Commonwealth of Virginia.
- (7) All existing property lines, existing streets, buildings, watercourses, waterways or lakes and other existing physical features in or adjoining the project. Those physical features such as watercourses, waterways or lakes on adjoining properties need only be shown in approximate scale and proportion.
- (8) Topography of the project area with contour intervals of five feet or less.
- (9) The location and sizes of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities.
- (10) The location of all off-street parking, loading spaces and walkways, indicating: types of surfacing, size and angle of stalls, width of aisles and a specified schedule showing the number of parking spaces.
- (11) The location, height, type and material of all fences, walls, screen planting and landscaping details of all buildings and grounds, and the location, height and character of all outdoor lighting systems.
- (12) The location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general use for each building, and the number, size and type of dwelling units, where applicable.
- (13) Provisions for the adequate disposition of stormwater indicating location, sizes, types and grades of ditches, catch basins and pipes and connection to existing drainage system.
- (14) Provisions and schedule for the adequate control of erosion and sedimentation in accordance with applicable erosion and sedimentation control ordinances and regulations.

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- (15) Proposed finished grading by contour, supplemented where necessary by spot elevations.
- (16) The location, character, size, height and orientation of proposed signs.
- (17) The location and dimensions of proposed recreation, open space, and required amenities and improvements, including details of disposition.
- (18) Any necessary notes required by the administrator to explain the purpose of specific items on the plans.
- (19) To the extent not provided for above, the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and other such information as is also required by the subdivision ordinance.

(f) *Improvements and standards:* The following improvements and minimum standards, as applicable, shall be required and provided for in a site development plan:

- (1) All street and highway construction standards shall be in accordance with those specified in Chapter 18, subdivisions, of this Code.
- (2) The paving of vehicular travel lanes, driveways or alleys designed to permit vehicular travel on the site and to and from adjacent property.
- (3) Cul-de-sacs shall be designed and constructed in accordance with the street standards specified in Chapter 18, subdivisions, of this Code, and may not be construed or employed as a parking bay.
- (4) Minimum utility easement width shall be twenty feet.
- (5) All required screening shall be sufficiently dense to screen development effectively from the adjacent properties.

(g) *Review and approval of site plan:*

- (1) Five copies of the plan shall be submitted to the administrator. The administrator shall circulate the plan to the relevant departments, boards and planning commission for written comments, and notify the applicant of the action taken, which may be approval, approval subject to conditions, or disapproval.
- (2) Site plans for the planning commission shall be submitted to the administrator at least seven days prior to the next regularly or specially scheduled planning commission meeting. The site plan shall be considered approved unless the planning commission acts within sixty days from the date of submission of the final site plan.

(h) *Site plan termination or extension:* An approved site plan shall expire and become null and void if no building permit has been obtained for the site within twelve months after the approval.

(i) *Amendments to approved site plan:* If it becomes necessary for an approved site plan to be changed, the administrator shall, at the applicant's request, either administratively approve an

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amendment to the site plan or, if the change is major, require that a new site plan be drawn and submitted for review and action in accordance with this division.

(j) *Site plan prerequisites to issuance of permits:* No building permit shall be issued to construct, erect or alter any building or structure or any permit or authorization granted to improve or develop land subject to the provisions of this division, unless a site development plan has been submitted and approved.

Sec. 23-162---23-170. Reserved.

DIVISION 6. SUPPLEMENTARY USE REGULATIONS

Sec. 23-171. Outdoor storage and processing.

The outdoor storage or processing of products, equipment or raw materials is permitted in the business and industrial districts only if the outdoor storage or processing is directly associated with the primary uses of the property and only if the following conditions are met:

(a) The outdoor storage or processing shall be completely screened from the view from road and street rights of-way and from surrounding properties by an opaque fence, wall, berm or landscape screen at least 6 feet in height.

(b) Such outdoor storage or processing shall not be permitted in any required front setback yard.

(c) No toxic or hazardous materials shall be stored outdoors.

(d) No used tires (tire piles) shall be stored outdoors.

(e) The display of vehicles and/or equipment for sale by a dealer or nursery stock by a commercial nursery shall be exempt from Section 23-171 (a) and (b).

(f) Section 23-171 (a) and (b) shall not apply to motor vehicle parking areas, provided, however, that motor vehicles to be repaired (NAISC code 8111__), if stored outside, shall be subject to these requirements.

Sec.23-172. Nuisances.

(a) Any use of land or structures that creates the following nuisances shall be prohibited. In addition, the following standards shall be met:

(1) Glare. Outdoor lighting shall be arranged to deflect glare away from adjoining properties and public streets. Sources of light on a lot shall be hooded or controlled to prevent glare beyond the lot line. Sources that produce harmful glare, ultraviolet rays or laser beams, including arc welding or acetylene torches, shall be completely screened from view sufficiently to be imperceptible beyond lot lines.

(2) Radiation hazards. No use shall be allowed that creates radiation emissions that are hazardous to the health and safety of the general public. No uses shall be allowed that discharge radioactive materials into the atmosphere, soils or bodies of water. All uses handling radioactive materials shall conform to applicable local, state and federal regulations.

(3) Electromagnetic interference. No use shall be allowed that create electric disturbances that would adversely affect the operation of equipment beyond the lot line of the use.

(4) Vibrations. No use shall be allowed that creates any vibration discernible for three (3) minutes or more in any one (1) hour. In no case shall vibrations exceed a maximum peak particle velocity of five-hundredths (0.05) inch per second.

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- (5) Fire hazards. No use shall be allowed that does not conform to all applicable fire codes and the Frederick County Code concerning fire hazards and the storage of explosives.
- (6) Air and water pollution. No use shall be allowed that does not conform to the air and water pollution control regulations of the Virginia Department of Environmental Quality.
- (7) Noise. In the industrial zones, sound levels at the perimeter boundary of the property zoned industrial shall not exceed seventy-five dbA.
- (8) Odors. No use shall emit persistent offensive odors that are perceptible beyond the lot line.

(b) Upon request of the Administrator, a property owner shall submit a report, certified by an engineer or other qualified professional, substantiating compliance with items (a) (2), (3), (4), and/or (7).

Sec. 23-173. Protection of environmental features.

In order to protect those areas of a parcel that have environmental features that make them unsuitable for development, certain portions of a development shall remain undisturbed and protected as set forth in this section. It is also the intention of this section that the protected environmental features be set aside as open space or otherwise undeveloped. These environmental features shall be reviewed as the first step in the planning process before site plans or subdivision plats are finalized. The requirements of this section shall apply to land in all zoning districts.

(a) Portions of the following environmental features shall remain undisturbed as described:

- (1) 100-year Floodplains. In general, no disturbance of floodplains is allowed, and no structures shall be constructed or fill placed in floodplains. The Zoning Administrator, with approval of the Planning Commission, may allow disturbance of small areas in the floodplain for purposes of recreation, conservation, public utilities, stormwater management or roads. Such disturbance shall be minimized to the maximum extent possible and in no case shall it obstruct the flow of water or alter flood heights.
- (2) Lakes and ponds. Lakes, ponds and impoundments shall remain undisturbed, provided, however that maintenance and repair activities are permitted. The Zoning Administrator may allow the removal of a lake, pond, or impoundment if it is in a poor state of repair, if it is unsafe or if it serves no useful retention, environmental or recreational purposes.
- (3) Wetlands and Natural Waterways. No disturbance of wetlands is allowed, except that the Zoning Administrator may allow disturbance of small areas as allowed by Virginia Department of Environmental Quality / U.S. Army Corps of Engineers permits. The disturbance of natural waterways is prohibited, except when necessary for public utilities, stormwater management, wetlands rehabilitation, streambank restoration, or roads.
- (4) Sinkholes. Stormwater runoff shall be directed away from sinkholes. Sinkholes shall not be filled with any material that will contribute to groundwater pollution. Sinkholes may be filled with clean poured concrete, rock, gravel or soil. The construction of parking or loading areas and structures is permitted over properly filled sinkholes only upon performance of a geotechnical study and certification by a structural or geotechnical engineer that the development will have a stable foundation.
- (5) Steep slopes. No more than 25% of areas affected by steep slopes (slopes 15% or greater) shall be disturbed or graded. The Planning Commission may allow the disturbance of larger areas of steep slopes for non-residential development in the industrial zones; however, the functions of stream valleys shall be preserved through the use of open space, tree preservation, landscaping and stormwater management facilities.

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(b) In residential developments, floodplains and wetlands described above shall be placed in areas of required open space.

Sec. 23-174. Landscaping in the industrial zoning districts.

(a) All developments in the I-1 and I-2 zoning districts shall be appropriately landscaped to enhance the appearance of the development, provide shade, and reduce stormwater runoff. Landscape plans, the execution of those plans, and the maintenance of landscape plants shall take into consideration traffic hazards that inappropriate and poorly maintained plantings may present.

(b) Any part of a development lot not used for buildings, structures, parking, loading, outdoor storage areas, driveways or walkways shall contain a ground cover including grass, flowers, shrubs, trees or other landscape materials, which shall be maintained in a healthy condition.

(c) Street trees shall be planted in a landscape strip at least ten (10) feet wide along all primary and collector roads. Such street trees shall be large canopy trees planted forty (40) feet on center, with variations in the distance between trees being permitted by the Administrator to accommodate driveways and other obstructions.

(d) Parking lots of ten (10) or more spaces shall be landscaped as follows:

(1) Interior parking lot landscaping. Interior landscaping covering not less than five (5) percent of the total area of the parking lot shall be provided. Such interior landscaping shall be provided on raised islands or in continuous raised strips, which shall be used to direct vehicular and pedestrian circulation patterns. The landscaped areas shall be reasonably dispersed throughout the parking lot. The primary landscape material shall be canopy shade trees, though shrubs and other plant material may be used to complement the tree landscaping. No less than one (1) shade tree shall be provided in the interior of the parking lot for each ten (10) parking spaces. The Zoning Administrator may approve alternative locations for interior landscaping for truck parking lots, as long as the minimum five percent area is provided and the landscaping serves to provide a better screen of views of the trucks from roadways and adjacent properties.

(2) Peripheral parking lot landscaping. Landscape strips shall be provided around the perimeter of each parking lot as follows, except where there are driveways, walkways, or other needed openings:

a. When the property line abuts land not in the right-of-way of a street, a landscape strip of at least four (4) foot width shall be provided planted at a rate of at least one tree and three shrubs for each fifty (50) feet.

b. When the property abuts a street right-of-way, a landscape strip of at least ten (10) foot width shall be provided planted at a rate of at least one tree for each forty (40) feet. Street trees required by Section 23-174 (c) shall fulfill this requirement. In addition, the parking lots shall be screened by shrubs planted no less than four feet on center. Shrubs providing parking lot screening shall have a minimum height of twenty-four inches.

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Sec. 23-175. Buffering and screening in the industrial zoning districts.

Development in the I-1 and I-2 zoning districts shall provide landscape screens and buffer yards along the property perimeter in order to screen adjacent land uses according to the following matrix:

Screening and Buffer Yard Matrix

Proposed Land Use	Existing Land Use of Adjacent Land		
	Residential	Institutional	Commercial
NAICS Code	Level of Screening and Buffering		
22____ - 51____	2	2	1
52____ - 72____	1	1	-
	1	1	-
81____			
92____	1	-	-
Flex-tech	2	2	1
Public park	-	-	-

(a) Proposed land uses in the I-1 and I-2 zoning districts, listed in the matrix above, are those permitted and special uses listed under the respective zoning district regulations as defined by NAICS code or by definition in Section 23-3.

(b) Existing land uses of adjacent land are defined as follows:

- (1) Residential. Single family detached, single family attached, and multifamily housing, and vacant land shown as planned for residential use on the Future Land Use Map in the Stephens City Comprehensive Plan.
- (2) Institutional. Public buildings, schools, churches, public parks, conservation areas, and vacant land shown as planned for open space, public park or public facility on the Future Land Use Map in the Stephens City Comprehensive Plan.
- (3) Commercial. Retail and service commercial uses, offices, lodging, restaurants, and similar uses, and vacant land shown as planned for downtown, community commercial, highway commercial and office uses on the Future Land Use Map in the Stephens City Comprehensive Plan.

(c) Two levels of screening and buffering are referenced in the Screening and Buffer Yard Matrix. These two levels are defined as follows:

- (1) Screen / Buffer Yard 1. The width of the buffer shall be at least 50 feet and shall be planted with the landscape plants to provide a semi-opaque screen. Screen / Buffer Yard 1 shall consist of:

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Screen / Buffer Yard 1 (plant units per square foot of buffer yard)	
Type of Plant	
Large canopy trees	1/2000
Flowering accent trees	1/2000
Evergreen trees	2/1000
Shrubs	3/1000

- (2) Screen / Buffer Yard 2. The width of the buffer shall be at least 75 feet and shall be planted with the landscape plants to provide a semi-opaque screen. Screen / Buffer Yard 2 shall consist of:

Screen / Buffer Yard 2 (plant units per square foot of buffer yard)	
Type of Plant	
Large canopy trees	1/2000
Flowering accent trees	1/2000
Evergreen trees	3/1250
Shrubs	3/1000

(d) Where natural barriers, topography or other features achieve the functions of the landscape screen, these requirements may be reduced or waived by the Administrator.

(e) When the strict application of these screening and buffer yard requirements would preclude reasonable use of a lot due to lot size and/or configuration, the Administrator may waive or modify the requirements so as to allow reasonable use, but also to minimize adverse impact, through a combination of architectural and landscape techniques. Architectural techniques include, for example, building orientation and façade improvements. Landscape techniques include, for example, berms and the erection of a wall or fence.

Sec. 23-176. Plant Material Specifications.

(a) Condition: All plants required by this ordinance shall be of specimen quality, exceptionally full and superior in form, compactness and symmetry. They shall be sound, healthy, vigorous, well branched and densely foliated when in leaf; free of disease and insects, eggs or larvae; and shall have healthy, well-developed root systems. They shall be free from physical damage or other conditions that would prevent growth.

(b) Size: All plant material installed shall comply with the following minimum requirements at the time of planting:

- (1) Large canopy trees: Two-inch caliper (as measured six inches above the ground)
- (2) Large evergreen trees: Four feet height (minimum six feet height at maturity)
- (3) Flowering accent trees: Six feet height
- (4) Evergreen shrubs: 18 inches height, provided, however, that shrubs used to screen parking lots shall have a minimum height of 24 inches.

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(c) Diversity: For each type of plant (large canopy trees, large evergreen trees, etc.) the planting plan shall have a diverse mix of species. The percentage of one species within each group shall not exceed thirty (30) percent.

(d) Planting Procedures: All trees and shrubs shall meet the specifications of the American Association of Nurserymen. The planting of trees shall be carried out in accordance with the Standardized Landscape Specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects.

Sec. 23-177. Parking, Loading Outdoor Storage Area Surface Materials.

Parking and Loading Areas. Parking and loading areas for all developments, except single family detached residential houses, shall be paved with concrete, bituminous concrete or similar materials over a gravel base. Such surfaces shall provide a durable, dust- and gravel-free hard surface. Parking areas for single family detached houses shall be paved with a minimum double prime-and-seal treatment, or equivalent or more durable surface. The Administrator may determine that other materials, such as porous pavement or grass block, or other low impact development (LID) techniques are appropriate and permitted for effective stormwater management, where such surfaces would provide a stable base for parking and loading.

Outdoor Storage and Processing Areas. Outdoor storage and processing areas shall be surfaced with gravel, concrete, bituminous concrete or similar materials over a gravel base.

Sec. 23-178 – 23-190. Reserved.

ARTICLE III. ZONING DISTRICTS

DIVISION 1. IN GENERAL

Sec. 23-191--23-229. Reserved.

Sec. 23-230. Town Boundary Adjustment Interim Zoning Classifications.

Any and all property located within Frederick County Virginia which ultimately comes into the Town limits as a result of the June 24, 2005 Order of the Special Three Judge Court shall be subject to an interim zoning classification. The table below reflects the Town zoning district which shall apply on an interim basis, based upon the property's zoning classification by Frederick County at the time the property comes into the Town limits.

County Zoning District

RA Rural Areas
RP Residential Performance
R4 Residential Planned
R5 Residential Red
B1 Neighborhood Business
B2 Business General
B3 Industrial Transition
M1 Light Industrial

Interim Town Zoning Classification

Residential R-1
Residential R-3
Residential R-3
Residential R-2
Business B-1
Community Business B-2
Industrial I-1
Industrial I-1

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M2 Industrial General
EM Extractive Manufacturing

Industrial I-2
Industrial I-2

DIVISION 2. RESIDENTIAL DISTRICT R-1

Sec. 23-231. Statement of intent.

The R-1 district is composed of existing low-density, single-family residential areas plus agricultural and undeveloped areas where similar residential construction appears appropriate and likely to occur. The standards set forth for this district are designed to stabilize and protect the predominant character of the area so delineated, to promote and encourage a suitable environment for family living. Development is, therefore, limited to low density, and permitted uses are limited to single-unit dwellings, plus selected residentially related uses such as churches, parks, and certain public facilities that serve the residents of the district. A primary feature of the R-1 district is the preservation of open space conservation areas associated with new development. The purpose of the open space conservation areas is the preservation of significant environmental features, the creation of a community-wide open space network, the preservation of the area's rural character, and to provide flexibility in residential subdivision design.

Sec. 23-232. Use regulations.

(a) *Uses of residential lots:* Only one main building and its accessory buildings may be erected on any residential lot or parcel of land in Residential District R-1. Structures to be erected or land shall be used for the following uses:

- (1) Single-family dwellings.
- (2) Agriculture.
- (3) Parks and playgrounds.
- (4) Accessory buildings not to exceed the principal structure in height may be built in a rear yard, but such accessory building shall not occupy more than thirty percent of the required rear yard and shall not be nearer than five feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than five feet to the alley line. If the garage or carport is attached to the main structure or within two feet from the main building, the garage or carport shall be regarded as part of the main building for the purpose of determining the side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used for other than the temporary storage of construction materials unless the main building on a lot is completed and used.
- (5) Public utilities, including poles, underground lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve the inhabitants of the town.
- (6) Signs as set forth in section 23-91.
- (7) Travel trailers provided they are stored within the side or rear yard requirements and are unoccupied.
- (8) Fences.
- (9) Off-street parking as set forth in Section 23-61.
- (10) The following uses are permitted by special use permit only:
 - a. Churches.
 - b. Home occupations.

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(b) *Uses of open space:*

- (1) Conservation areas
- (2) Public parks
- (3) Cemeteries

(c) *Uses of agricultural lands:*

- (1) General farming
- (2) Truck gardens
- (3) Orchards
- (4) Cultivation of crops
- (5) Similar agricultural uses

Sec. 23-233. Area regulations.

(a) *Maximum density:* The maximum density shall be one residential lot per 40,000 square feet of adjusted tract area.

(b) *Minimum lot area:* The minimum lot area shall be 20,000 square feet. For lots relying on individual on-site water and/or sewer systems, the minimum lot area shall be five acres.

(c) *Open space areas:* For single family residential uses, a minimum of twenty percent (20%) of the adjusted tract area, or 40,000 square feet, whichever is greater, of a subdivided tract shall be set aside as open space. A cash payment in lieu of open space set aside for residential uses is permitted if the Town Council approves; however, in no case shall a cash payment in lieu of open space set aside result in a maximum density greater than that permitted in Section 23-233(a). For non-residential uses, a minimum of forty percent (40%) of the tract shall be set aside in open space.

Sec. 23-234. Setback regulations.

Structures shall be located forty-five feet or more from any street right-of-way line which is forty feet or greater in width, or located sixty-five feet or more from the center of any street right-of-way less than fifty feet in width; however, no building need be set back more than the average of the setback of the two adjacent structures on either side.

Sec. 23-235. Frontage regulations.

(a) All lots shall have the minimum required frontage. No flaglots shall be permitted.

(b) The minimum lot width at the setback line shall be one hundred feet.

Sec. 23-236. Yard regulations.

(a) *Side* The minimum total width of the side yards shall be thirty-five feet, with no one side yard being less than fifteen feet.

(b) *Rear.* The minimum rear yard shall be fifty feet.

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Sec. 23-237. Height regulations.

- (a) Buildings may be erected up to two-and-one-half stories, thirty-five feet in height from grade.
- (b) Churches may be erected to a height of sixty feet from grade provided that required front, rear and each side yards shall be increased one foot for each foot in height over thirty-five feet.
- (c) Church spires, belfries, silos, barns, cupolas, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aeriels are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (d) No accessory building which is within twenty feet of any party lot line shall be more than fifteen feet high. All accessory buildings shall not exceed the main building in height, except as indicated in subsection (c).

Sec. 23-238. Special provisions for corner lots.

- (a) Of the two sides of a corner lot, the front shall be the shortest of the two sides fronting the streets unless, upon approval of the town council, the actual use of the lot or its structures deems that the front should be the longer side.
- (b) The side yard facing the street shall be at least thirty feet or more for both main and accessory buildings. The side away from the street shall be at least fifteen feet for the main building.
- (c) There shall be no planting, fence or obstruction to vision more than two feet high, less than twenty-five feet from the intersection of two street lines.

Sec. 23-239. Coverage regulations.

The following coverage regulations apply only to residential uses on individual lots.

- (a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, twenty percent of the area of the lot.
- (b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, thirty percent of the area of the lot.

Sec. 23-240. Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public streets which border the property.

Sec. 23-241. Open Space.

Open Space shall be designed, owned, administered and maintained in accordance with the provisions of Division 11 of this Ordinance.

Sec. 23-242 - 23-260. Reserved

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DIVISION 3. RESIDENTIAL DISTRICT R-2

Sec. 23-261. Statement of intent.

The R-2 district is composed of single-family, low-density residential areas, plus undeveloped areas where similar residential construction appears appropriate and likely to occur. The standards set forth for this district are designed to stabilize and protect the predominant character of the areas so delineated, to promote and encourage a suitable environment for family living. Development is, therefore, limited to relatively low density, and permitted uses are limited to single-unit dwellings, plus selected residentially related uses such as schools, parks, churches, and certain public facilities that serve the residents of the district. A primary feature of the R-2 district is the preservation of open space conservation areas associated with new development. The purpose of the open space conservation areas is the preservation of significant environmental features, the creation of a community-wide open space network, the preservation of the area's rural character, and to provide flexibility in residential subdivision design.

Sec. 23-262. Use regulations.

(a) *Uses of residential lots:* Only one main building and its accessory buildings may be erected on any lot or parcel of land in Residential District R-2. Structures to be erected or land shall be used for the following uses:

- (1) Single-family dwellings.
- (2) Parks and playgrounds.
- (3) Off-street parking as set forth in section 23-61.
- (4) Accessory buildings not to exceed the principal structure in height may be built in a rear yard, but such accessory building shall not occupy more than thirty percent of the required rear yard and shall not be nearer than five feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than five feet to the alley line. If the garage or carport is attached to the main structure or within five feet from the main building, the garage or carport shall be regarded as part of the main building for the purpose of determining the side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used for other than the temporary storage of construction materials unless the main building on a lot is completed and used.
- (5) Public utilities; including poles, underground lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve the inhabitants of the town.
- (6) Signs as set forth in section 23-91.
- (7) Travel trailers provided they are stored within the side or rear yard requirements and are unoccupied.
- (8) Fences.
- (9) The following uses are permitted by special use permit only:
 - a. Professional offices, provided that as to medical offices, persons are not lodged overnight.
 - b. Schools.
 - c. Churches.
 - d. Home occupations.

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(b) *Uses of open space:*

- (1) Conservation areas
- (2) Public Parks
- (3) Cemeteries

(c) *Uses of agricultural lands:*

- (1) General farming
- (2) Truck gardens
- (3) Orchards
- (4) Cultivation of crops
- (5) Similar agricultural uses, except uses likely to generate noxious odors, such as hog, pig, or poultry farms or similar uses.

Sec. 23-263. Area regulations.

(a) *Maximum density:* The maximum density shall be one residential lot per 20,000 square feet of adjusted tract area.

(b) The minimum lot area shall be 10,000 square feet. For lots relying on individual on-site water and/or sewer systems, the minimum lot size shall be that required by the state health department. However, all lots shall be at least the size required by this chapter for this district.

(c) *Open space areas:* For single family residential uses, a minimum of twenty-five percent (25%) of the adjusted tract area, or 40,000 square feet, whichever is greater, of a subdivided tract shall be set aside as open space. A cash payment in lieu of open space set aside for residential uses is permitted if the Town Council approves; however, in no case shall a cash payment in lieu of open space set aside result in a maximum density greater than that permitted in Section 23-263(a). For non-residential uses, a minimum of forty percent (40%) of the tract shall be set aside in open space.

Sec. 23-264. Setback regulations.

Structures shall be located thirty-five feet or more from any street right-of-way line which is fifty feet or greater in width, or located fifty-five feet or more from the center of any street right-of way less than fifty feet in width; however, no building need be set back more than the average of the setback of the two adjacent structures on either side.

(a) *Uses of residential lots:* Only one main building and its accessory buildings may be erected on any lot or parcel of land in Residential District R-2. Structures to be erected or land shall be used for the following uses:

- (1) Single-family dwellings.
- (2) Parks and playgrounds.
- (3) Off-street parking as set forth in section 23-61.
- (4) Accessory buildings not to exceed the principal structure in height may be built in a rear yard, but such accessory building shall not occupy more than thirty percent of the required rear yard and shall not be nearer than five feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than five feet to the alley line. If the garage or carport is attached to the main structure or within five feet from the main building,

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the garage or carport shall be regarded as part of the main building for the purpose of determining the side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used for other than the temporary storage of construction materials unless the main building on a lot is completed and used.

- (5) Public utilities; including poles, underground lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve the inhabitants of the town.
- (6) Signs as set forth in section 23-91.
- (7) Travel trailers provided they are stored within the side or rear yard requirements and are unoccupied.
- (8) Fences.
- (9) The following uses are permitted by special use permit only:
 - a. Professional offices, provided that as to medical offices, persons are not lodged overnight.
 - b. Schools.
 - c. Churches.
 - d. Home occupations.

(b) *Uses of open space:*

- (1) Conservation areas
- (2) Public Parks
- (3) Cemeteries

(c) *Uses of agricultural lands:*

- (1) General farming
- (2) Truck gardens
- (3) Orchards
- (4) Cultivation of crops
- (5) Similar agricultural uses

Sec. 23-265. Frontage regulations.

- (a) All lots shall have the minimum required frontage. No flaglots shall be permitted.
- (b) The minimum lot width at the setback line shall be eighty feet.

Sec. 23-266. Yard regulations.

- (a) *Side.* The minimum total width of the side yards shall be twenty-five feet, with no one side yard being less than ten feet.
- (b) *Rear.* The minimum rear yard shall be thirty feet in depth.

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Sec. 23-267. Height regulations.

(a) Buildings and structures may be erected up to two-and-one-half stories, thirty-five feet in height from grade.

(b) Schools and churches may be erected to a height of sixty feet from grade; provided, that required front, rear and each side yards shall be increased one foot for each foot in height over thirty-five feet.

(c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(d) No accessory building which is within twenty feet of any party lot line shall be more than fifteen feet high. All accessory buildings shall not exceed the main building in height.

Sec. 23-268. Special provisions for corner lots.

(a) Of the two sides of a corner lot, the front shall be the shortest of the two sides fronting the streets unless, upon approval of the town council, the actual use of the lot or its structures deems that the front should be the longer side.

(b) The side yard facing the street shall be at least thirty feet or more for both main and accessory buildings. Side yards away from the street shall be at least fifteen feet for main buildings.

(c) There shall be no planting, fence or obstruction to vision more than two feet high, less than twenty-five feet from the intersection of two street lines.

Sec. 23-269. Coverage regulations.

The following coverage regulations apply only to residential uses on individual lots.

(a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, twenty percent of the area of the lot.

(b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, thirty percent of the area of the lot.

Sec. 23-270. Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public streets which border the property.

Sec. 23-271. Open Space.

Open Space shall be designed, owned, administered, and maintained in accordance with the provisions of Division 11 of this Ordinance.

Sec. 23-272 - 23-300. Reserved.

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DIVISION 4. RESIDENTIAL DISTRICT R-3

Sec. 23-301. Statement of intent.

The R-3 district is composed of medium residential uses. The standards for this district are designed to stabilize and protect the predominant character of the area so designated, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for families desiring the convenience of being close to shopping, employment centers and other community facilities. Development is, therefore, limited to medium densities, and permitted uses are limited to single-family, dwellings, plus selected additional uses such as schools, parks, churches, certain public facilities and very limited commercial land uses that serve the residents of the district.

Sec. 23-302. Use regulations.

In the Residential District R-3, structures to be erected or land shall be used for the following uses:

- (1) Single-family dwellings.
- (2) Bed and breakfasts and inns.
- (3) Open space to include conservation areas, public parks and cemeteries.
- (4) Professional offices.
- (5) Home occupations, as defined, conducted by the occupant.
- (6) Off-street parking as set forth in section 23-61.
- (7) Accessory buildings, not to exceed the principal structure in height, may be built in a rear yard, but such accessory building shall not occupy more than thirty percent of the required rear yard and shall not be nearer than five feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than five feet to the alley line. If the garage or carport is attached to the main structure or within one foot from the main building, the garage or carport shall be regarded as part of the main building for the purpose of determining the side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used for other than temporary storage of construction materials unless the main building on a lot is completed and used.
- (8) Public utilities; including poles, underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve the inhabitants of the town.
- (9) Signs as set forth in section 23-91.
- (10) Fences.
- (11) The following uses are permitted by special use permit only:

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- a. Townhouses, as set forth in section 23-131.
- b. Apartments, as set forth in section 23-132.
- c. Schools.
- d. Churches, lodges, hospitals, and other public and semi-public facilities of an institutional nature.
- e. Rest, convalescent or nursing homes.

Sec. 23-303. Area regulations.

(a) Maximum density: The maximum density of single family detached residential uses shall be one residential lot per 10,000 square feet of adjusted tract area. The maximum density of townhouse and apartment residential uses shall be as set forth in Section 23-131 and 23-132 respectively.

(b) Minimum lot area: The minimum lot area of single family detached residential uses shall be 10,000 square feet. The minimum lot area for townhouse and apartment residential uses shall be as set forth in Section 23-131 and 23-132 respectively. For non-residential uses, other than public utilities and open space, the minimum lot area shall be 10,000 square feet. However, for any use relying on individual on-site water and/or wastewater disposal systems, the minimum lot area shall be that required by the state health department, though in no case less than 10,000 square feet.

(c) Open space areas: For single family detached residential uses, a minimum of thirty percent (30%) of the adjusted tract area, or 40,000 square feet, whichever is greater, of a subdivided tract shall be set aside as open space. A cash payment in lieu of open space set aside is permitted in single family detached residential developments if the Town Council approves; however, in no case shall a cash payment in lieu of open space set aside result in a maximum density greater than that permitted in Section 23-303(a). The minimum open space for townhouse and apartment residential uses shall be as set forth in Section 23-131 and 23-132 respectively. For non-residential uses, a minimum of forty (40%) of the adjusted tract area shall be set aside as open space.

Sec. 23-304. Setback regulations.

Structures shall be located thirty feet or more from any street right-of-way line which is fifty feet or greater in width, or located fifty-five feet or more from the center of any street right-of-way less than fifty feet in width; however, no building need be set back more than the average of the setbacks of the two adjacent structures on either side.

Sec. 23-305. Frontage regulations.

- (a) All lots shall have the minimum required frontage. No flaglots shall be permitted.
- (b) The minimum lot width at the setback line shall be seventy feet.

Sec. 23-306. Yard regulations.

- (a) *Side*. The minimum side yard for each main structure shall be twelve feet.
- (b) *Rear*. The minimum rear yard shall be twenty-five feet.

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Sec. 23-307. Height regulations.

(a) Buildings and structures may be erected up to two-and-one-half stories, thirty-five feet in height from grade.

(b) Schools, churches may be erected to a height of sixty feet from grade; provided, that required front, rear and each side yards shall be increased one foot for each foot in height over thirty-five feet.

(c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(d) No accessory building which is within twenty feet of any party lot line shall be more than fifteen feet high. All accessory buildings shall not exceed the main building in height.

Sec. 23-308. Special provision for corner lots.

(a) Of the two sides of a corner lot, the front shall be the shortest of the two sides fronting the streets unless, upon approval of the town council, the actual use of the lot or its structures deems that the front should be the longer side.

(b) The side yard facing the street shall be twenty feet or more for both main and accessory buildings.

(c) Each corner lot shall have a minimum width at the setback line of seventy-five feet.

(d) There shall be no planting, fence or obstruction to vision more than two feet high, less than twenty-five feet from the intersection of two street lines.

Sec. 23-309. Coverage regulations.

The following coverage regulations apply only to single family detached residential uses on individual lots.

(a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, twenty-five percent of the area of the lot.

(b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, thirty-five percent of the area of the lot.

Sec. 23-310. Highway Landscape Buffer.

A landscape buffer fifty feet in width is recommended between the right-of-way of Interstate I-81 and all adjacent land uses. This landscape buffer shall be mixed native deciduous and conifer trees, shall remain in a natural vegetative state, and shall be managed to promote succession to natural woodland. The landscape buffer may be counted toward the required open space set aside.

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Sec. 23-311. Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public streets which border the property.

Sec. 23-312. Open Space.

Open space shall be designed, owned, administered, and maintained in accordance with the provisions of Division 11 of this Ordinance.

Sec. 23-313- 23-330. Reserved.

DIVISION 5. RESIDENTIAL DISTRICT R-O

Sec. 23-331. Statement of intent.

The Residential District R-O is intended to provide for limited professional office and business uses along the town's major thoroughfares, while preserving the essential residential and historical character of this area. Regulations are designed to limit commercial activities to regular (daytime) business hours and to minimize traffic and parking congestion.

Sec. 23-332. Use regulations.

In the Residential District R-O, structures to be erected or land shall be used for the following uses:

- (1) Single-family dwellings.
- (2) Professional and business offices in existing structures, including, but not limited to, medical, law, real estate, financial and insurance offices; provided, that there are only minimal changes to the exterior that do not detract from the residential character of the structures.
- (3) Parks and playgrounds.
- (4) Off-street parking as set forth in section 23-61.
- (5) Accessory buildings, not to exceed the principal structure in height, may be built in a rear yard, but such accessory building shall not occupy more than thirty percent of the required rear yard and shall not be nearer than three feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than five feet to the alley line. If the garage or carport is attached to the main building, the garage or carport shall be regarded as part of the main building for the purpose of determining the side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used for other than the temporary storage of construction materials unless the main building on a lot is completed and used.
- (6) Public utilities: poles, underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights.

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- (7) Signs as set forth in section 23-91.
- (8) Travel trailers, provided they are stored within the side or rear yard requirements and are unoccupied.
- (9) Fences.
- (10) Bed and breakfasts.
- (11) Restaurants (not including restaurants with drive-through service).
- (12) The following uses are permitted by special use permit only:
 - a. Specialty shops, as defined.
 - b. Personal services establishments, as defined.
 - c. Home occupations.
 - d. Schools.
 - e. Churches.
 - f. New construction for professional and business offices.
 - g. Schools of dance.
 - h. Funeral homes.

Sec. 23-333. Area regulations.

The minimum lot area shall be 10,000 square feet.

Sec. 23-334. Setback regulations.

Structures shall be located thirty-five feet or more from any street right-of-way which is fifty feet or greater in width, or located fifty-five feet or more from the center of any street right-of-way less than fifty feet in width; however, no building need be set back more than the average of the setback of the two adjacent structures on either side.

Sec. 23-335. Frontage regulations.

- (a) All lots shall have the minimum required frontage. No flaglots shall be permitted.
- (b) The minimum lot width at the setback line shall be eighty feet.

Sec. 23-336. Yard regulations.

- (a) *Side.* The minimum total width of the side yards shall be twenty-five feet, with no one side yard being less than ten feet.
- (b) *Rear.* The minimum rear yard shall be thirty feet in depth.

Sec. 23-337. Height regulations.

- (a) Buildings and structures may be erected up to two-and-one-half stories, thirty-five feet in height from grade.

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(b) Schools and churches may be erected to a height of sixty feet from grade; provided, that required front, rear and each side yards shall be increased one foot for each foot in height over thirty-five feet.

(c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(d) No accessory building which is within twenty feet of any party lot line shall be more than fifteen feet high. All accessory buildings shall not exceed the main building in height.

Sec. 23-338. Special provisions for corner lots.

(a) Of the two sides of a corner lot, the front shall be the shortest of the two sides fronting the streets unless, upon approval of the town council, the actual use of the lot or its structures deems that the front should be the longer side.

(b) The side yard facing the street shall be at least thirty feet or more for both main and accessory buildings. The side away from the street shall be at least ten feet for the main building.

(c) Each corner lot shall have a minimum width at the setback line of one hundred feet.

(d) There shall be no visual obstruction less than fifty feet from the intersection of two street lines.

Sec. 23-339. Coverage regulations.

(a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, thirty percent of the area of the lot.

(b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, sixty percent of the area of the lot.

Sec. 23-340. Landscape and Architectural treatments.

(a) If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as the main entrance faces a publicly dedicated street, provided the parcel borders a publicly dedicated street. On corner lots, main buildings may face any of the public streets which border the property.

(b) Areas adjoining a residential neighborhood or residential district shall utilize site planning, architectural and landscape design that is compatible with and protects the residential integrity of the adjoining residential area.

(c) Areas that adjoin a designated historic structure, site or historic district shall incorporate site planning and design features of architectural and landscape design that is compatible with and complements the adjoining historic structure(s) and areas.

(d) Areas that are visible entranceways to the town along the major vehicular corridors such as Main Street and Fairfax Street shall be planned and designed to visually enhance the town's entry appearance.

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(e) In complying with items (b) through (d) above, general design goals should include the preservation and appropriate reuse of existing buildings, preservation and enhancement of front yard areas, location of parking in the rear yard areas, and adequate landscaping in parking areas.

Sec. 23-341. Requirements of permitted uses.

(a) Before a zoning or building permit shall be issued or construction begun on any permitted use in the R-O zoning district, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show operations and processes shall be submitted to the zoning administrator for study and review as required in section 23-36 of this Code.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation, may be exempt from this provision. This exemption does not include storing of any materials.

(c) Landscaping shall be required within any yard area when adjacent to a residential district. The plans and execution must take into consideration traffic hazards.

(d) Sufficient area shall be provided:

- (1) To adequately screen permitted uses from adjacent business and residential districts.
- (2) For off-street parking of vehicles incidental to the establishment, its employees and clients, as specified in sections 23-61 and 23-62.

Sec. 23-342 - 23-350. Reserved.

DIVISION 5.5. RETIREMENT COMMUNITY DISTRICT R-4

Sec. 23-351. Statement of Intent.

This Retirement Community District is established by the Town of Stephens City in order to achieve the following purposes:

1. To provide for appropriate sites within the Town for the development of housing and related facilities to serve the needs of people age fifty-five (55) years and older.
2. To regulate the intensity and mixture of different types of housing units required to meet the needs of these senior citizens so as to provide ample outdoor and livable space and retain a sense of personal identity, intimacy and human scale within the development.
3. To provide ample-sized meeting rooms and recreational facilities for the comfort and convenience of the residents.
4. Through site plan review by staff, the Planning Commission and Town Council, to provide for review of the bulk, height, and spacing of buildings, architectural design of the buildings, the street patterns to act as a continuation of the Town's existing grid pattern, the circulation and

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parking patterns within the development to ensure adequate light, air, privacy and open space passive recreation and landscaped amenities are provided.

5. To provide such accommodation in a manner harmonious with the surrounding land uses while protecting the natural resources and open space.
6. To preserve the Town's residential character.

Sec. 23-352. Permitted Uses.

In this district land may be used and buildings may be erected, altered, or used for:

1. Detached and/or attached single-family uses and accessory uses thereto with a maximum of three (3) bedrooms per dwelling unit.
2. Duplex or triplex dwelling units with a maximum of two (2) bedrooms per dwelling unit.
3. Congregate Housing and/or Assisted Living Facilities occupying a single structure.
4. Recreation buildings and grounds for activities, games and sports not carried on for financial gain.
5. Accessory buildings for storage, repair and maintenance of equipment and vehicles used in operation of the community.
6. Dining rooms, meeting facilities, and health care facilities necessary to provide services to residents of the development if appropriate.

Sec. 23-353. Occupancy Eligibility.

Occupancy is restricted to persons age fifty-five (55) years or older, with the following exceptions:

1. A spouse under fifty-five (55) years old married to a resident over the age of fifty-five (55).
2. Adults between the age of eighteen (18) and fifty-five (55) only if their presence is required to administer care to a resident over the age of fifty-five (55).

Sec. 23-354. Minimum Requirements.

1. Tract Size: A proposed site shall consist of at least five (5) acres of continuous land in a single or consolidated ownership and may include parcels separated by existing public roads, provided that such parcels abut. The development shall be non-subdividable. Multiple lots shall be consolidated prior to approval under this ordinance.
2. Density: The maximum allowable density of the site shall be calculated based on the following:

Maximum Density: The maximum density of single family detached and duplex/triplex homes shall be one residential unit per 10,000 square feet of tract area.

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Minimum Lot Area: The minimum lot area of single family detached and duplex/ triplex homes shall be 5,000 square feet.

Maximum Unit Size: The maximum unit size shall be 1,600 square feet of living space.

Applicants shall show that the site characteristics can accommodate the proposed density. Adequate and appropriate on-site space must be provided in each development for parking, buildings, water, sewage, utilities, and all other infrastructure and facilities, regardless of the maximum allowable densities.

3. **Building Height:** No building erected as congregate housing or assisted living facilities in this district shall exceed two stories or thirty-five (35) feet in height, whichever is least.

Single family, duplex, triplex dwellings in this district shall only be erected as a single story.

Accessory buildings may be erected with a maximum height above grade of ten feet.

4. **Frontage Regulations:**

- All lots shall have the minimum required frontage. No flag lots shall be permitted. Lots may utilize shared private ingress-egress easements that access public streets as their primary frontage.
- The minimum lot width at the setback shall be fifty feet for single family detached homes.
- The minimum lot width at the setback shall be forty feet for duplex / triplex homes.

5. **Site Perimeter Buffer:** Each development must be situated with a permanently protected undeveloped site perimeter buffer, identified on the site plan, of not less than twenty-five (25) feet wide unless already wooded and is satisfactory to the Planning Commission and Town Council. Through utilization of Low Impact Development techniques, planted and landscaped buffers can provide a visual barrier between the development and all adjacent property. The Planning Commission may require additional buffer property width where unique circumstances of an abutting use or property warrant. The intent is to insure adequate screening where mixed uses abut. The Site Perimeter Buffer can be counted toward the 30% set aside of permanently protected Open Space.

6. **Setbacks:** All single family, duplex, or triplex units shall be set back a minimum of thirty-five (35) feet from the right of way of the road.

The minimum setback for Congregate Housing, Assisted Living Facilities, and Restorative Care/Skilled Nursing Facilities shall be increased fifteen (15) feet for structures over one story in height.

7. **Yard Regulations:**

- A. **Side Yards.**

1. The minimum side yards shall be ten feet. Structures exceeding one story shall increase their side yard to thirty feet.
2. The minimum side yard for a duplex / triplex shall be ten feet for one side only.
3. The minimum side yard for accessory structures shall be five feet.

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B. Rear Yards.

1. The minimum rear yard shall be twenty feet. Structures exceeding one story shall increase their rear yard to thirty feet.
 2. The minimum rear yard for accessory structures shall be five feet.
- 8: Open Space: For a single family detached, duplex/ triplex homes, a minimum of 10 % of tract area shall be set aside as open space. For Congregate Housing and/or Assisted Living facilities, 20% of tract are shall be set aside as open space. This open space may be in the form of rain gardens, accessible trails, parks, buffers, and stormwater management facilities. Other than dedicated parks or public trails accepted by the Town of Stephens City, the maintenance of the open space shall be the responsibility of the HOA.
- 9: Utilities: A proposed site shall be connected to public water and wastewater system. The water system within the site shall be designed to provide maximum flow practical for fire-fighting purposes as required by the State of Virginia Building Code. Each development shall conform to the regulations promulgated by water, sewerage, garbage and other health measures. All utilities such as electric, telephone, and cable are required to be place underground.
10. Lighting: Roads and main access ways to buildings shall include adequate lighting. The use of “full cut-off” or downward cast type lighting shall be required for all public areas. A formal site-wide lighting plan shall be submitted, requiring Administrative approval. Lighting of common and public areas shall be independently controlled from residential units and shall be minimized or turned off at an agreed upon “no later than” time at night. Light trespass, nuisance glare, and over-illumination due to excess wattage or inappropriate lighting type shall be prohibited. Adequate lighting for pedestrian safety shall be provided.
11. Pedestrian Traffic: The use of interconnecting walkways, trails and natural walking paths shall be integral part of the design of any development to facilitate access between common areas, groups of dwelling units and open space areas. All sidewalks and walkways shall connect into the existing Town system. Easements shall be requested where trails or potential trails on abutting lands may allow for a local connection. Appropriate timing and restrictions may apply. Primary walkways and sidewalks shall meet Americans with Disabilities Act (ADA) requirements. Trails and natural walking paths are exempt from this requirement, but the accessibility to all residents of the development is encouraged.
12. Building Design: Architectural renderings and/or elevations of all buildings and all accessory buildings shall be provided. Administrative Staff Planning will evaluate in accordance with the Site Plan Review Regulations to confirm that the proposed development is an appropriate scale and arrangement in light and the intent of this Zoning District, the prominence of the site, view sheds, adjacent uses and the surrounding neighborhood.
- a. All structures shall be erected with the main entrance facing the lot frontage.
 - b. All structures shall utilize rain barrels with a total capacity of at least one hundred gallons, for irrigation and outdoor use.
 - c. Each lot is encouraged to utilize rain gardens, native plants sized to treat at least fifty percent (50%) of its impervious stormwater runoff.
 - d. Each lot is encouraged to utilize pervious concrete, brick pavers, or other pervious material if approved by the Town Manager/ Zoning Administrator or other designated official, for all driveways, parking areas, sidewalks and patios.

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13. Landscape Plan: A landscaping plan shall be provided as part of the site plan submission.
14. Off-Street Parking: Parking for this district shall be provided in the following manner, and shall be in compliance with the appropriate subsections of off-street parking:
 - a. Two (2) spaces per dwelling unit.
 - b. Adequate visitor's parking.

Sec. 23-355. Street Requirements.

1. All streets and roads internal to the development shall be privately maintained unless the street is to be dedicated to the public roadway system
2. All streets, roads, and alleyways shall be designed to meet Town and Virginia Department of Transportation standards.
3. All streets shall be named and standard signs shall be posted prior to the development of the lots.
4. The number of new access points to existing and proposed streets and major through roads shall be limited to two (2) unless otherwise determined by the Planning Commission and Town Council.

Sec. 23-356. Ownership of Open Space and Common Areas.

1. The developer shall hold, manage and maintain Open Space, Common Land, and Common Facilities within a Retirement Community Development until completion of all improvements, whereupon the developer shall transfer the ownership and management and maintenance responsibilities to the Home Owners Association or similar form of common ownership set-up by the developer.
2. Common Areas and Common Facilities within the Retirement Community Development shall be owned by and bound by a homeowner's or condominium association or similar form of common ownership set by the developer. Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. Articles of association or incorporation must be acceptable to the Planning Commission and to Town Council.
3. Open Space shall be owned by one or a combination of the following:
 - a. A homeowners or condominium association or similar form of common ownership set forth by the developer;
 - b. A conservation trust or private nonprofit organization which has as its purpose the preservation of open space through ownership and control;
 - c. The Town of Stephens City, subject to acceptance by the Town;
 - d. The Commonwealth of Virginia for permanent open space areas;
 - e. A private landowner such as a farmer or forest manager that will manage it for uses consistent with the provisions of this ordinance.

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Sec. 23-357. Permitted by Special Use Permit.

1. Building Height:
 - a. Congregate Housing and/or Assisted Living Facilities may be allowed to construct additional stories based upon special circumstances where topography may play a role or additional density has been granted by the approval of the Town Council.
2. Density:
 - a. Applicants may apply for additional density based upon the layout of the development based upon demonstrated need for age restrictive housing and/or
 - b. Layout of development is designed for a smaller residence and takes up a smaller footprint.
3. Retail/ Service Oriented Businesses:
 - a. Allowed within the confines of Congregate Housing and/or Assisted Living Facilities within a small shop not dedicated to serving the general outside public. Examples of appropriate businesses would be beauty salons, general convenience, sandwich shop, small gift shop and other businesses that could be related to the residence of the development.
4. Medical Offices
 - a. Allowed within the confines of Congregate Housing and/or Assisted Living Facilities within an office type setting that may be open to the general public. Examples of appropriate types of medical offices may include general practitioners or physicians, specialized services, physical therapy or other allied health professions.

Sec. 23-358. Submission and Review Process.

1. An application for the development in this district shall begin with an application and conceptual plan to the administrative staff. After a brief review for completeness of the application, the administrative staff will turn the application over for review to various agencies and to the Planning Commission for review.
2. Based upon agency reviews and the Planning Commission review, the Planning Commission will recommend approval or disapproval of the application for all proposed retirement community housing developments to the Town Council. The Stephens City Town Council will make all final decisions.
3. A completed application for a Retirement Community Development shall contain at a minimum the following information in addition to a completed application:
 - a. A conceptual layout and rendering of proposed development;
 - b. Acknowledgement and preliminary language setting up homeowners association or similar form of common ownership.
 - c. A phasing plan for completion of the Retirement Community Development.

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Sec. 23-359. Enforcement.

The enforcement of this Article is vested with the Stephens City Zoning Ordinance and the Town Zoning Administrator. Upon any well-founded information that this Article is violated, the Zoning Administrator shall have authority of the Town to enforce such violation as given in the Town's Zoning Ordinance.

Sec. 23-360. Severability.

The invalidity of any provision of this Article shall not affect the validity of any provision, nor any prior decisions made on the basis of the valid provisions of this Article.
(Ord 12/06/2011)

DIVISION 6. BUSINESS DISTRICT B-1

Sec. 23-361. Statement of intent.

Business District B-1 is intended to encompass the major retailing area and to provide for the orderly expansion of the business in the town in a manner consistent with the goal of promoting the appropriate reuse of existing historic buildings and reinforcing the historic character of the town. Business District B-1 should provide a framework for a strong business community, in which each business can enhance other businesses and where amenities and services appropriate to the successful adaptive reuse of existing buildings can be provided.

Sec. 23-362. Use regulations.

In Business District HB-1, structures to be erected or land to be used shall be used for uses that are appropriate to the existing historic structures and landscape such as the following:

- (1) Bakeries, where products are sold at retail on the premises.
- (2) Banks.
- (3) Barber and beauty shops.
- (4) Family game and billiard parlors.
- (5) Book stores.
- (6) Cab stands and bus stops for the pickup and discharge of passengers.
- (7) Churches.
- (8) Church bulletin boards and identification signs as set forth in Section 23-91(b) and (c).
- (9) Drugstores.
- (10) Fences.
- (11) Service clubs and lodges.

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- (12) Funeral homes.
- (13) Furniture stores.
- (14) Gift, record, tobacco, and specialty shops.
- (15) Small neighborhood grocery stores.
- (16) Hardware stores.
- (17) Bed and breakfasts, and inns.
- (18) Household appliance sales and services.
- (19) Laundries, Laundromats and dry cleaners.
- (20) Libraries.
- (21) Small machinery sales and services (with services and repairs within structures).
- (22) Magazine and newsstands.
- (23) Museums and interpretive centers.
- (24) Office supply and equipment.
- (25) Off-street parking as set forth in Section 23-61.
- (26) Plumbing and electrical supply (with storage within structures).
- (27) Professional and public offices.
- (28) Public utilities; including poles, underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve inhabitants of the town.
- (29) Radio or television broadcasting stations, studios or offices.
- (30) Recreation centers.
- (31) Restaurants (not including restaurants with drive-through service).
- (32) Shoe repair shops.
- (33) Signs as set forth in Section 23-92 et. al.
- (34) Variety stores.
- (35) Video stores.

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- (36) Wearing apparel stores.
- (37) Xerographic reproduction and printing establishments.\
- (38) The following new uses are permitted by special use permits only:
 - a. Single-unit and multiple-unit apartments on the upper floors and at the rear of a building used for commercial purposes in the Business B-1 District.
 - b. Shopping centers.
- (39) Existing Single-family dwellings used for residential purposes in the Business district may remain as proper permitted uses without a special use permit or variance.

Sec. 23-363. Area regulations.

The minimum lot area shall be 10,000 square feet except that the requirements of Section 23-365(b) must be met.

Sec. 23-364. Setback regulations.

(a) Building setbacks along Main Street shall align with the existing setback of adjacent buildings on either side. Where the setbacks of such buildings differ, the setback of either existing building or a point in-between may be selected in the historic district provided it is consistent with maintaining the character of the historic streetscape as recommended by the Historic Preservation Commission and approved by Town Council.

(b) Building setbacks on streets other than Main Street shall be twenty feet from the street right-of-way.

Sec. 23-365. Frontage regulations.

(a) All lots shall have the minimum required frontage. No flaglots shall be permitted.

(b) The minimum lot width shall be eighty feet. All lots shall be double-frontage lots with street frontage along Main Street and street frontage along either Mulberry or Germain Street. The purpose of this requirement is to provide for current or future automobile access and parking from Mulberry or Germain Streets.

Sec. 23-366. Yard regulations.

(a) The minimum side yard shall be five feet.

(b) Should a side or rear yard be adjacent to a residential district, the minimum side or rear yard shall be twenty feet.

Sec. 23-367. Height regulations.

(a) Buildings may be erected up to the average height of adjacent buildings on the block or a maximum of thirty-five feet in height from grade.

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(b) Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aeriels are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

Sec. 23-368. Coverage regulations.

(a) Buildings or groups of buildings with their accessory structures may cover up to, but not more than, twenty-five percent of the area of the lot.

(b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, sixty percent of the area of the lot.

Sec. 23-369. Requirements for permitted uses.

(a) Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show the operations and processes shall be submitted to the zoning administrator for study, as required in Section 23-36.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.

(c) Landscaping shall be required within any yard area-and in any area not covered by buildings or paving. The plans and execution must take into consideration traffic hazards. Landscaping shall be permitted up to a height of three feet and to within twenty feet from the corner of any intersecting streets.

(d) Sufficient area shall be provided:

- (1) To adequately screen permitted uses from adjacent business and residential districts; and
- (2) For off-street parking of vehicles incidental to the establishment, its employees and clients, as specified in Sections 23-61 and 23-62.

Sec. 23-370. Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public street which border the property.

Sec. 23-371 – 23-385. Reserved.

DIVISION 7. COMMUNITY BUSINESS DISTRICT B-2

Sec. 23-386. Statement of intent.

The Community Business District B-2 is intended to provide small business areas to serve the surrounding residential neighborhoods while preserving the essential residential and historical character

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of this area. Such uses and business activities permitted in this district shall insure that there is compatibility with surrounding residential neighborhoods, and shall have a minimum visual impact by preserving the historic and residential characteristics of the town. Uses permitted shall consist primarily of retailing, personal service, and office uses carried on inside, primarily during daytime hours, and not frequented by trucks other than deliveries. Outside displays and storage, congregation of people, outside business activities, extensive visible parking facilities, and offensive lighting, noise and odors are discouraged.

Sec. 23-387. Use regulations.

In the Community Business District B-2, structures to be erected or land shall be used for the following uses:

- (1) All R-2 Residential District uses.
- (2) Accessory residential apartments for business owners or managers of the business.
- (3) Home occupations.
- (4) Retail business or service establishments, except those listed in Section 23-389, located entirely within a building, such as: barber and beauty shops, clothing apparel and shoe stores, laundry services, hardware, furniture or appliance services, florists, drugstores, bakeries and confectionery shops.
- (5) Antique shops.
- (6) Apparel and shoe alteration and repair shops.
- (7) Art and photographic shops.
- (8) Auto and truck parts stores.
- (9) Business and professional offices.
- (10) Banks, financial institutions and real estate offices.
- (11) Food and convenience stores, without fuel sales.
- (12) Day care centers and nurseries.
- (13) Public libraries and museums.
- (14) Sporting goods stores.
- (15) Video and book stores.
- (16) Public utilities, including poles, underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve inhabitants of the town.

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- (17) Off-street parking as set forth in Section 23-61.
- (18) Fences.
- (19) Bed and breakfasts and inns.
- (20) Signs as set forth in Section 23-92.
- (21) Public Garage service enclosed.
- (22) Automobile Sales.
- (23) Veterinarian Clinics and pet shops.
- (24) Any use allowed in the B-1 District.

Sec. 23-388. Uses that may be allowed by special use permits.

The following uses may be permitted by special use permit only:

- (1) Schools, churches, clubs, social and recreational business uses and activities.
- (2) Restaurants.
- (3) Shopping centers or supermarkets.
- (4) Laundromats.
- (5) Automobile service stations, including canopies for pumps; all appliances for dispensing gasoline installed outside of enclosed buildings shall be located not less than twenty-five feet from the street line, and all such appliances shall be installed and maintained in such location as to prevent any part of vehicles being serviced from standing on the street, alley or sidewalk area.
- (6) Business uses operating between the hours of 12:00 a.m. and 5:00 a.m.
- (7) Accessory uses associated with a permitted business but conducted necessarily out of doors.
- (8) Uses not listed, but that meet the intent of the B-2 district, may be referred to the planning commission by the zoning administrator for consideration of approval as a special use permit.

Sec. 23-389. Uses not permitted.

The following uses are not permitted in the B-2 Zoning District:

- (1) Multi-family dwellings.
- (2) Convalescent or nursing homes.

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Sec. 23-390. Area regulations.

The minimum lot area required shall be 10,000 square feet of adjusted tract area.

Sec. 23-391. Setback regulations.

Structures shall be located thirty-five feet or more from any street right-of-way which is fifty feet or greater in width, or located fifty-five feet or more from the center of any street right-of-way less than fifty feet in width; however, no building need be set back more than the average of the setback of the two adjacent structures on either side.

Sec. 23-392. Frontage regulations.

The minimum lot width of the setback shall be eighty feet.

Sec. 23-393. Yard regulations.

(a) *Side.* The minimum total width of the side yards shall be twenty-five feet, with no one side yard being less than ten feet.

(b) *Rear.* The minimum rear yard shall be thirty feet in depth.

Sec. 23-394. Height regulations.

(a) Main structures may be erected up to two-and-one-half stories or no more than thirty-five feet in height from grade.

(b) Schools and churches may be erected to a height of sixty feet from grade; provided, that required front, rear and each side yards shall be increased one foot for each foot of height over thirty-five feet.

(c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(d) No accessory building which is within 20 feet of any party lot line shall be more than 15 feet high. All accessory buildings shall not exceed the main building in height.

Sec. 23-395. Special provisions for corner lots.

(a) Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting the streets unless the use to be made or the use being made of the lot, or the structure to be constructed or which has been constructed on the lot, indicates that the front should be considered otherwise, in which case the front shall be that determined by the actual or proposed use or structure.

(b) The side yard facing the street shall be at least 30 feet for both main and accessory buildings. The side away from the street shall be at least 10 feet for the main building.

(c) Each corner lot shall have a minimum width at the setback line of one hundred feet.

(d) There shall be no obstruction less than fifty feet from the intersection of two street lines.

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Sec. 23-396. Coverage regulations.

(a) Buildings or groups of buildings with and including all accessory structures may cover up to, but not more than, thirty percent of the area of the lot.

(b) Total lot coverage by impervious and all-weather surfaces, including buildings, structures, paving, and other similar surfaces, may be up to, but not more than, sixty percent of the area of the lot.

Sec. 23-397. Landscape and Architectural treatments.

(a) If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as the main entrance faces a publicly dedicated street, provided the parcel borders a publicly dedicated street. On corner lots, main buildings may face any of the public streets which border the property.

(b) Areas adjoining a residential neighborhood or residential district shall utilize site planning, architectural and landscape design that is compatible with and protects the residential integrity of the adjoining residential area.

(c) Areas that adjoin a designated historic structure, site or historic district shall incorporate site planning and design features of architectural and landscape design that is compatible with and complements the adjoining historic structure(s) and areas.

(d) Areas that are visible entranceways to the town along the major vehicular corridors such as Main Street and Fairfax Street shall be planned and designed to visually enhance the town's entry appearance.

(e) In complying with items (b) through (d) above, general design goals should include the preservation and appropriate reuse of existing buildings, preservation and enhancement of front yard areas, location of parking in the rear yard areas, and adequate landscaping in parking areas.

Sec. 23-398. Requirements of permitted uses.

(a) Before a zoning or building permit shall be issued or construction begun on any permitted use in the B-2 Zoning District, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show operations and processes shall be submitted to the zoning administrator for study and review as required in Section 23-36 of this Code.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation, may be exempt from this provision. This exemption does not include storing of any materials.

(c) Landscaping shall be required within any yard area when adjacent to a residential district. The plans and execution must take into consideration traffic hazards.

(d) Sufficient area shall be provided:

(1) To adequately screen permitted uses from adjacent business and residential districts; and

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- (2) For off-street parking of vehicles incidental to the establishment, its employees and clients, as specified in Sections 23-61 and 23-62.

Sec. 23-399 – 23-420. Reserved.

DIVISION 8. TRAVEL BUSINESS DISTRICT B-3

Sec. 23-421. Statement of intent.

Travel Business District B-3 is intended to encompass the traveler and automobile services area adjacent to the interchange to Route 81.

Sec. 23-422. Use regulations.

In Travel Business District B-3, structures to be erected or land to be used shall be used for uses such as the following:

- (1) Accessory storage buildings (there shall be no permanent open air storage/display outside of the principal structure unless the display is under the cover of a canopy).
- (2) Automobile service stations; All appliances for dispensing gasoline installed outside of enclosed buildings shall be located not less than twenty-five feet from the street line, and all such appliances shall be installed and maintained in such location as to prevent any part of vehicles being serviced from standing on the street, alley or sidewalk area.
- (3) Automobile and truck sales (with services and repairs under cover).
- (4) Retail and convenience stores.
- (5) Fast food restaurants.
- (6) Fences.
- (7) Hotels, motels.
- (8) Laundries, Laundromats and dry cleaners.
- (9) Machinery sales and services (with services and repairs under cover).
- (10) Magazine and newsstands.
- (11) Office buildings.
- (12) Off-street parking as set forth in Section 23-61.
- (13) Professional and public offices.
- (14) Public garages.

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- (15) Public utilities; including poles underground lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems, electrical systems, telephone, cable television, and street lights to serve inhabitants of the town.
- (16) Radio or television broadcasting stations, studios or offices.
- (17) Recreation centers.
- (18) Restaurants.
- (19) Shoe repair shops.
- (20) Signs as set forth in Section 23-92.
- (21) Theaters, assembly halls.
- (22) Variety stores.
- (23) Video stores.
- (24) Wearing apparel stores.
- (25) The following uses are permitted by special use permits only:
 - a. Shopping centers as set forth in Section 23-133.

Sec. 23-423. Area regulations.

None.

Sec. 23-424. Setback regulations.

None, except that any residential use in this district shall be located twenty feet from any street or highway right-of-way; however, no residential use shall be required to set back more than the average of the two buildings on either side of such use.

Sec. 23-425. Frontage and yard regulations.

No requirement except that, should a side or rear yard be adjacent to a residential district, the minimum side or rear yard shall be twenty feet.

Sec. 23-426. Height regulations.

- (a) Buildings may be erected up to thirty-five feet in height from grade.
- (b) Cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, private unlicensed residential television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

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Sec. 23-427. Coverage regulations.

Buildings or groups of buildings with their accessory structures may cover up to, but not more than, thirty-five percent of the area of the lot.

Sec. 23-428. Requirements for permitted uses.

- (a) Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the provisions of this chapter and in sufficient detail to show the operations and processes shall be submitted to the zoning administrator for study, as required in Section 23-36.
- (b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by structures such as, but not limited to, a solid masonry wall, a uniformly painted solid board fence, or an adequate evergreen hedge. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.
- (c) Landscaping shall be required within any yard area when adjacent to a residential district. The plans and execution must take into consideration traffic hazards. Landscaping shall be permitted up to a height of three feet within twenty feet from the corner of any intersecting streets.
- (d) Sufficient area shall be provided:
 - (1) To adequately screen permitted uses from adjacent business and residential districts; and
 - (2) For off-street parking of vehicles incidental to the establishment, its employees and clients, as specified in Sections 23-61 and 23-62.

Sec. 23-429. Architectural treatment.

If the parcel of land is less than one acre, all main buildings erected on the parcel shall be designed so as to have the main entrance face a publicly dedicated street, provided the parcel borders a publicly dedicated street. Corner lots may face any of the public streets which border the property.

Sec. 23-430. Reserved.

DIVISION 8.5. AGRICULTURE DISTRICT A-1

Sec. 23-431. Statement of Intent.

In accordance with the Town's comprehensive plan, this district is intended to preserve the character of those portions of the Town or areas proposed to come into the Town where agricultural and other low-intensity uses predominate. The permitted uses should include mainly agriculture and related uses.

Sec. 23-432. Permitted Uses.

In this district, structures to be erected or land to be used shall be for one or more of the following uses:

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- 1) Uses permitted by right:
 - a) General farming, agriculture, aquaculture, dairying and forestry, but not including intensive poultry facilities or large hog facilities.
 - b) Conservation preserves.
 - c) Single-family detached dwellings.
 - d) Modular buildings on permanent foundations.
 - e) Schools, churches, parks, playgrounds, fire and rescue squad stations, libraries, cemeteries, office buildings and other similar public and semi-public uses.
 - f) Kennels.
 - g) Country or general stores.
 - h) Livestock markets.
 - i) Lines, poles and pipes to provide electric, gas, telephone, water and sewer service to structures located on properties adjacent to said facilities.
 - j) Roadside stand or market.
 - k) Veterinary hospitals.
 - l) Retail greenhouse and nursery operations under 10,000 square feet. (Site plan is required.)
- 2) Permitted Accessory Uses
 - a) Off-street parking for uses permitted in this district.
 - b) Signs as provided in Article 1, Division 3.
- 3) Uses permitted by special permit.
 - a) Lodges, hunting clubs, camps, golf and country clubs.
 - b) Farm, lawn and garden machinery and equipment sales and service.
 - c) Public utility generating, booster or relay stations, transformer substations, railroads, water and sewerage installations (other than pipes), telephone facilities (other than lines, poles and towers) and other facilities for the provision and maintenance of public utility service.
 - d) Recreational use or facilities, commercially operated or for a private membership, such as game courts, swimming pools, campgrounds, archery ranges, fishing or boating lakes, ski slopes, picnic grounds, marinas and accessory facilities (including the sale of food, beverage, bait, incidentals, supplies and equipment); provided that no such use, structure or accessory use is located closer than 50 feet to any adjoining property lines.

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- e) Wineries.
- f) Retain greenhouse and nursery operations over 10,000 square feet. (Site plan approval is required.)

Sec. 23-433. Area Regulations.

- 1) The minimum lot area shall be 60,000 square feet.
- 2) There shall be a maximum of one single-family detached dwelling or modular house per 60,000 square feet.
- 3) There shall be a maximum of two dwellings or modular houses or combination thereof per lot.

Sec. 23-434. Frontage Regulations.

The minimum frontage for each lot shall be 200 feet.

Sec. 23-435. Yard Regulations.

- 1) Front yard. Structures shall be located 40 feet or more from the front lot line. This shall be known as the “setback” line.
- 2) Side yard. Each side yard for each main structure shall be a minimum of 40 feet. No accessory building shall be located closer than 20 feet to any side property boundary line.
- 3) Rear yard. Each main structure shall have a rear yard of 60 feet or more. Accessory buildings may be built to within five (5) feet of rear property line.
- 4) Lots adjoining an industrial-zoned district. No residential structure shall be constructed closer than 100 feet to any adjacent property line if that property is an industrial-zoned district or contains an industrial use; however, this distance may be reduced to 50 feet for side or 60 feet for rear yards if a screen buffer consisting of total screening is provided.

Sec. 23-436. Building Coverage.

The maximum building coverage on a lot shall be 30%.

Sec. 23-437. Height Regulations.

- 1) Buildings may be erected up to 35 feet in height from grade.
- 2) All accessory buildings shall be less than the main building in height. Church spires, belfries, cupolas, monuments, water towers, farm silos and other farm related structures, chimneys, flues, flagpoles, parapet walls, television antennae, radio aerials, microwave towers and other public communication facilities are exempt from height regulations.

(Ord 11/1/05)

Sec. 23-438 – Sec. 23-440. Reserved.

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DIVISION 9. INDUSTRIAL TRANSITION DISTRICT I-1

Sec. 23-441. Statement of intent.

The intent of this district is to provide for small and medium size business enterprises involving wholesale commercial, business service, research and development, office and light manufacturing activities. The uses in this district utilize relatively small-scale buildings and generate low to moderate levels of truck traffic and minimal sources of noise, dust, air and water pollution, or other nuisances so as to limit impacts on neighboring residential areas. Development in the Industrial Transition District must have safe and sufficient access and must comply with all Federal and State environmental standards.

Sec. 23-442. Use regulations.

In the Industrial Transition District I-1, structures to be erected or land to be used shall be for the following permitted uses, as defined by North American Industry Classification System (NAICS) code. Note that uses not permitted within a code are shown in parentheses.

<u>Permitted Uses</u>	<u>NAICS Code</u>
(1) Water supply systems	221310
Offices and storage facilities for building	233__
construction, contractors and special trade contractors	235__
Food processing, as follows:	
Commercial bakeries	311812
Perishable prepared food manufacturing	311991
(4) Printing and related support activities	323__
Wholesale trade, durable goods, excluding:	421__
(Motor vehicle parts (used) wholesalers)	(421140)
(Coal and other mineral and ore wholesalers)	(421520)
(Recyclable material wholesalers)	(421930)
(Timber and timber products)	(421990)
(6) Wholesale trade, nondurable goods, excluding:	422__
(Poultry wholesalers)	(422440)
(Livestock wholesalers)	(422520)
(Other farm product raw materials wholesalers)	(422590)
(Other chemical and allied products wholesalers)	(422690)
(Petroleum and petroleum products wholesalers)	(4227__)
(Farm supplies wholesalers)	(422910)
(7) Building material, garden equipment and supplies dealers	444__

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(8) Convenience stores	445120
(9) Gasoline stations, excluding truck stops	4471__
(10) Information industries, excluding:	51_____
(Broadcasting and telecommunications)	(513__)
(11) Finance and insurance establishments	52_____
Real estate and rental and leasing establishments, excluding:	53_____
(Lessors of real estate)	(5311__)
(Consumer goods rental)	(5322__)
Offices for professional, scientific and technical services	54_____
(14) Management of Companies and Enterprises	55_____
(15) Offices for administrative and support services, excluding:	56_____
(Repossession Services)	(561491)
(Waste management and remediation services)	(562__)
(16) Health care establishments, excluding:	62_____
(Hospitals)	(622__)
(Nursing and residential care facilities)	(623__)
(Social assistance services)	(624__)
Full service restaurants, as an accessory use within a building where a manufacturing, office, or wholesale trade permitted use is the primary use	7221__
Limited service eating establishments, as an accessory use within a building where a manufacturing, office, or wholesale trade permitted use is the primary use	7222__
(19) Special food services (caterers, etc.)	7223__
(20) Repair and maintenance establishments	811_____
(21) Drycleaning and laundry services, excluding:	8123__
(Coin-operated laundries)	(812310)
(22) Photofinishing establishments	81292_
(23) Public administrative uses	92_____
(24) Flex-tech uses	_____
Public park	_____

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Sec. 23-443. Uses that may be allowed by special use permits.

The following uses may be permitted by special use permit:

- | | |
|---|--------|
| (1) Liquid petroleum gas wholesaling, excluding:
(All other types of petroleum or petroleum product wholesaling) | 422720 |
| (2) Farm supplies wholesalers | 422910 |
| (3) Child day care services | 624410 |
| (4) Full service restaurants (freestanding) | 7221__ |
| (5) Limited service eating places (freestanding) | 7222__ |
| (6) Expansion of a legally established non-conforming use | _____ |

Sec. 23-444. Requirements for permitted and special uses.

Before a special use permit or building permit is issued or construction commenced on any use in this district, a site plan, in sufficient detail to show the operations and processes, shall be submitted and approved by the Administrator, as required in Sec. 23-161.

The supplemental use regulations of Division 6 of Article II shall apply to all development in this zoning district.

See Division 13 of Article III, SWAP Overlay District, for regulations applying to certain areas zoned I-1 as described therein.

All development in this district must be served by public water and sewer service.

Sec. 23-445. Area regulations.

The minimum lot area shall be 20,000 square feet.

Sec. 23-446. Setback regulations.

The minimum front setback from a primary or arterial highway shall be 50 feet. The minimum front setback from a collector or minor street shall be 35 feet.

Sec. 23-447. Frontage and yard regulations.

Frontage: The minimum lot width at the setback shall be 100 feet.

Side yard: 15 feet minimum.

Rear yard: 15 feet minimum.

Minimum separation between buildings on the same lot: 30 feet minimum

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Sec. 23-448. Bulk and coverage regulations.

The maximum permitted total site floor area ratio is 0.40.

The maximum permitted building floorplate for each individual building is 45,000 square feet.

The maximum area permitted to be covered by buildings, structures, parking and paved areas is seventy-five (75) percent.

Sec. 23-449. Building height regulations.

Structures may be erected up to a height of thirty-five feet. Chimneys, flues, flagpoles not normally occupied by employees are excluded from this limitation. Parapet walls are permitted up to four feet above the permitted maximum building height.

Sec. 23-450 – 23-460. Reserved.

DIVISION 9A. GENERAL INDUSTRIAL DISTRICT I-2

Sec. 23-461. Statement of Intent.

The intent of this district is to provide for a variety of manufacturing, research and development, office, business service, and wholesale commercial uses in well-planned industrial settings. While providing the town’s major employment uses and industrial investment, this district shall include only those uses that limit adverse traffic and environmental impacts on the residential and retail commercial areas of the town. Therefore, development in the General Industrial District must have safe and sufficient access and must comply with all Federal and State environmental standards.

Sec. 23-462. Use regulations.

In the General Industrial District I-2, structures to be erected or land to be used shall be for the following permitted uses, as defined by North American Industry Classification System (NAICS) code. Note that uses not permitted within a code are shown in parentheses.

	<u>Permitted Uses</u>	<u>NAICS Code</u>
(1)	Water supply systems and sewage treatment facilities	221310 221320
(2)	Offices and storage facilities for building construction contractors, heavy construction contractors and special trade contractors	23____
(3)	Food manufacturing, excluding (Animal slaughtering and processing) (Seafood product preparation and packaging)	311____ (3116__) (3117__)
(4)	Textile product mills	314____
(5)	Apparel manufacturing	315____

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(6)	Footwear /other leather product manufacturing	3162__ & 3169__
(7)	Wood product manufacturing, excluding (Sawmills and wood preservation)	321__ (3211__)
(8)	Paper manufacturing, excluding (Pulp paper, and paperboard mills)	322__ (3221__)
(9)	Printing and related support activities	323__
(10)	Pharmaceutical and medicine manufacturing	3254__
(11)	Toilet preparation manufacturing	32562__
(12)	Plastics and rubber product manufacturing	326__
(13)	Forging and stamping of metal products, excluding (Coating, engraving, heat treating) (Ammunition and ordinance)	332__ (3328__) (332992, 332993, 332995)
(14)	Machinery manufacturing	333__
(15)	Computer and electronic product manufacturing Electrical equipment, appliance and component manufacturing, excluding (Battery manufacturing)	334__ 335__ (33591_)
(17)	Transportation equipment manufacturing	336__
(18)	Furniture and related product manufacturing	337__
(19)	Miscellaneous manufacturing Wholesale trade, durable goods, excluding (Motor vehicle parts (used) wholesalers) (Coal and other mineral and ore wholesalers) (Recyclable material wholesalers) (Timber and timber products)	339__ 421__ (421140) (421520) (421930) (421990)
(21)	Wholesale trade, nondurable goods, excluding: (Poultry wholesalers) (Livestock wholesalers) (Other farm product raw materials wholesalers) (Other chemical and allied products wholesalers) (Petroleum and petroleum products wholesalers)	422__ (422440) (422520) (422590) (422690) (4227__)

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(22)	Rail transportation	482___
(23)	Information industries, excluding communications towers	51___
(24)	Offices for professional, scientific and technical services	54___
(25)	Management of Companies and Enterprises	55___
(26)	Offices for administrative and support services, excluding (Repossession Services) (Waste management and remediation services)	56___ (561491) (562___)
(27)	Medical laboratories	621511
(28)	Full service restaurants, as an accessory use within a building where a manufacturing, office, or wholesale trade permitted use is the primary use	7221___
	Limited service eating establishments, as an accessory use within a building where a manufacturing, office, or wholesale trade permitted use is the primary use	7222___
(30)	Food service contractors (caterers, etc.)	7223___
(31)	Photofinishing establishments	81292__
(32)	Flex-tech uses	_____

Sec. 23-463. Uses that may be allowed by special use permits.

The following uses may be permitted by special use permit:

(1)	Cement and concrete product manufacturing	3273___
(2)	Lime and gypsum product manufacturing	3274___
(3)	Cut stone and stone product manufacturing	327991
(4)	Timber and timber products	421990
(5)	Liquid petroleum gas wholesaling, excluding: (All other types of petroleum or petroleum product wholesaling)	422720
(6)	Child day care services	624410
(7)	Full service restaurants (freestanding)	7221___
(8)	Limited service eating places (freestanding)	7222___

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- (9) Public administrative uses 92_____
- (10) Communications towers _____
- Public parks _____
- Expansion of a legally established non-conforming use _____

Sec. 23-464. Requirements for permitted and special uses.

Before a special use permit or building permit is issued or construction commenced on any use in this district, a site plan, in sufficient detail to show the operations and processes, shall be submitted and approved by the Administrator, as required in Sec. 23-161.

The supplemental use regulations of Division 6 of Article II shall apply to all development in this zoning district.

See Division 13 of Article III, SWAP Overlay District, for regulations applying to certain areas zoned I-2 as described therein.

All development in this district must be served by public water and sewer service.

Sec. 23-465. Area regulations.

The minimum lot area shall be 40,000 square feet.

Sec. 23-466. Setback regulations.

The minimum front setback from a primary or arterial highway shall be 75 feet. The minimum front setback from a collector or minor street shall be 50 feet.

Sec. 23-467. Frontage and yard regulations.

Frontage: The minimum lot width at the setback shall be 100 feet.

Side yard: 25 feet minimum.

Rear yard: 25 feet minimum.

Sec. 23-468. Bulk and coverage regulations.

The maximum permitted total site floor area ratio is 0.50, provided, however, that additional storage areas may be permitted up to a total site floor area of 1.0.

The maximum area permitted to be covered by buildings, structures, parking and paved areas is seventy-five (75) percent.

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Sec. 23-469. Building height regulations.

Structures may be erected up to a height of 60 feet, provided, however, that automated storage facilities may be exempted from this height restriction up to a maximum of eighty (80) feet upon approval by the Fire Marshal and by the Planning Commission. An additional setback from property lines of 2 feet for every 1 foot of additional structure height above 60 feet shall be required. Chimneys, flues, flagpoles not normally occupied by employees are excluded from height limitations. Parapet walls are permitted up to four feet above the permitted maximum building height.

Sec. 23-470 – Sec. 23-490. Reserved.

DIVISION 10. NEWTOWN DEVELOPMENT DISTRICT (NDD) Planned Unit Development

Sec. 23-491. Intent, purpose and objective of the NDD.

(a) *Intent.* It is the intent of the Newtown Development District NDD to provide flexible land use and design, characterized by unified site design in which project planning and density calculations are performed for the entire development rather than on an individual lot basis, so that small-to- large-scale Multi-use neighborhoods may be developed within the town in a manner which incorporates a variety of residential types and nonresidential uses and services.

The Newtown Development District may contain both individual building sites and common property which are planned and developed as a unit. The Newtown Development District may include single-family and multifamily residential uses as well as commercial and industrial uses.

(b) *Purpose.* The purpose of the NDD is:

- (1) The encouragement of innovation in residential development so that the growing demand for housing at all economic levels may be met by greater variety in type and design, including mobile home development so that the demand for mobile home living may be met by the imaginative design and layout of mobile homes and by the efficient use of open space ancillary to such dwellings, so that opportunities for better housing and recreation may be provided.
- (2) The conservation and more efficient use of land in such developments and the encouragement and maintenance of high environmental quality.
- (3) To encourage a similarly imaginative approach to the development of nonresidential uses.
- (4) To encourage the most skillful planning of parts of the town in accordance with the objectives of the Town of Stephens City Comprehensive Master Plan.
- (5) To provide for the utilization of planning criteria in the arrangement of buildings related to common open space and to utilize topography and other site features to obtain creative and coordinated designs.
- (6) To encourage a diversified mix of land uses to create economic stability within the town and reduce the impacts of any one use.

(c) *Objective.* The objective of the NDD is to achieve the following:

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- (1) A varied choice in the types of uses and mix of uses, types and costs of housing, types of commercial and industrial uses and community facilities available to existing and future town residents.
- (2) Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability of intended function.
- (3) The provision of commercial, office or industrial uses intended to support public services required as a result of the development.
- (4) Convenience in location of commercial and service areas.
- (5) The preservation of such features as trees, outstanding natural topography and geological features: the prevention of soil erosion.
- (6) The comprehensive design of stormwater retention and proper drainage systems.
- (7) A creative use of land and related physical development which allows an orderly transition of land uses.
- (8) An efficient use of land resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways, thereby lowering utility and maintenance costs borne by new development.
- (9) Creation and preservation of natural and man-made features which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design.
- (10) Guidance and control of development in flood hazard areas so that life and property both within and without such areas are protected.
- (11) Increased safety for all modes of travel, including pedestrian and bicycle.
- (12) An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the town.
- (13) Sufficient civic and community facilities, carefully integrated with adjoining areas.
- (14) A more desirable environment than would be possible through the strict application of other sections of this chapter.

Sec. 23-492. NDD as an "overlay" zoning district.

(a) The NDD shall become an overlay zoning district upon approval of the town council, with recommendation by the planning commission. The approved NDD shall be so designated on the official town zoning map.

(b) The zoning district classification of a parcel or tract as NDD shall replace the underlying zoning district classification. Modification of the underlying zoning district classification shall not be permitted, unless replaced by an approved NDD.

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Sec. 23-493. Areas suitable for NDD as an "overlay" zoning district.

The following zoning district areas or combination of the following district areas are eligible for application of the NDD overlay zoning district classification:

R-2 Residential District.

R-3 Residential District.

I-1 Industrial District.

Sec. 23-494. Parcel/tract size suitable for NDD zoning classification.

Any parcel or combination of parcels (tract) two and one-half acres or greater and under unified ownership and control zoned appropriately shall be eligible for NDD classification.

Sec. 23-495. Conflict between NDD requirements and other requirements.

Where there are specific conflicts between the requirements of this article for planned unit-type of developments and other requirements of this Chapter or of Chapter 18, subdivisions, or other ordinances of the town, the NDD requirements shall apply in NDD zoning cases.

Sec. 23-496. Reserved.

Sec. 23-497. Permitted uses.

(a) *General.* The emphasis of the Newtown Development District is to permit rational and careful development of land patterns by blending uses, building types and construction methods. Strict adherence to formally defined and compartmentalized use districts or sectors is contrary to the purposes of this division.

Any use permitted in the Newtown Development District must be suitable for the character and related to the needs of the proposed development and shall not adversely affect the surrounding development. Uses permitted in a Newtown Development District are grouped into use classifications for the purpose of identification and future planning.

Uses shall be located in such a manner as to best serve residents and visitors to the town.

For planning and identification purposes, uses shall be defined for all areas of a proposed NDD district. A use area, as outlined on a development plan by references to the appropriate classification, shall be primarily devoted to uses specified for that area, but classifications may include uses specified in any classification having a lower type classification.

(b) Use classifications.

- (1) *Neighborhood.* This classification includes primarily residential areas designed to provide living space for families and individuals. Ancillary uses designed to conveniently serve residents may be located within them. This classification includes: residences and dwelling units of every type, except as otherwise specified. In developing a balanced community, the

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use of a variety of housing types, styles and construction methods shall be deemed most appropriate for the NDD.

Small convenience retail and service facilities and office facilities designed to serve the needs of the residents of the neighborhood may be permitted.

Home occupations, as defined, require a special use permit.

Public and semi-public facilities, including schools and day care centers, religious buildings and other community facilities may be permitted.

- (2) Major open space. This classification includes large areas of land in a natural state; agriculture; areas for active and passive recreation; parks and large landscaped or wooded areas; stormwater storage and runoff areas; preservation of outstanding geologic and topographic features; public or private recreation, education, community and cultural facilities.
- (3) Recreation facilities and open space areas. This classification includes special limited commercial services and recreational facilities not already included in the above uses and major open space areas.
- (4) *Local center*. This classification includes uses primarily designed to serve residents within the relatively close environs of the center. Uses may include retail sales and service facilities, and business, professional and community service office facilities.
- (5) *General commercial*. This classification includes regional facilities serving residents from outside the new community as well as those within it. Permitted uses may include comparison retail establishments, public or private office facilities.
- (6) *Restricted industrial*. Uses in this classification shall be designed to provide space for office, research and light manufacturing activities which are compatible with nearby open space areas and with adjoining residential and commercial development.
- (7) *General industrial*. Uses in this classification shall be designed to provide space for office, research and medium-type manufacturing activities which are compatible with nearby open space areas, residential, commercial and industrial areas.
- (8) Planned Mobile Home District. A Planned Mobile Home Park is permitted in this area under the following additional considerations:
 - A. Density. The permitted density shall not be more than eight mobile home units per gross acre.
 - B. Lot and Yard Requirements. The minimum lot size per mobile home shall be four thousand square feet. The minimum width for each mobile home lot shall be fifty feet, except that for any mobile home unit greater than fifteen feet in width, the minimum lot width shall be one additional foot per foot of the mobile home width greater than fifteen feet. The minimum lot length for each mobile home lot shall be seventy feet. No mobile home shall be placed within twenty-five feet of another, provided that with respect to mobile homes arranged end to end, the

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distance shall not be less than fifteen feet. No mobile home shall be placed less than one hundred feet from any Newtown Development District Boundary; nor shall any mobile home be placed less than fifteen feet from interior streets, walks, or common areas.

- C. Outdoor Living Space. Each mobile home lot shall provide an appropriate outdoor living space to supplement the limited interior space of a mobile home. This space shall be hard surfaced, and shall be at least three hundred square feet. The least dimension of this space shall be fifteen feet. This outdoor living space shall be convenient to the open areas of the lot and other facilities fitted to the terrain.
- D. Outdoor storage facilities. For each mobile home lot, a storage locker for yard tools, and other bulky items shall be provided thereon. The locker shall have a storage capacity of at least ninety cubic feet.
- E. Mobile Home Stand. Each mobile home shall be placed on a mobile home stand. This shall provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures, and the retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings. The area for the mobile home shall be constructed of appropriate material, properly graded, placed and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons; it shall have a zero percent to five percent longitudinal gradient and adequate crown or cross gradient for surface drainage.
- F. Markers. Every mobile home lot shall be clearly defined on the grounds 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 submitted plot plan.
- G. Height. The maximum height of any mobile home shall be fifteen feet. The maximum height of any building or structure other than a mobile home in the Planned Mobile Home Park shall be thirty feet.
- H. Storage Tanks. All storage tanks for mobile homes shall be above ground, installed so as to comply with best management practices and all Town, County, State and National Fire Prevention Code regulations. All tanks shall be screened from view.
- I. Skirting. Each mobile home shall have skirting around its perimeter to screen its wheels, undercarriage and tongue. Skirting must be installed within thirty days after placement of the unit.
- J. Standards. Every mobile home placed in this district shall meet all requirements of the Industrialized Building Code of the Commonwealth of Virginia and shall be labeled as required by the Industrialized Building Code.
- K. Required Open Space. Not less than fifty percent of the gross area of the Planned Mobile Home District shall be reserved as common open space for recreational facilities. This open space shall not include mobile home lots, any area covered by

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any structure or tank, parking structures or accessory structures, street right of ways or parking areas.

(c) *Prohibited uses.* Junkyards; signs other than those permitted by this Code; used automobile and/or trailer vehicle sales; commercial drive-in film theater; individually sited mobile home or home trailer; mobile home parks; any use involving or directly or indirectly causing any condition or activity related to a heavy industrial use. Petroleum storage facilities, other than for servicing a permitted use, and mining are prohibited in the NDD.

(d) *Uses not specified.* Uses not specifically enumerated above nor specifically prohibited may be permitted with the approval of the town council after receiving a recommendation from the planning commission as part of the concept plan, development plan, site plan review, so long as the uses in question are compatible with adjacent uses and are consistent with the intent of the approved development plan.

Sec. 23-498. Density.

The overall density may be increased, subject to the approval of the town council, to correspond with any increase indicated on the officially adopted town comprehensive plan. This density shall be calculated based on the Newtown Development District, excluding lands and units not owned or controlled by the applicant, and industrial and general commercial areas.

Sec. 23-499. Mixture of uses.

(a) *Residential.* There shall be a variety of housing types within each Newtown Development District. Single-family detached dwelling units or duplex dwelling units proposed by the development plan shall comprise a minimum of fifty percent of the total dwelling units of the development plan.

(b) *Commercial/industrial.* Each development plan shall have adequate convenience commercial services and facilities to serve the residents of the planned neighborhood community. Commercial uses in neighborhood and local center areas shall be provided in appropriate relation to the location and concentration of dwelling units to be served for the development and town. Industrial uses shall be provided in appropriate relation to the neighborhood and the town.

(c) *Open space.* In any Newtown Development District, considered in its entirety, a minimum of thirty percent (30%) of the total tract area shall be set aside as open space. At least fifty percent (50%) of this total open space shall be in private ownership open to the public or in public ownership.

Offers for dedication of major open space for public use may be made at any time after approval of the development plan, but in no case later than final site or subdivision plat approval. Part of the public open space shall be in neighborhood areas. Open space shall be designed, owned, administered, and maintained in accordance with the provisions of Division 11 of this Ordinance.

Sec. 23-500. Design and development criteria.

(a) *Dwelling unit area.* All dwelling units and rooms included therein shall have sufficient floor area to satisfy the applicable minimum floor area requirements of the state building code.

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(b) *Building, lot, dimensional and bulk arrangements.* The criteria set forth are intended to provide desirable latitude and freedom to encourage variety in the arrangement of the bulk and shape of buildings, open space, dimensional and landscape features.

Instead of specific minimum lot size or frontage, minimum percentage of lot coverage, building setback and spacing, yard requirements, building height and shape and other similar considerations, the requirements of this NDD shall apply and shall be shown or specified on the required development plan and site plan.

Dwellings may be arranged in various groups, courts, combinations, sequences or clusters with open spaces organized and related to the dwellings to form a unified composition of buildings and spaces. Landscape features, lots, yards, building arrangement, setback, spacing, height and shape shall be designed in a manner to assure the following:

- (1) Proper light, air and views for the residents.
- (2) Safety in the accommodation of pedestrian and vehicular circulation and vehicular storage and service.
- (3) Usability of and convenient access to open space by residents of adjacent dwellings without loss of visual and auditory privacy for residents of such dwellings.
- (4) Availability of open land for landscaped features' recreation or other private uses.
- (5) Building yards designed so as to relate to the amount, layout and outlook of the space within dwelling units as well as within the yard spaces.
- (6) Privacy between adjacent buildings and intersecting wings of buildings, from streets, parking and recreation areas.
- (7) The creation of a variety of common open spaces and private areas through the planning of landscape features such as walls, fences, hedges and other features.

(c) *Local circulation system.* Both vehicular and pedestrian access shall be provided to each dwelling, school, recreation area and commercial industrial area.

- (1) *Vehicular.* Dwellings and other buildings shall be served by streets, drives or emergency accessways planned so as to assure access by service and emergency vehicles.

The vehicular circulation system and parking facilities shall also be designed to fully accommodate motor vehicles with safety and efficiency without allowing them to dominate or destroy the form and character of the area, with screening and buffering as may be required.

There shall be a provision for safe bicycling routes throughout the district which may be coincident with pedestrian ways but which shall be separated from the motorized vehicle system wherever feasible.

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The right-of-way and pavement widths, locations and designs for private ways, roads and alleys shall conform to generally accepted planning and engineering practices, taking into account the estimated needs of the full proposed development.

All roads to be dedicated shall be designed and constructed to the town and state department of transportation (VDOT) specifications.

- (2) *Pedestrian.* Pedestrian ways shall connect residential areas with other residential areas, community facilities, schools, recreational area, commercial areas and public transportation. Buildings shall be arranged to minimize pedestrian exposure to vehicular traffic.

(d) *Topography and site appearance.* NDD developments shall be designed to take maximum advantage of the topography of the land in order to utilize the natural contours, to provide for water storage and control of water runoff, to protect natural drainage courses, to economize in the construction of utilities, to reduce the amount of grading and to maximize the conservation of trees and topsoil. Significant natural features and other characteristics of the site shall be preserved and incorporated as distinctive features of the development.

(e) *Landscaping.* Landscaping plans shall meet the following standards:

- (1) Landscaping shall provide privacy and screening between uses, with visual, noise and air quality factors considered.
- (2) Landscaping shall contribute to prevention of water runoff and erosion problems. Temporary or permanent protection shall be provided during construction to prevent such problems.
- (3) Landscape treatment for public and private plazas, roads, paths, service and parking areas shall be designed as an integral part of an entire project and shall combine with walks and street surfaces.
- (4) The area covered by impervious surfaces such as buildings and paved areas must be accompanied by planted areas as well as other features to hold or carry stormwater runoff.
- (5) Landscape materials shall be appropriate to the growing conditions on the site and the town's environment.
- (6) Natural features such as rock, outcrops, escarpments, streams, marshlands, wetlands, topsoil, trees and shrubs, natural contours and outstanding vegetational, topographical and geological features shall be preserved and incorporated in the open space areas and in the landscaping of the development.
- (7) Trees shall be planted adjacent to all residential units at the frequency of no less than one tree per residential unit unless trees previously existent on the site are preserved. Trees to be planted throughout the district and along the vehicular ways shall include both deciduous and coniferous species in adequate density and design to provide year-round benefit of such plantings.

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(f) *Open space.* As used in this section, the term "open space" includes uncovered and unpaved lands or water areas, in public ownership or in common or other private ownership, except lots under single-family ownership. Lands covered by structures or other improvements may also be deemed to constitute open space under the limited conditions specified.

Large land areas devoted to the uses specified shall also be considered open space; and open space may and, where required, shall be located in areas devoted to any use classification. Open space acceptable for approval under the provisions of this section shall meet the following standards:

- (1) The public and common open space shall be located and organized to be readily accessible by foot and bicycle to residential populations served, preferably without their having to cross limited access and arterial roadways. In addition, appropriate access and parking for vehicles shall be provided at those locations where town-wide public use is planned for open space areas.
- (2) The location, condition, size and configuration of the open space must be suitable for its use as contemplated and as proposed in the development plan and/or site plan, such as for recreation, amenity, drainage, floodplain, stormwater storage, protection of water quality, connectors between major open space areas, preservation of wildlife, woodlands, wetlands and outstanding natural features, as well as other uses permitted.
- (3) Open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the open space must be compatible with the natural environment and appropriate to the uses which are proposed for the open space.
 - a. *Common open space.* The continued use of common open space shall be assured through appropriate deed restrictions which shall include a provision that such open space use shall not be materially altered or abridged without the approval of the town council.
 - b. *Homeowners association.* Satisfactory arrangements must be made for the improvement, operation and maintenance of such common open space and facilities. The developer shall provide for and establish an organization for the ownership, operation and maintenance of common open space. In the event that the common open space is not maintained in a manner to avoid becoming unsightly or a nuisance to the public, the town may undertake the necessary maintenance and assess the owners accordingly for the cost, plus administrative fees for the maintenance of common open space.
 - c. *Public open space.* The standards for the planning commission's determination whether to recommend town council approval of an offer for dedication or other disposition to the town or other public entity or public open space lands shall, without excluding any other applicable requirements of this section, including the following:
 1. The need for public open space in the Newtown Development District. In determining the manner of public ownership, the usage by the town's population outside the Newtown Development District shall be considered;
 2. The potential for an open space connection with other public open space areas;

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3. The desirability of public access due to the special physical and biological characteristics of the area which make it suitable for public open space uses;
4. The desirability of public acquisition of floodways, drainage ways and areas subject to flooding for water management and recreational uses;
5. Review and acceptability of covenants or similar provisions proposed for inclusion in the dedication instrument, intended to assure that public use remains consistent with the objectives of the development plan and site plan.

(g) *Adjoining boundary treatment.* The design of improvements and landscaping plan for the boundaries of a Newtown Development District should, to the extent possible, be visually harmonious and functionally compatible with adjoining development. Extensive parking areas, service areas and other features within the Newtown Development District likely to have adverse effects on surrounding property (due, e.g., to adverse views, lights, noise) shall be screened against viewing from outside the district. Similar screening shall also be provided to protect the new development from such adverse effects from outside the Newtown Development District.

(h) *Underground utilities.* New public and private utility lines and those to be relocated or replaced shall be entirely underground.

(i) *Aesthetics.* Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance and easily maintained. The sides and rear of all buildings shall be designed in such manner as to avoid undue sacrifice of amenity and design values when viewed from side and rear vantage points.

- (1) *Screening.* Visual and noise screening devices shall be designed and maintained to serve their intended purposes. Artificial planting materials shall not be allowed unless approved by the planning commission. Landscape screening should be given priority where effective, easily maintained and feasible.

(j) *Residential outside storage.* Outside storage or parking of commercial and recreational vehicles, camper bodies, boats and trailers in neighborhood areas on lands occupied for residential purposes shall be prohibited.

- (1) *Dust and smoke.* The emission of smoke, soot, fly ash fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity deposited beyond the lot shall not be detrimental to or endanger the public health, safety, comfort, welfare or adversely affect property values and shall not exceed the amount permitted by other codes of the state, county or town.

(k) *Odorous matter.* The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

(l) *Toxic or noxious matter.* The emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

(m) *Noise.* The sound pressure level as measured at the edge of a lot and which is produced by a mechanical, electrical or vehicular operation on the lot, where such lot is adjacent to a residential area,

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shall not exceed the average intensity of the street traffic noise in that residential area. In any event, no sound shall have objectionable intermittence, volume, beat frequency or shrillness characteristics.

(n) *Vibration.* Vibrations shall not be permitted beyond the lot line occupied by the use which would be noticeable without the aid of instruments or detrimental to health.

(o) *Incineration facilities.* All incineration facilities shall be enclosed within an approved structure and must be provided with devices for prevention of emission of smoke, odors, chemical or particulate matters.

(p) *Waste materials.* No garbage, rubbish, waste matter or empty containers shall be permitted outside of screened areas accompanying residential buildings except in approved containers awaiting pickup within twenty-four hours. All nonresidential buildings shall use approved outside containers such as approved "dumpsters." Liquid wastes shall not be discharged into an open body of water or a sewer unless treated or controlled so that the amount of solid substances, oils, grease, acids, alkaline and other chemicals shall not exceed the amount permitted by other codes or wastewater regulations of the federal, state, county or town governments.

(q) *Parking and loading standards.*

- (1) *Parking.* The design criteria set forth in this section are intended to provide desirable latitude and freedom to encourage variety in the location, arrangement and type of uses, to encourage convenience in accessibility to these uses through provision of pedestrian and bicycle pathways and public transportation services and to achieve the efficient sharing of parking and loading facilities by multiple uses.

Instead of specific minimum parking and loading requirements and other similar considerations, the following standards shall apply:

- a. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness.
 - b. Pedestrian connection between parking areas and buildings shall be along walkways to the extent necessary to assure pedestrian safety.
 - c. Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping and ease of access and shall be developed as an integral part of an overall site design.
- (2) *Loading.* Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness and should be separate from private vehicles and pedestrians where feasible.

The design of buildings and parking facilities shall take advantage of the topography of the site where appropriate to provide separate levels of access.

Parking areas in all use areas except open space shall meet the requirements of the state building code.

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- (3) *Off-street parking.* Off-street parking and loading spaces shall be provided for all new buildings at the time of erection and for all enlargements of existing buildings. A parking space shall measure not less than nine by eighteen feet, exclusive of designated access drives and designated walks, and shall be maintained in usable shape and good condition.

Off-street parking and loading spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way.

- (4) *Signs.* Freestanding signs in any Newtown Development District shall be limited to traffic and pedestrian directional and control signs, signs identifying uses as permitted on the site plan, and street signs. Traffic signs and devices shall meet VDOT requirements. Any illuminated sign visible from any public street or from adjoining property used for residential purposes shall be shaded, shielded, directed or maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises.

Signs shall be designed as an integral part of a comprehensive site and landscape plan which shall include a sign system specifying the general type, design, size and location of all signs and all sign controls to be instituted by the NDD developer.

Sec. 23-501. Other provisions.

Except for those other provisions of this chapter which are specifically incorporated in this section with the express purpose of giving them binding effect, no other procedural or substantive provisions of any other section of this chapter shall apply to development in a Newtown Development District.

Sec. 23-502. Application and procedures.

(a) *General.* To create a Newtown Development District, an application may be initiated by the town council with the approval of the principal owner or owners of the site or by application of the principal owner or owners of the proposed site. The "owner" shall be deemed to include a contract vendee or holder of an option to purchase or a person who or which has accepted any other form of firm commitment of lands to be developed.

(b) *Application for development plan approval.*

- (1) *Concept plan.* In order to allow the town council and the applicant to reach an understanding on basic design requirements prior to investment in detailed planning and design, the applicant shall submit a concept plan to the zoning administrator showing the proposed location and components of the development and shall consult with the planning commission concerning the procedure and criteria for approval. The purpose of the informal submission is informational, and no formal planning commission or town council action is required concerning such concept plan. Review and discussion meetings shall take place as deemed necessary by the zoning administrator.
- (2) *Development plan.* Formal application for a Newtown Development District shall be initiated by filing with the zoning administrator ten copies of a development plan at an appropriate scale. It may consist of material prepared for other purposes, portions of which satisfy the formal requirements of development plans as set forth in this section.
 - a. *Plan requirements.* The development plan shall contain the following information:

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1. Overlays, maps and drawings included in the submission shall be at a scale of not less than one inch to five hundred feet unless otherwise specified.
2. The proposed name, date, north arrow and scale of the plan and a clear identification of the submittal as a development plan.
3. The name and address of the owner or owners of the land to be included within the Newtown Development District, the name and address of the developer(s) if other than the owner(s) and a description of the manner in which lands not owned, controlled or accepted by the principal owner, but intended for development under the development plan, are to be acquired, controlled or otherwise accepted for inclusion in such development.
4. An area map upon which shall be indicated the proposed Newtown Development District boundaries and major existing property ownerships and major easements within the district boundaries and at least two hundred feet around the perimeter thereof. All property owned by the applicant in the area shown on the map shall be identified and the amount of acreage indicated.
5. Aerial photographs showing the site and at least two hundred feet around the perimeter at a scale of at least 200 feet to one inch, flown within three years of filing of the development plan and indicating any significant use changes occurring since the flight.
6. Topographic map at a scale of at least two hundred feet to one inch showing five-foot contour levels and key-spot elevations for all land in the proposed new community site, indicating areas currently subject to flooding at the hundred year frequency, all major drainage ditches and all existing doorways in the town's storm drainage system.
7. A description of existing surface and subsurface soils and soil conditions and an overlay map and evaluation of the soils for the proposed use.
8. An overlay or map and description of the existing woodland, grassland, wetland, marshland and unique natural areas and description and evaluation of their quality. A written plan or written program indicating provisions for management and protection of soil, water, woodland, wetland, marshland, grassland and wildlife resources.
9. The proposed approximate location of the various uses and their estimated areas.
10. The general location, right-of-way width and approximate grade of all existing and proposed major highways, arterial and all major existing public and private rights-of-way and easements.
11. Approximate magnitude and general composition of the residential development in terms of the total number of dwelling units, and a numerical breakdown by dwelling unit type (for example, single-family, two-family, townhouse, patio house, garden apartments or elderly housing). The applicant shall also furnish a calculation of the residential density in dwelling units per gross acre.

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12. The approximate location, dimensions and proposed general uses of the major open space system, including private, common and public land.
 13. The approximate location, dimensions and proposed general commercial and industrial land uses; and approximate square footage proposed and general uses proposed. The applicant shall calculate the percent of commercial and industrial uses in relation to the various uses proposed and parcel size.
 14. The overall proposed major storm drainage system, including the direction of flow and location of major existing and proposed storm sewers and drainageways, description of stormwater storage and movement features and treatment of floodways and drainageways. Major existing and proposed linkages to the community at large with respect to pedestrian and vehicle transportation, water supply, sewage disposal, stormwater drainage, open space and recreation.
 15. The proposed sanitary sewage disposal system serving the community, including its projected load and the effect it will have on the existing and proposed town disposal system.
 16. General description of the proposed provision of other community facilities, such as fire protection services and cultural facilities, if any, and indication of how these needs are proposed to be accommodated.
- b. *Documentation.* The following documentation shall accompany the development plan:
1. Evidence of how the applicant's particular mix of land uses meets existing or future community demands and needs and objectives of the town comprehensive plan.
 2. General statement as to how common open space is to be owned and maintained and how it will meet the applicable criteria set forth in this section.
 3. The expected completion date of the new community development.
 4. If the development is to be phased, a general statement of how the phasing is expected to proceed with regard to time and sequential factors.
 5. Evidence to demonstrate the applicant's competence to undertake the organizational and financial aspects of the project.
- (3) *Planning commission review.* Upon receipt of a NDD development plan, the zoning administrator shall transmit a copy of the plan and accompanying documentation to such agencies as he may deem appropriate for their review, report and recommendation. Such officials and agencies shall each furnish to the planning commission a report pertinent to their respective jurisdictions and concerns.

The planning commission shall review the applicant's development plan and related documents and evaluate the reports enumerated above. Within sixty days following the applicant's submission of the development plan and data from all review agencies to the planning commission, the planning commission shall hold a public hearing, furnish to the town council and applicant either its finding that the development plan complies with the

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regulations, standards and criteria prescribed by this section or a finding of any failure of such compliance and a recommendation that the development plan be approved, disapproved or modified. If in any such evaluation the planning commission finds that any submission requirements, regulations, standards or criteria prescribed by this section are inapplicable because of unusual conditions of the development or the nature and quality of the proposed design, it may recommend to the town council that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.

A favorable report shall include a recommendation to the town council that a public hearing be held for the purpose of considering the creation of a Newtown Development District based on the development plan. It shall be based on the following findings which shall be included as part of the report:

- a. The proposed development plan meets the intent, purpose and objectives of a Newtown Development District.
 - b. The proposed development plan is conceptually sound in that it meets present and future community needs and is consistent with the concept plan submitted.
 - c. There are adequate services and utilities available or proposed to be made available in the construction of the development.
 - d. The proposed development plan is consistent with the town comprehensive master plan. An unfavorable report shall state clearly reasons and point out to the applicant what changes might be necessary in order to receive a favorable report. The applicant may, within thirty days after receiving an unfavorable report, file a revised application and development plan for a Newtown Development District with the zoning administrator.
- (4) *Town council action.* The town council, upon recommendation from the planning commission, shall hold a public hearing for a Newtown Development District based on the development plan and shall render a decision within ninety days after receiving the Newtown Development District application and development plan from the planning commission.

Upon receipt of a report from the planning commission public hearing, as described, the town council shall act to approve or disapprove the plan and the creation of the district.

- (5) Zoning for district. The determination by the town council of whether to create a Newtown Development District shall be based on its review and approval of a development plan.

Upon the creation of a Newtown Development District by the town council, the zoning map shall be so notated. The town council may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its zoning resolution additional conditions or requirements consistent with the purposes and requirements of this section for the applicant to meet. If such additional conditions or requirements are proposed, the applicant shall be given notice in writing of such additional conditions or requirements at least thirty days prior to the creation of the Newtown Development District. Such rezoning conditions shall apply to all lands within the Newtown Development District being created.

- (6) *Site plan approval.*

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- (1) Application for site plan approval. After the town council creates a Newtown Development District and approves a development plan, a site plan application and site plan covering all or portions of the district under the approved development plan shall be submitted to the planning commission and town council.
 - a. *Ownership.* The applicant shall be the entity which was the principal owner of the NDD site at the time of town council approval of the development plan, or the designee of such entity. All of the lands covered by such site plan application shall be owned, controlled or otherwise accepted by such principal owner or designee. The area covered by such application is hereinafter referred to as the "proposed site or development site."
 - b. *Site plan application requirements.* The application and site plan shall be accompanied by the information required on the development plan, including the necessary modifications or changes, and by ten copies of a site plan prepared by an engineer, surveyor, architect, land planner, landscape architect or combination of professionals, as appropriate.
 - c. *Site plan information.* The following information shall be included on an accurate site plan:
 1. A scale of at least one inch equals one hundred feet.
 2. Title of drawing and name of development including the name of the applicant and person who prepared the drawing, north point, scale and date.
 3. Location of survey datum and name of surveyor.
 4. Boundaries of the proposed site and its acreage.
 5. Existing and proposed vehicular, bicycle and pedestrian circulation systems within, connecting to and immediately adjoining the proposed site.
 6. All street names, including stub streets.
 7. Preliminary layout of proposed property and lot lines.
 8. Property to be offered for dedication or other disposition for public ownership and use with the purpose indicated, and property that is proposed to be reserved by deed covenant for common use.
 9. Location, proposed use, type, floor area and height of all proposed and planned buildings. Location of all parking and service areas with access drives.
 10. Topography at one-foot contour levels. Existing wet and dry watercourses and direction of flow.
 11. Location of all existing and proposed site improvements, including drains, culverts, retaining walls and fences; description of method of water supply and sewage disposal and capacity and location of such facilities; location and

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proposed development of buffer areas; general location, material and approx. image size of all architectural monuments and permanent signs; size and general design of streetlighting fixtures.

12. Provision for all stormwater management, including retention areas, open stormwater facilities and underground drainage as well as drainage channels both proposed and to remain, including data or gradients of the new system relative to existing facilities. Such facilities shall provide, by the combination of storage and/or improved stream flow, completely for the stormwater on the proposed site plan area and shall provide the land or other facilities necessary to permit water movement from adjacent properties. To meet this requirement, such facilities may be augmented by appropriate facilities located outside the site plan area which are committed to be in service upon the completion of the development described by the site plan.
13. The plan shall designate soil types, and shall include an outline and description of existing vegetation and the program to be undertaken to correct potential erosion problems.
14. Location and type of flood-proofing measures where they are needed. Indication of flood-proofing measures for buildings planned for flood hazard areas.
15. Plans to preserve topsoil, deal with seasonal high groundwater table problems, stabilize cut and fill banks and provide for open space and the preservation of valuable natural vegetation, woodland, grassland, wetland, marshland, unique natural areas and wildlife resources.
16. Preliminary profiles showing existing and proposed elevations along the centerlines of all streets. Where a proposed street or streets, the elevation along the centerline of the existing street or streets.
17. Preliminary plans and profiles showing the locations and typical cross section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, streetlighting standards and street signs; the locations, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; and the location and size of all underground utilities or structures.
18. A landscape plan indicating wooded areas and other natural features to be created and/or preserved and trees in public street rights-of-way.
19. An updated development schedule covering the site plan area. The schedule shall include the improvement of open space, the construction of buildings and structures in the open space and the construction of other improvements in the site plan area and the proposed coordination of such activities.
20. Schematic layout of the streetlighting system.
21. A description of the proposed types of covenants running with the land and of deed restrictions, of covenants, restrictions or easements proposed to be recorded and of covenants proposed for maintenance.

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22. An estimate of the number of bedrooms to be contained in the various types of residential units.
23. If the applicant is a developer designated by the owner, a statement of the developer's experience and financial capacity to carry out the site plan development.

(2) *Planning commission review and approval considerations.*

- a. *Factors for consideration.* The planning commission's review of a site plan shall be directed to the following considerations:
 1. Extent to which the site plan embodies the goals and objectives of NDD and the development plan previously approved by the town council.
 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
 3. Adequacy and arrangement of pedestrian traffic, access, walkway structures, control of intersection with vehicular traffic and pedestrian convenience.
 4. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 5. Location, arrangement, size and design of buildings, lighting, signs and monuments.
 6. Relation of the various uses to one another and their scale.
 7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or deterring buffer or weather buffer between adjacent uses and adjoining lands.
 8. The adequacy of usable open space for active and passive recreation.
 9. The preservation of outstanding and/or unique natural features and the preservation and/or creation of natural woodlands, grasslands and marshlands.
 10. Adequacy of facilities for sanitary waste disposal and stormwater storage and disposal, including drainage canals, ponds and water storage in relation to location in the watershed.
 11. Adequacy of open space lands for public ownership and use offered for dedication or other disposition to the town or other public entity.
 12. Adequacy of structures, roadways, utilities and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 13. Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.

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14. Capacity of proposed public facilities and services to serve projected needs of the new community.
15. Adequacy of existing public facilities and services to serve projected needs of the new community.
16. Adequacy of school sites and facilities to serve the NDD.
17. Compatibility with the town's comprehensive plan and existing neighborhoods.

b. *Action on site plan application.* Within sixty days following an applicant's submission of a complete application with agency comments for site plan approval, the planning commission shall act on the site plan. The planning commission shall include a written statement stating whether or not the site plan is approved, including exhibits and submissions made a part of the record, and by a separate detailed statement of the basis for any planning commission determination of noncompliance. The planning commission may refer the site plan to the town council for review and approval.

- (3) *Conformity to development plan.* The site plan shall be in substantial conformance with the goals and objectives of the development plan approved by the town council.

If in the preparation of the site plan it becomes apparent that certain elements of the development plan, as it was approved by the town council, were infeasible and in need of significant modification, or have become so since such approval, the applicant may incorporate the necessary development plan modifications in the site plan. The planning commission shall then determine whether the site plan embodying such modifications is in keeping with the intent of the NDD.

- (4) *Changes in site plan.* If, subsequent to the approval of a site plan, the applicant proposes any modification other than to correct minor or technical omissions or inaccuracies of the site plan, the zoning administrator shall refer all such matters to the planning commission.

At any time within ninety days following the initial site plan submission to the town council and planning commission, the applicant may submit to the planning commission and town council site plan modifications which do not materially affect the fundamental character of a proposed site plan development, and the time periods stated herein shall continue to apply with respect to the overall site plan submission notwithstanding the modifications.

- (5) *Development phasing.* If the applicant wishes to phase his development, he may submit only those phases he wishes to develop for site plan approval in accordance with his phasing plan. Where the overall development of an entire NDD will require more than twenty-four months to complete, such development shall be required to be phased.

If the development is to be implemented in phases, each phase shown on a site must have adequate provision for access, parking, open space, recreation areas and stormwater management and other public improvements in accordance with the applicable site plan approval criteria set forth in this section. Each phase shall contain facilities to

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appropriately serve the functions described in the preceding sentence in the event that other phases of the new community are not constructed.

Each phase shall be provided with temporary or permanent transitional features, buffers or protective areas as will prevent damage or detriment to completed phases, to future phases, to adjoining properties not in the NDD site.

(6) *Commencement of construction.* Upon the approval of a site plan by the town council, the applicant or its designee may commence construction or site improvement work for all aspects of the development covered by such site plan.

(7) *Other applicable regulations.*

(1) *Subdivision review.* Site plan review and approval under the provisions of the NDD shall suffice for all town council and other town review of subdivision regulations and shall suffice to satisfy all preconditions of filing a subdivision plat.

The applicant shall plat the entire NDD as a subdivision; however, NDD's being developed in stages may be platted and filed in the same stages. Information on the final plat shall be provided in accordance with established informational requirements of the town.

The applicant shall prepare sets of subdivision plats suitable for filing with the offices of the town and county clerks, and the appropriate town officials shall provide such endorsements.

(2) *Regulations after construction and occupancy.* For the purposes of regulating the development and use of property after completion of initial construction and occupancy, any proposed changes shall be in the form of a request requiring town council approval. It shall be noted, however, that properties lying in NDD are unique and shall be so considered by the planning commission and town council when evaluating these requests, and maintenance of the intent and function of the new community and its relationship with the entire town shall be of primary importance.

Sec. 23-503. Installation of improvements.

No building permits shall be issued for construction within a Newtown Development District until public street drainage and all utility improvements are installed or a performance bond or a letter of approved credit acceptable to the town is posted in accordance with established town procedures or a firm commitment to provide such improvements is certified to the town.

Sec. 23-504. Town council approval of development plan amendments.

(a) A development plan, after its approval by the town council upon application, may be amended upon the request of the principal owner, as defined, of the NDD site.

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(b) Such request shall be filed with the zoning administrator, accompanied by such supporting material as may be reasonably necessary to enable the planning commission or town council to review such request on the basis of the applicable amendment.

(c) The town council shall act to approve or disapprove such request within sixty days after such filing with the zoning administrator. A public hearing shall not be required in connection with any such amendment unless the amendment contemplates a change in the provisions of this article or in the boundaries of a Newtown Development District or a change in a use classification of the development plan.

(d) In a case where such a hearing is required, such a hearing shall be held within sixty days following such filing, and the town council shall approve or disapprove the requested amendment within thirty days following the hearing. If a proposed boundary change will result in the inclusion of additional lands in the Newtown Development District, the minimum area requirements may be applied.

Sec. 23-505 - 23-530. Reserved.

DIVISION 11. OPEN SPACE

Sec 23-531. Design standards for Open Space.

The following design standards apply to conservation areas or to open space land to be dedicated to the Town of Stephens City for public park.

(A) Open Space in Residential Developments Located in R-1, R-2, R-3, and NDD Districts

1. Open space set aside in any residential development shall include all floodplain land. Floodplain land may be used for passive recreation including pedestrian and bicycle trails and natural areas.
2. Open space areas, not including floodplain lands, shall be designed as follows:
 - a) to be located on and visible from a local public or private road. Town Council may make exceptions if the open space provided is adjacent to a floodplain, serves as a noise buffer for I-81, is located adjacent to a townhouse lot or apartment building or parking lot for same, and/or is accessible by a pedestrian or bicycle trail that can be used for emergency access;
 - b) to serve as a landscape or noise buffer for developments adjacent to Interstate 81;
 - c) to be of a size and shape usable for active or passive recreation. Plans offering primarily small, scattered open space areas are not acceptable. Narrow linear parcels are acceptable only if they (1) provide a corridor, at least 20 feet wide, for a trail or sidewalk connecting to an existing trail or a trail recommended in the Comprehensive Plan or (2) provide green space around townhouses or apartments or parking lots for such townhouses or apartments;
 - d) to be located adjacent to existing, approved or planned open space areas so as to contribute to a continuous open space network extending through the community;

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- e) to retain natural vegetative cover and wooded areas to the maximum extent possible, except where recreation space is to be provided.
3. Recreation space shall be designed as follows:
- a) to be generally flat or very gently sloped and not including any floodplain or steep slopes;
 - b) to be located on and visible from a local public or private road;
 - c) to provide adequate space for recreation facilities;
 - d) to include connecting sidewalks and trails wherever possible. A trail corridor up to 50 feet wide may qualify as recreation space.

(B) Open Space in Non-Residential Developments Located in R-1, R-2, R-3, and NDD Districts

1. Open space in church developments
- a) Open space in church developments may be set aside for cemeteries or conservation area.
 - b) If the church tract contains floodplain land, such floodplain land shall be set aside in conservation area and may be used for passive recreation including pedestrian and bicycle trails and natural areas. Cemeteries shall not be located in floodplain lands.

(C) Open space in other non-residential developments

1. Open space in non-residential development other than churches shall be set aside as conservation area only.
2. If a non-residential development tract contains floodplain land, such floodplain land shall be set aside in conservation area and may be used for passive recreation including pedestrian and bicycle trails and natural areas.

Sec. 23-532. Open Space Ownership

A. Open space ownership in residential developments.

Provisions for open space ownership in townhouse or apartment developments are included in Sections 23-131 (m) and 23-132 (3) respectively. Open space in single family detached residential developments may be dedicated to the Town for a public park or set aside as conservation area to be owned by a homeowners association as follows:

B. Dedication of Open space to the Town for a Public Park

- 1. The Town Council reserves the right to accept or reject such dedication.
- 2. Such dedication shall take place at the time of final plat recordation.
- 3. There shall be no cost of acquisition other than costs incidental to the transfer of ownership such as title insurance.

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4. Adequate access is provided to the dedicated open space land so that the Town can maintain and patrol the land and so that it is accessible to the public.

C. Ownership of Conservation Areas by a Homeowners Association

D. Open space in a non-residential development shall be retained by the owner of that development.

Sec. 23-533. Conservation easement.

An easement applying to the conservation areas shall be conveyed to the town of Stephens City specifying that the conservation areas shall not be further divided; shall be maintained in perpetuity as open space with only those uses permitted under this zoning district for conservation areas; and that all natural features, cultural features, and vegetation identified as significant for preservation on the subdivision plans shall be preserved and maintained except as otherwise approved by town council.

- (1) Town council may approve conveyance of the easement to a non-profit organization for the purpose of preservation and maintenance of the conservation areas and the significant features identified therein.

Sec. 23-534. Conservation area maintenance standards.

- (a) A narrative describing ownership, use, and maintenance responsibilities shall be submitted to the town by the developer for all conservation area lands. The submission shall include a *Cyclical Maintenance and Operations Plan* to be approved by the town and updated on a regular basis by the homeowners= association. The Plan shall detail the tasks and the timing of tasks that will be necessary for the maintenance of the conservation area lands according to accepted Best Management Practice both on a short term basis and a long term basis and shall identify the entities that will perform those tasks.
- (b) In the event that the association or any successor organization shall, at any time after establishment of a development with conservation area lands, fail to maintain such land in reasonable order and condition in accordance with the development plan, the town may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the conservation area lands in reasonable condition.
- (c) Failure to adequately maintain the conservation area land in reasonable order and condition as outlined in the approved *Cyclical Maintenance and Operations Plan* constitutes a violation of this ordinance. Town council is hereby authorized to give notice, by personal service of by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty days.
- (d) Should, after such notice, the failure to maintain the conservation land continue, the town may undertake such maintenance or contract for such maintenance to be performed in accordance with the approved *Cyclical Maintenance and Operations Plan*. The town shall then bill the association and be reimbursed in full by the association for the costs incurred.
- (e) Should any bill or bills for maintenance of conservation area lands by the town be unpaid by November 1st of each year, a late fee of fifteen percent shall be added to such bills and a lien shall be filed against the lots of the members of the association in the same manner as other municipal claims.

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DIVISION 11.5. FLOODPLAIN OVERLAY

Sec. 23-535. Purpose and Applicability

The purpose of these provisions of this chapter 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 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 areas subject to flooding.
- c) Requiring all those uses, activities, and developments that do occur in flood-prone areas 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.

These provisions shall apply to all lands within the jurisdiction of the Town of Stephens City, Virginia, and identified as being in the 100-year floodplain by the Federal Insurance Administration, as the maps are amended from time to time, mutatis mutandis.

Sec. 23-536. Compliance and Liability:

- a) No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.
- b) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the floodplain area or that land uses permitted within such area will be free from flooding or flood damages.
- c) This chapter shall not create liability on the part of the Town or any other employee for any flood damages that result from reliance on this chapter and any administrative decision there under.

Sec. 23-537. Abrogation, Greater Restrictions and Severability.

This chapter supersedes any ordinance currently in effect in the flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

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

Sec. 23-538. Penalties for Violations.

Any person who fails to comply with any of the requirements or provisions of this article or Town Planner or any authorized employee of the Town of Stephens City shall be guilty of a misdemeanor and subject to the penalties therefore.

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

Sec. 23-539. Description of District:

A. Basis of District:

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the Town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 2, 2009, as amended.

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 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 federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the zoning official.

When such base flood elevation data is utilized, the lowest floor shall be 3 feet above the base flood elevation. During the permitting process, the zoning official shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,

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- 2) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation to which the structure has been flood-proofed. All floodproofing must be certified by a certified engineer.

B. Overlay Concept:

- (1) The Floodplain District described above shall be an overlay to the existing underlying area as shown on the Official Zoning Map, and as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.
- (2) In case of any conflict between the provisions or requirements of the Floodplain District and those of any underlying district the more restrictive provisions and/or those pertaining to the floodplain district shall apply.
- (3) In the event any provision concerning a Floodplain District declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

C. Official Zoning Map:

The boundaries of the Floodplain District are established as shown on the Flood Insurance Rate Map which is declared to be part of this chapter and which shall be kept on file in the office of the town superintendent.

D. District Boundary Changes:

The delineation of any of the Floodplain District may be revised by the Town Council where natural or man-made changes have occurred 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.

E. Interpretation of District Boundaries:

Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the District, 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 their case to the Board and to submit their own technical evidence if they so desire.

F. Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

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Sec. 23-540. Development in the Floodplain District:

- 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 subdivision regulations in Title 5 of this code. 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 circumstance 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 Watercourse:** Prior to any proposed alteration or relocation of any channels or any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from FEMA, the U. S. Corps of Engineers, the Virginia Marine Resources Commission, the Virginia State Water Control Board (a joint permit application is available is from anyone of these organizations.) Notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (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. All floodproofing must be certified by a certified engineer.
 - 3) The elevation of the one hundred (100) year flood.
 - 4) Topographic information showing existing and proposed ground elevations.
- D. **Encroachment Provisions:**
- 1) No new construction or development shall be permitted within the floodplain district 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 elevation of the one hundred (100) year flood more than one-tenth (1/10) of a foot at any point.
 - 2) Within any floodway and/or floodplain area, 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 FEMA regulations and standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100) year flood elevation.
- E. **General Standards:**
- In all special flood hazard areas the following provisions shall apply:
- 1) New construction and substantial improvements shall be according the the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

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- 2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- 3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- 5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- 7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- 10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- 11) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- 12) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

F. Permitted Uses:

- 1) Utilities: All utilities except water facilities and sanitary sewers and storm water systems. The utilities should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

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- 2) **Streets, Sidewalks and Trails:** Streets, sidewalks, and trails 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. *Pervious pavement alternatives are strongly encouraged.*
- 3) **Passive Recreational Facilities**
- 4) **Existing Structures in Floodplain District:** A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:
 - a) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its assessed value, shall be elevated and/or floodproofed to the greatest extent possible.
 - b) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to extent of amount fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and the provisions of the Virginia Uniform Statewide Building Code.

G. Permitted by Special Use:

- 1) **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.
- 2) **Water Facilities:** All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- 3) **Drainage Facilities:** All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The Town may require a primarily underground system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

H. Standards for Manufactured Homes and Recreational Vehicles:

- 1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements.

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- 2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has **not** incurred substantial damage as the result of a flood must be elevated so that either:
 - a) The lowest floor of the manufactured home is elevated no lower 3 feet above the base flood elevation; or
 - b) 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
 - c) And the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- 3) All recreation vehicles place on sites must either:
 - a) Be on the site for fewer than 180 consecutive days
 - b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
 - c) Meet all the requirements for manufactured homes.

I. Specific Standards:

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.4 (A), the following provisions shall apply:

1) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation.

2) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than 3 feet above the base flood elevation. Buildings located in all A, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and

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hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

3) Elevated Buildings

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- a) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- b) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- c) In the Coastal High Hazard District, follow the standards for elevation outlined in Article 4, Section 4.9.
- d) Include, in Zones A, AO, and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 2. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 4. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

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J. Standards for Subdivision Proposals:

- 1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- 4) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 23-540.1. Variances: 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 and consider the following additional factors:

- A) The danger of 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 area that will cause any increase in the hundred (100) year flood elevation.
- B) The danger that materials may be swept on to other lands or downstream to the injury of others.
- C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D) The susceptibility of the proposed facility and its contents to flood 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 with 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

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the variance is the minimum necessary to preserve the historic character and design of the structure.

M) Such other factors which are relevant to the purposes of this chapter.

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

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

Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) year 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.

State Law References: Town Charter, Flood Control, 10.1-658; Flood Damage Reduction 10.1-659; Conservation 10.1-600 et seq.; Zoning and Planning Powers, 15.2-2200 et seq.; Erosion and Sediment Control Program, 10.1-560 et seq.
(Ord 2-5-08)

DIVISION 12. HISTORIC DISTRICT

Sec 23-541. Purpose; intent.

In order to promote the educational, cultural, economic and general welfare of the town the town council deems it essential that the qualities relating to the history of the town be preserved not only for their own value as community resources, but also because of their contribution to the town=s unique character. The purpose of this historic district is to enhance the historic character of the town; encourage the preservation of existing historic buildings, structures, sites, features, landscape contexts, and archeological resources; encourage the adaptive reuse and appropriate maintenance of historic buildings and landscapes; stabilize and improve property values; strengthen the economy of the town; foster civic pride; protect and enhance the town's attractions for tourists and visitors; and promote the use of the historic district and historic resources for the education, pleasure, and welfare of the people of the town.

Sec. 23-542. Historic Preservation Commission; establishment; composition; appointment; terms of member.

- a) A board of architectural review is hereby established, referred to in this chapter as the historic preservation commission. The commission shall consist of not more than seven members,

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appointed by the town council. More than fifty percent of the appointed members shall be residents or property owners of the town. Members shall have demonstrated an interest in and knowledge of the historic character of the town. The town council shall appoint at least one member with a background in one or more of the following areas: architecture, architectural history, historic preservation, real estate, or local history. At least one member shall be appointed from the planning commission upon recommendation to the commission by the planning commission; and after the establishment of an historic district, at least one member shall be a resident and property owner of the local historic district.

- b) Each member shall be appointed for a term of four years. When a term expires, a member may be reappointed or a new member appointed to begin the next four-year term. A secretary shall be chosen to record the activity of the historic preservation commission, and may be a nonmember with no voting privileges.

Sec. 23-543. Boundaries.

- (a) The boundaries of the historic districts shall be as marked as overlay zoning designations on the official zoning map. The boundaries shall include designated areas of the town where there exist groupings of structures and their associated historic landscape contexts that contribute to the significance of the historic districts.
- (b) The established districts may be amended and new districts created by the town council upon consultation with the planning commission and the historic preservation commission. Proposals for amendments to districts and the creation of districts shall be forwarded to town council by the historic preservation commission. Upon receipt of said proposal, the town council shall initiate such amendment using the procedures in place for amending the zoning ordinance of the town.
- (c) The historic preservation commission shall prepare and submit simultaneously with said proposal a report to substantiate establishment of a historic district or a proposed amendment. Such report shall establish and define the historic district boundaries as delineated upon an appropriate map, as well as describe the historic and/or architectural significance of the buildings, structures, features, or sites to be protected. The report shall describe the special characteristics of the district and the qualities and/or fabric to be preserved. It shall outline the public and planning objectives for preservation.
- (d) The town's historic districts include:
 - (1) *The Newtown/Stephensburg Historic District*: The boundaries of the Newtown/Stephensburg historic district are indicated on the historic building map and official zoning map.
 - (2) *The Historic Road Corridor District*: Designation Reserved for future use.

Sec. 23-544. Relationship to zoning districts.

The historic districts shall be overlay zoning districts upon the existing zoning districts. In all zoning districts lying within the boundaries of the historic districts, the regulations for both the underlying zoning district and the overlay historic districts shall apply. Whenever there is a conflict between the requirements of the underlying zoning district and the overlay historic districts, the more restrictive requirements shall apply.

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Sec. 23-545. Classification of buildings, structures, and sites.

Within an historic district, all buildings and structures shall be classified and designated on the historic building map adopted and approved by the mayor and town council and made a part of the zoning map. Such buildings and structures shall be divided into two classes:

- (1) *Contributing*. Those buildings, structures, and sites that contribute to the historical significance and/or historic character of a district shall be classified as contributing buildings, structures, and sites on the historic building map. To be so classified the building, structure, or site shall meet one or more of the following criteria:
 - a. It is associated with a particular person, event, activity or institution of local, state or national historical significance.
 - b. The exterior design or features embody or exemplify the distinctive design characteristics of one or more historic areas, styles, materials, or construction methods, or exemplify the work of an acknowledged master or masters.
 - c. The building, structure, or site possesses an identifiable character which reflects the cultural or architectural heritage of the town.
 - d. The building, structure, or site contains or has the potential to contain information, qualities, and/or artifacts which significantly contribute to present day knowledge and understanding of lifestyles, activities, events, or experiences of a previous era.
 - e. The building, structure, or site has a unique physical characteristic which represents an established and familiar pattern or unique visual feature of the Town.
- (2) *Noncontributing*. Those buildings and structures not contributing to the historical significance and/or historic character of a district shall be considered noncontributing buildings and shall be so designated on the historic building map.

Sec. 23-546. Development standards; preservation of historic buildings within an historic district.

(a) *Erection, reconstruction, alteration or restoration in an historic district or historic road corridor*. No contributing building or structure, including signs, shall be reconstructed altered or restored nor shall any land development be undertaken or buildings or structures erected within an historic district unless the same is approved by the historic preservation commission or, on appeal, by the town council as being compatible with the character of the historic buildings, structures, and landscape context within the district. This shall not preclude the destruction of a noncontributing building or structure.

(b) *Destroying or moving building*. No Contributing building or structure within an historic district shall be razed, demolished, or moved in whole or in part unless the same is approved by the historic preservation commission, or upon appeal by the town council. Any costs or fees shall be those as set by the historic preservation commission.

(c) *Petition to circuit court*. Any property owner who has received final action by the historic preservation commission and the town council may appeal to the circuit court for review of the action by the town council by filing a petition at law, setting forth the alleged illegality of the action of the town council, provided such petition is filed within thirty days after the final decision is rendered by the town

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council. The filing of the petition shall stay the decision of the town council, pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the council if such decision denies the right to raze or demolish an historic landmark, building or structure. The court may reverse or modify the decision of the town council, in whole or in part, if it finds upon review that the decision is contrary to law or that the decision is arbitrary and constitutes an abuse of discretion; or the circuit court may affirm the decision of the town council.

(d) *Criteria for approval of certificate of appropriateness.* Evidence of the approval required above shall be a certificate of appropriateness issued by the historic preservation Commission. In considering a certificate of appropriateness, the historic preservation Commission shall consider whether the proposal is architecturally compatible with the character of the historic district. The historic preservation commission shall use the criteria set forth in the town's design guidelines for historic districts and the United States Secretary of the Interior's *Standards for Protection and Standards for Preservation* in considering all proposals.

(e) *Public notice.* Prior to issuing any certificate of appropriateness, the historic preservation commission may require public notice of the application of the certificate. The notice shall include the date, time and location of the commission's meeting. The notice shall appear at least one time in a newspaper having general circulation in the town and shall appear no less than seven days prior to the date of each such meeting consideration the application.

(f) *Additional right of appeal.* The owner of a contributing building or structure within an historic district shall be entitled to raze or demolish such; building or structure provided that:

- (1) He has applied to the historic preservation commission and the town council for such right;
- (2) The owner has for the period of time set forth below in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto to the county or the town or to any person, firm, corporation, government or agency thereof, or a political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto;
- (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

Any appeal which may be taken to the circuit court from the decision of the town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions stated here relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the council, but thereafter the owner may renew his request to the council to approve the razing or demolition of the historic building or structure. The time schedule for offers to sell shall be as follows: Three months when the offering price is less than \$25,000.00; four months when the offering price is \$25,000.00 or more, but less than \$40,000.00; five months when the offering price is \$40,000.00 or more, but less than \$55,000.00; six months when the offering price is \$55,000.00 or more, but less than \$75,000.00; seven months when the offering price is \$75,000.00 or more, but less than \$90,000.00; and twelve months when the offering price is \$90,000.00 or more.

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Sec. 23-547. Responsibilities of the commission.

The responsibilities of the historic preservation commission shall include the following:

- (1) Coordinate local historic preservation efforts with those of the Virginia Department of Historic Resources.
- (2) Sponsor public information activities when deemed appropriate, publicizing historic preservation efforts. Such activities may include speaking engagements, handouts, press releases, and films.
- (3) Review projects and developments which may change or alter the historic character of an existing historic district.
- (4) Issue or deny certificates of appropriateness and formulate any additional necessary administrative procedures and regulations, which shall include prescribed requirements for applications for such certificates.
- (5) Advise persons owning property or living within historic districts on measures which they may take to preserve the historic character of their districts.
- (6) Report to the planning commission on its activities and make recommendations in an annual report to the planning commission and an annual report to the town council concerning the operation of the historic preservation commission and the status of historic preservation within the town.
- (7) In passing upon an application for a certificate of appropriateness, the historic preservation commission shall consider the standards set forth in the town's design guidelines for historic districts, the United States Secretary of the Interior's *Standards for Protection and Standards for Preservation*, as well as the following grounds: removal, modification of, or damage to existing historic building fabric; arresting and spectacular effects; violent contrasts of materials or colors and intense or lurid colors; a multiplicity or incongruity of details resulting in a restless and disturbing appearance; the absence of unity and coherence in composition not in consonance with the dignity and character of the present or with the prevailing character of the district as a whole.
- (8) Hold public meetings as often as necessary.
- (9) Grant the right to display authorized plaques to commemorate buildings or sites which are important and significant features in the town.
- (10) Provide advice and recommendations to the planning commission on particular projects and developments as specifically requested by the planning commission.

All bylaws and/or guidelines adopted by the historic preservation commission shall be subject to the review and approval by the town council.

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Sec. 23-548. Demolition by neglect.

No contributing structure within an historic district in the town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this chapter. Demolition by neglect shall include any one or more of the following courses of action or inaction:

- (1) Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
- (2) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, back, plaster or mortar to the extent that it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure.
- (3) Defective or deteriorated flooring or floor supports, or flooring or floor supports of insufficient size to carry imposed loads with safety.
- (4) Any fault or defect in the building or structure which renders the same structurally unsafe or not properly watertight.

If the historic preservation commission determines that a contributing structure in an historic district is being demolished by neglect it shall send notification to the owners stating the reasons therefor, and shall give the owner ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the zoning administrator may initiate appropriate legal action as provided further in this Chapter.

Sec. 23-549. Penalties for noncompliance.

(a) Failure to correct a defect after a notice that the historic preservation commission has determined that a property is being demolished by neglect shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in section 1-7 of this Code. Each day that the violation continues is a separate offense.

(b) Any property owner in the historic district who does not obtain a certificate of appropriateness as required within this chapter shall be guilty of a misdemeanor and may be punished as set forth in section 1-7 of this Code.

(c) Nothing in this chapter shall be deemed to restrict or prohibit the town council to acquire in any legal manner any historic area, building or structure or the land pertaining thereto for the use, observation, education, pleasure and welfare of the citizens of the town.

Sec. 23-550. Reserved.

DIVISION 13. SOURCE WATER ASSESSMENT PROGRAM OVERLAY DISTRICT

In order to protect the quality of water in the town's public water supply sources, the following Source Water Assessment Program Overlay District and regulations are established. While the Town's Water Supply Protection Ordinance, Chapter 22, Article IV, of the Code of the Town of Stephens City provides performance standards for all types of uses within a large area defined as the Water Supply Protection District, the following provisions limit uses within the smaller Source Water Assessment

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Program (SWAP) zone for Stephens City’s quarry water supply sources as defined by the Virginia Department of Health in a study dated April 10, 2002.

Sec. 23-551. District Boundaries.

The boundary for this district is defined as the Source Water Assessment Program (SWAP) Zone 1 for the Stephens City Quarry, PWSID 2069250, as defined by the Source Water Assessment for the same prepared by the Virginia Department of Health, Division of Water Supply Engineering, April 10, 2002. The boundary is shown on the Official Zoning Map of Stephens City.

Sec. 23-552. Prohibited Uses.

The following uses are prohibited in the Source Water Assessment Program Overlay District:

Prohibited Land Uses	NAICS Code
(1) Animal Slaughtering or Processing	3116__
(2) Asphalt Plant	32412_
(3) Coal Gasification Facility	324199
(4) Electrical and Electric Product Manufacturing	335310 334410
(5) Electroplating/Metal Finishing	332813
(6) Fertilizer Manufacturer / Distributor/ Storage	3253__ 422910
(7) Fire Training Facility	922160
(8) Furniture Refinishing (as part of repair and maintenance establishments)	811420
(9) Boat Refinishing (as part of transportation equipment manufacturing)	336612
(10) Gasoline Station	447100
(11) Hazardous Waste Recovery Facility	562211
(12) Hazardous Waste Transfer/Disposal/ Storage	562__
(13) Hospital	622110
(14) Laboratory (Testing)	541380
(15) Laboratory (Medical and Diagnostic)	62151_
(16) Machine Shop	332710
(17) Oil & Gas Extraction/Production/Storage/ Pipelines	2111__ 324110 422710 486910
(18) Auto Paint Shop (repair & maintenance)	811121
(19) Pesticide/Herbicide Manufacturer/ Distributor/Storage	325320 422690 422910
(20) Photo Finisher	812920
(21) Plastic Material Manufacturer	325211
(22) Plastic Products Manufacturer	3261__
(23) Power Generation Station	221110
(24) Scrap and Junk Yards (Recyclable Materials)	421930
(25) Superfund Site/Landfill/Tire Pile/Dump	562__

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(Waste Management and Remediation Services)	
(26) Wood Preservative Manufacturer/Wood Preserver	321114
(27) Wastewater Treatment Plants (sewer lines and pump stations are permitted)	22132_
(28) Salt Storage Site	
(29) Truck Terminal	484__

Sec. 23-553. Uses Permitted with Conditions.

The following uses are permitted with conditions:

Dry cleaning establishments: Such establishments are permitted only if non-toxic solvents are used in cleaning processes. The use of the solvent perchlorethylene is prohibited.

Sec. 23-554. Permitted Uses.

All uses permitted in the underlying zoning district, except those uses prohibited by Sec. 23-552 and those not meeting the conditions of Sec. 23-553, are permitted in the SWAP District.

Sec. 23-555 – Sec 23-560. Reserved.

ARTICLE IV. NONCONFORMING USES

Sec. 23-561. Continuation.

(a) If, at the time of enactment of this Chapter, any legal activity is being pursued, or any lot or structure is legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as provided here.

(b) If any change in title or possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

(c) If any nonconforming use (structure or activity) is discontinued for a period exceeding two years after the enactment of this chapter, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this Chapter.

(d) Temporary seasonal conforming uses that have been in continuous operation for a period of two years or more prior to the effective date of this chapter are excluded.

(e) A nonconforming use, activity, structure or lot may be changed to a less restricted use, activity or lot only after obtaining a special use permit from the town council.

Sec. 23-562. Permits.

(a) All nonconforming uses shall be issued a zoning permit and a certificate of occupancy within 60 days after the adoption of this Chapter.

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(b) The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this Chapter may proceed, provided such building is completed within one year or such use of land established within thirty days after the effective date of this Chapter.

Sec. 23-563. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on routine repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement value of the structure, provided, that cubic content of the structure as it existed at the time of passage or amendment of this chapter shall not be increased.

Sec. 23-564. Changes in district boundaries.

Whenever the boundaries of a district are changed, any nonconformity created as a result of such change shall become subject to the provisions of this Article.

Sec. 23-565. Expansion or enlargement.

(a) A nonconforming structure to be extended or enlarged shall not be increased in the area of nonconformity and shall otherwise conform with the provisions of this Chapter.

(b) A nonconforming activity may be extended throughout any part of a preexisting structure which was arranged or designed for such activity or throughout any enlargement to such structure which is made in accordance with the provisions of this Chapter.

(c) A nonconforming use of land (activity not in a structure) may be extended to occupy an area not greater than the land that was leased or owned at the effective date of this chapter, provided all other requirements of this Chapter are met.

Sec. 23-566. Restoration or replacement.

(a) When a nonconforming activity which is carried on in either a conforming or a nonconforming structure is destroyed or damaged in any manner, it may be restored provided any such repair or restoration is begun within three months of such destruction date and completed within eighteen months.

(b) When a nonconforming structure, devoted to a conforming activity, is destroyed or damaged in any manner, it may be restored provided any such repair or restoration is begun within three months of such destruction date and completed within eighteen months.

(c) When a conforming structure devoted to a nonconforming activity is damaged or destroyed, or when a nonconforming structure devoted to a conforming activity is damaged or destroyed, it either may be repaired or restored, provided any such repair or restoration is begun within three months of such destruction date and completed within eighteen months.

Sec. 23-567 – 23-590. Reserved.

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ARTICLE V. BOARD OF ZONING APPEALS; PROVISIONS FOR APPEAL

Sec. 23-591. Board of zoning appeals Appointment; compensation; removal, etc.

(a) A board consisting of five members shall be appointed by the circuit court of the county. The board shall serve without pay other than for traveling expenses, and members shall be removed for cause upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(b) The term of office shall be for five years except that, of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years, and one for one year. One of the five appointed members may be an active member of the planning commission.

(c) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

(d) The board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.

Sec. 23-592. Same Powers and duties.

The board of zoning appeals shall have the following powers and duties:

- (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.
- (2) To authorize upon appeal in specific cases such variance from the terms of this Chapter 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 this Chapter shall be observed and substantial justice done, as follows:
 - a. When a property owner can show that his property was acquired in good faith 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 Chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, 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 this Chapter.

***State law reference.** Written notice of zoning violation or written order of zoning administrator must provide for right of appeal within thirty days, Code of Virginia, '15.2-2311. Applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

- b. No such variance shall be authorized by the board unless it finds:
 1. That the strict application of this Chapter would produce undue hardship;

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2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 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 23-596.
 - d. No variance shall be authorized unless the board 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 reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.
 - e. In authorizing a variance, the board 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 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. No such appeal shall be heard except after notice and hearing as provided by Section 23-596.
 - (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 any such question, and after public hearing with notice as required by Section 23-596 the board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.
 - (5) No provision of this Chapter shall be construed as granting the board the power to rezone property.

Sec. 23-593. Rules and regulations.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.
- (b) The meetings of the board shall be held at the call of the chairman or at such time as a quorum of the board may determine.
- (c) The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses.
- (d) The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- (e) All meetings of the board shall be open to the public.

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- (f) A quorum shall be at least three members.
- (g) A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

Sec. 23-594. Appeal to the board of zoning appeals.

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator. Such appeal shall be taken within thirty days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal, specifying the grounds thereof. The administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

Sec. 23-595. Appeal procedure.

(a) Appeals shall be mailed to the board of zoning appeals, c/o the zoning administrator, and a copy of the appeal mailed to the secretary of the planning commission; a third copy shall be mailed to the individual, official, department or agency concerned.

(b) Appeals shall be accompanied by a certified check for the appropriate fee contained in the "schedule of fees" adopted by resolution of the town council.

Sec. 23-596. Public hearing.

The board of zoning appeals shall fix a reasonable time for the hearing of an appeal, give public notice thereof as presented in the Code of Virginia, Section 15.2-2204, as amended, as well as due notice to the parties in interest and decide the same within sixty days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the board and shall be public records. The chairman of the board or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses.

Sec. 23-597. Decision of Board of Zoning Appeals.

(a) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the town, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty days after the filing of the decision in the office of the board.

(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto

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must be made and served upon the realtor's attorney, which shall not be less than ten 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 board and on due cause shown, grant a restraining order.

(c) The board of zoning appeals shall not be required to return the original papers 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.

(d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings 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.

(e) Costs shall not be allowed against the board unless it shall appear to the court that it acted in bad faith or with malice in making the- decision appealed from.

Sec. 23-598 - 23-630. Reserved.

ARTICLE VI. CONDITIONAL ZONING

Sec. 23-631. Generally.

An applicant for a rezoning may proffer in writing, before the public hearing by the town council, conditions to be placed on the approval of the rezoning.

Sec. 23-632. Procedures.

Proffers shall be presented to the planning commission at the advertised public hearing for the rezoning. The planning commission shall make a recommendation on the acceptance of the proffers and the rezoning to the town council following the procedures described for amendments to this chapter. Final proffers shall be received in writing, signed by the owner and the applicant, at least five days prior to the advertised hearing of the town council.

Sec. 23-633. Proffer standards.

The conditions proffered shall meet the following standards:

- (1) The rezoning itself must give rise to the needs for the conditions.
- (2) Such conditions shall have a reasonable relation to the rezoning.
- (3) All conditions shall be in conformity with the comprehensive plan.

Sec. 23-634. Types of proffers.

The types of conditions proffered shall include, but need not be limited to, the following:

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- (1) Limitations on the use of the land.
- (2) Limitations on the type of housing provided.
- (3) Limitations on the density or intensity of the use.
- (4) On-site or off-site sewer or water improvements.
- (5) On-site or off-site drainage improvements.
- (6) On-site or off-site road, entrance or driveway improvements.
- (7) A particular master development plan or plan features or site layout features.
- (8) Buffer, screening and separation features.
- (9) Requirements concerning the phasing or timing of development.
- (10) The dedication of land for planned roads or for facilities identified in the Stephens City Capital Improvements Plan.
- (11) The construction of planned roads or necessary road improvements.
- (12) The construction of facilities identified in the Stephens City Capital Improvements Plan.
- (13) Cash contributions for road improvements or for planned facilities identified in the Stephens City Capital Improvements Plan.
- (14) Other conditions used to lessen or mitigate the impacts identified in the impact analysis.

Sec. 23-635. Amendment of conditions.

Once accepted and adopted by the town council, such conditions may only be changed through the procedures required for ordinance amendments as described in this chapter.

Sec. 23-636. Enforcement of conditions.

The zoning administrator shall keep records of all conditions attached to rezoning, which shall be readily accessible to the public. The zoning map shall show by appropriate symbol the existence of conditions accepted for rezonings. In addition, the zoning administrator shall maintain a conditional zoning index which shall provide for ready access to the conditions created. Failure to meet all conditions shall constitute cause to deny the issuance of building or occupancy permits. The zoning administrator shall enforce the conditions attached to the rezoning using the following means:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions.
- (2) The bringing of legal action to insure compliance with such conditions, including injunction, abatement or other appropriate actions.

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- (3) The requiring of a guarantee, satisfactory to the town council, in an amount sufficient for the construction of any improvements required by the conditions or a contract for the construction of such improvements. The applicant's guarantee shall be released by the zoning administrator upon the completion of such improvements.

Sec. 23-637 – 23-650. Reserved.

ARTICLE VII. KARST TERRAIN

DIVISION 1. IN GENERAL

Sec. 23-651. Purpose

It is the intent of this section to prevent the loss of life and property, the protection of public health, safety and welfare, by regulating activities in and around karst areas.

Cross references – Section 17 of the Town Charter

State law references – § 5.2-2109 of the Code of Virginia; §10.1-562 of the Code of Virginia; see also §10.1-1000 et seq. of the Code of Virginia Cave Protection Act; § 15.2-2280 through 15.2-2316 of the Code of Virginia; §15.2-2209

Sec. 23-652. Statement of General Intent

This section establishes procedures, limitations, design standards, and performance standards applicable to the areas of the town which have karst terrain (sinkholes, caves, etc.). Sinkholes are found in areas of karst terrain. Karst terrain is generally formed over limestone and dolomite formations. Karst terrains primarily occur within the Valley and Ridge Physiographic Province of western Virginia. Karst type terrains are also known to occur in very limited areas of the Blue Ridge, Piedmont and Coastal Plain Physiographic Provinces of Virginia. Sinkholes and other karst features are known to exist in portions of the town.

Karst terrain is characterized by closed depressions (sinkholes), caves, and underground drainage resulting from the solutioning of the calcium and/or magnesium carbonates. Sinkholes may develop either by solutioning of the surficial carbonate rocks or collapse of underlying caves or open cavities. The actual rock cavity may or may not be choked by residual soil and debris. It is the potential instability of the sinkhole infilling, most often associated with changes in the local hydrology, which traditionally has been the concern of the Town. Those concerns also include the potential impacts of changes in the area's hydrology and water quality.

Sec. 23-653 Definitions

Applicant – Any person submitting plans for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.

Cave - A hollow in the earth, esp. one opening more or less horizontally into a hill, mountain, etc.

Developer – A person who invests in and develops the urban or suburban potentialities of real estate, esp. by subdividing the land for development.

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Geotechnical Engineer - a Virginia Registered Professional Engineer engaged in the practice of geotechnical engineering who is engaged in the practice of engineering geology.

Karst Feature - Karst topography is a landscape created by dissolving sedimentary rock such as limestone. Karst features include sinkholes, fissures enlarged by dissolution, and caves.

Owner of Land or Landowner - Any person who holds title to or is in possession of any land, whether as owner, lessee or otherwise.

Person - Any natural person, any state, municipality, or other political subdivision, or other public agency or instrumentality, any public or private corporation, any partnership, firm, association, or other legal representative of any of the foregoing and any other entity.

Pollutants - Anything which, when introduced into water, alters the chemical, physical, biological or radiological properties of water.

Sinkhole - Any depression in the surface of the ground with or without collapse of adjacent rock which provides means through which surface water can enter the ground and thereby come into contact with subsurface water. Definition includes blind valleys, intermittent streams and subsurface streams.

Substances and Objects - All substances and objects, whether or not man-made and whether in liquid, solid or gaseous form.

Subsurface Water - Any water below the surface of the ground including, but not limited to, water in the saturated and unsaturated zones.

Sec. 23-654 – 23-670. Reserved

DIVISION 2. DEVELOPMENT AREAS

Sec. 23-671. Karst in Areas of Rezoning

Prior to an application being filed for a rezoning, the applicant shall have a Geotechnical Engineer undertake an inspection of the rezoning area and surrounding areas. The Geotechnical Engineer shall review available geologic and engineering data and aerial photographs relevant to the area, and shall make on-site observations, photographs, and measurements as appropriate. The geotechnical engineer shall provide a written summary of the initial findings along with a recommendation to perform Fracture Trace Analysis, Electrical Resistivity, Electrical Conductivity, Cone Sounding, Core Samples, Microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the requested rezoning and planned land use is appropriate for the underlying geology.

The Geotechnical Engineer shall provide a written report to the Zoning Administrator of all findings pertaining to the presence of karst features. The report shall fall into one of the following categories:

- (a) *No Evidence of Karst Features* - If the Geotechnical Engineer finds that the site has no evidence of karst features, he shall so indicate in the written report.
- (b) *Evidence of Karst Features* - In cases where the Geotechnical Engineer finds evidence that karst features do exist, and development is proposed within a 100 foot radius of identified karst features, or where karst features are identified along a linear trend of three or more karst features

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and elements of the proposed development fall within a 100 foot distance from any part of the linear karst features, the karst features shall be mapped and documented. For sinkholes, the 100 foot radius shall be measured from the discernable edge. Following the Zoning Administrator's review of the Geotechnical Engineer's written report, the Zoning Administrator may do one of the following:

- (1.) Require additional information and/or clarification on the report contents and findings.
- (2.) Direct the Applicant and Geotechnical Engineer to prepare a Karst Plan in accordance with the requirements contained herein.

(c) *Karst features are present on the site but are not impacted.* - In cases where the Geotechnical Engineer finds evidence that karst features do exist in the vicinity of the proposed development area, but the karst features are not impacted by the proposed development, the features shall be mapped and the findings documented. Development shall be 100 feet or more away from all karst features in order to meet this criterion. For sinkholes, the 100 foot radius shall be measured from the discernable edge. The burden of proof for establishing that there will be no significant impacts shall rest with the applicant. Following the Zoning Administrator's review of the Geotechnical Engineer's written report, the Zoning Administrator may do one of the following:

- (1.) Require additional information and/or clarification on the report contents and findings.
- (2.) Direct the Applicant and Geotechnical Engineer to prepare a Karst Plan in accordance with the requirements contained herein

Sec. 23-672. Karst in Areas of Subdivision or Site Plans

Prior to an application being filed for a subdivision and/or site plan, the applicant shall have a Geotechnical Engineer undertake an inspection of the project area and surrounding areas. The Geotechnical Engineer shall review available geologic and engineering data and aerial photographs relevant to the area, and shall make on-site observations, photographs, and measurements as appropriate. The geotechnical engineer shall provide written summary of the initial findings along with a recommendation to perform Fracture Trace Analysis, Electrical Resistivity, Electrical Conductivity, Cone Sounding, Core Samples, Microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the requested subdivision/ site plan and planned land use is appropriate for the underlying geology.

The Geotechnical Engineer shall provide a written report to the Zoning Administrator of all findings pertaining to the presence of karst features. The report shall fall into one of the following categories:

- (a) *No Evidence of Karst Features* - If the Geotechnical Engineer finds that the site has no evidence of karst features, he shall so indicate in the written report.
- (b) *Evidence of Karst Features* - In cases where the Geotechnical Engineer finds evidence that karst features do exist, and development is proposed within a 100 foot radius of identified karst features, or where karst features are identified along a linear trend of three or more karst features and elements of the proposed development fall within a 100 foot distance from any part of the linear karst features, the karst features shall be mapped and documented. For sinkholes, the 100 foot radius shall be measured from the discernable edge. Following the Zoning Administrator's review of the Geotechnical Engineer's written report, the Zoning Administrator may do one of the following:

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- (1.) Require additional information and/or clarification on the report contents and findings.
 - (2.) Direct the Applicant and Geotechnical Engineer to prepare a Karst Plan in accordance with the requirements contained herein.
- (c) *Karst features are present on the site but are not impacted.* - In cases where the Geotechnical Engineer finds evidence that karst features do exist in the vicinity of the proposed development area, but the karst features are not impacted by the proposed development, the features shall be mapped and the findings documented. Development shall be 100 feet or more away from all karst features in order to meet this criterion. For sinkholes, the 100 foot radius shall be measured from the discernable edge. The burden of proof for establishing that there will be no significant impacts shall rest with the applicant. Following the Zoning Administrator's review of the Geotechnical Engineer's written report, the Zoning Administrator may do one of the following:
- (1.) Require additional information and/or clarification on the report contents and findings.
 - (2.) Direct the Applicant and Geotechnical Engineer to prepare a Karst Plan in accordance with the requirements contained herein

Sec. 23-673. Karst Plan

A karst plan shall be developed by the Geotechnical Engineer for the property or properties identified as having evidence of karst features (i.e., sites upon which sinkholes are fully or partially located and/or which drain to sinkholes). The karst Plan shall become a part of the rezoning, subdivision and/or site plan application package and shall include the following:

1. An engineering audit that identifies and maps karst features and the limitations that such features impose on land use changes in the project area. The audit shall include but not be limited to:
 - a. The physical location and limits of the area of karst terrain as determined by field survey, the "Soil Survey of Frederick County" (1982), Geology and Mineral Resources of Frederick County, Bulletin 80, published by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Resources, or other reliable sources as may be approved by the Zoning Administrator;
 - b. Locations of all newly and previously field surveyed/mapped karst features that are directly and indirectly affected by the proposed project, whether on or off of the land parcel being considered;
 - c. Geological mapping of the area showing subsurface drainage patterns, faults, folds, strike, dip, geology, etc.;
 - d. Principal drainage patterns identified by arrows showing the direction of surface water flow;
 - e. Topographic contours at maximum intervals of two feet, and spot elevations sufficient to determine low points and discernable edges of karst features;
 - f. Setback distances of 100 feet from the discernable edge of each feature; and
 - g. The area of proposed development.

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2. For development features proposed within 100 feet of the discernable edge of karst features, engineering for foundation designs that ensures structural stability.
3. Specific development procedures shall be prescribed by the Geotechnical Engineer for the karst area, which shall be in addition to regulations and restrictions prescribed herein.

The Geotechnical Engineer shall provide his best professional recommendations if and how development of the site can occur without compromising the health, safety and welfare of the public.

Sec. 23-674. Drainage Design Considerations

The following design considerations shall be followed for any projects involving the construction of site improvements or drainage outfalls in areas where sinkholes are present:

Avoidance – Determine if there are any feasible alternatives that would avoid construction in the area of the karst feature. Where the karst feature is the natural outfall for the stormwater runoff, determine if the stormwater runoff can be diverted away from the sinkhole to an adequate surface water channel.

Minimization of Impacts from Direct Discharges – If avoidance is not possible, drainage outfalls should include natural buffer zones between the outlet of the drainage structure and the sinkhole in order to provide for a natural filtering process. Where stormwater runoff naturally terminates in sinkhole areas, vegetated flow areas (minimum 100' in length), runoff spreaders and vegetated swales should be used between the outlet of the drainage structure and the bottom of the karst feature in order to provide for filtering of the flow. If concentrated flow from a paved area is being directed into the bottom of the sinkhole, a stormwater management water quality basin or other type of water quality filtering device should be incorporated into the design. The water quality basin or filtering device should not be located in the bottom (throat) of the sinkhole (where the flow enters the ground) but rather should be located as close to the storm drain discharge point as practicable. Stormwater management basins constructed in these areas will require an impermeable lining in order to prevent impacts to the underlining soil and subsurface area. A stormwater management basin may also be needed to provide attenuation of any increased flow quantity that may be directed toward the sinkhole. In no case should the rate of runoff be changed between the pre-development conditions and the post-development conditions without the direction of the Geotechnical Engineer.

Flooding of Karst Features -If stormwater runoff from a project must be directed to a karst feature, the area of the karst feature should be investigated by the Geotechnical Engineer to determine if any existing ponding occurs during rainfall events. The drainage design for the project should reflect how the sinkhole is anticipated to function after completion of the construction activities. The project should be designed to avoid any flood damages resulting from potential blockage and ponding in the sinkhole area.

Sec 23-675 – 23-690. Reserved

DIVISION 3. ENVIRONMENTAL

Sec. 23-691. Environmental Concerns and Considerations

The Town relies on clean subsurface water flowing into the quarries to supply safe potable water for town and county citizens. Clean groundwater resources are essential for the economic and social development of the Town. The karst terrain which underlies portions of the Town creates a high contamination potential due to surface water drainage patterns flowing into sinkholes and other karst features.

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Additionally, the EPA, VDOT, and the Town have concerns with changes to the existing hydrology at sinkhole locations. These concerns include:

Water Quality – Sinkholes are often direct links to underground sources of drinking water. Stormwater runoff from development projects and highways could potentially contain various constituents such as oil, grease, heavy metals and salt that could enter and impact these water supplies. The underground ecosystems could potentially be impacted by runoff containing sediment generated both during and following construction and material from potential spills resulting from traffic accidents or other actions once the development project is operational.

Water Quantity – Directing additional stormwater flow to a sinkhole can result in the enlargement of the feature, create surface failures and erosion and cause flooding of adjacent property. Increasing the quantity of stormwater runoff flowing to a sinkhole can also cause the characteristics of the sinkhole opening to change in such a manner so as to restrict the flow into the subsurface, resulting in greater surface ponding in and around the area of the sinkhole.

Instability – The area within and surrounding a sinkhole can settle or sink unexpectedly, resulting in loss of competent structural material and damage to overlying structures.

Sec. 23-692. Safe Drinking Water Act

Pursuant to the Safe Drinking Water Act, the US Environmental Protection Agency (EPA) regulates the discharge of stormwater runoff into “improved” sinkholes through their Underground Injection Control (UIC) Program. The improvement of sinkholes, and subsequent directing of water into the subsurface, is classified as underground injection. Improved sinkholes used for this purpose are classified as a Class V Underground Injection Wells and may require a permit to function as a recipient of stormwater runoff.

The EPA classifies the following activities as sinkhole “improvements”:

- Cleaning out a sinkhole to facilitate drainage.
- Cutting a ditch to the base or mouth of a sinkhole.
- Piping stormwater runoff to a sinkhole.
- Cutting brush to facilitate stormwater flow to a sinkhole.

The EPA does not regulate (i.e., require a permit for) stormwater discharges that flow naturally into sinkholes without modification to the sinkhole.

Any “improvements” to sinkholes must be recommended by the Geotechnical Engineer. If those recommended improvements result in the need for an EPA permit, all EPA permit requirements shall be satisfied by the applicant prior to final action by the Planning Commission and/or Town Council.

Sec. 23-693. Caves

Virginia is rich in cave and karst resources with over 4000 known caves. The Virginia Department of Conservation and Recreation, Division of Natural Heritage (DCR), is responsible for overseeing the protection of caves and karst in Virginia. The Virginia Cave Board works directly with DCR to conserve and protect caves and karst of the Commonwealth and to advocate the wise use of these resources. DCR and the Virginia Cave Board have oversight responsibilities for caves in Virginia. To that end, no construction activities shall be permitted in or around caves without the applicant first obtaining a permit from the Virginia Department of Conservation and Recreation, Division of Natural Heritage. DCR will act as the coordinating agency and will solicit reviews and comments from other agencies that have jurisdiction over caves and their contents.

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All activities in and around caves shall satisfy the requirements of the Virginia Cave Protection Act.

Sec 23-694 – 23-710. Reserved

DIVISION 4. DEVELOPMENT REQUIREMENTS

Sec. 23-711. Requirements and Restrictions in Karst Areas

The following requirements and restrictions pertaining to development in and around karst areas are intended to establish minimum requirements. Those recommendations provided by the Geotechnical Engineer in his Karst Plan shall be considered in addition to these requirements and restrictions.

1. No construction or land disturbance shall occur within 100 feet of the discernable edge of a sinkhole or other karst feature unless the Geotechnical Engineer has indicated in the Karst Plan that such construction or earth disturbance is appropriate and the Karst Plan has been approved in a rezoning or subdivision approval action by the Planning Commission and Town Council.
2. Fertilizers, herbicides, and pesticides shall not be applied within the 100 foot area around karst features.
3. No person shall store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole.
4. No person shall burn within a cave or sinkhole any material which produces any smoke or gas which is harmful to any naturally occurring organism in any cave.
5. No person shall remove, kill, harm, or otherwise disturb any naturally occurring organisms within any cave, except for safety or health reasons; however, scientific collecting permits may be obtained from the Virginia Department of Conservation and Recreation.
6. Sinkholes or karst features identified during construction shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD- 228), or other applicable standard as recommended by a Geotechnical Engineer.
7. Flow of surface water to a sinkhole should not be altered from predevelopment conditions. Stormwater flow rates discharging into a karst feature shall not be increased or decreased from the predevelopment rate.
8. Stormwater management basins in karst areas shall be lined with either impermeable soil or a synthetic membrane to prevent sudden loss of the contents of the basin into the groundwater due to induced collapse. Where native materials are deemed adequate for the purpose, the Geotechnical Engineer shall verify conditions, establish the required parameters, and monitor placement.
9. Construction plans shall contain a narrative describing stormwater drainage design, retention, erosion control, and stormwater quality mitigation measures, as these provisions relate to karst features. Best Management Practices for removing pollutants from stormwater are required on all drainage systems discharging into karst features.

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10. Underground utilities located within 100 feet of karst features shall be laid out so that they do not intersect those features. Along all such underground utilities, a dike of clay or other suitable material shall be constructed across the trench of the transmission lines and pipelines at intervals of 20 feet or less, or as directed by a Geotechnical Engineer. Water and sanitary sewer mains shall be constructed of **flanged** ductile iron pipe when placed within 100 feet of a karst feature.
11. For any tests requiring boreholes, such as air track drilling, the boreholes must be grouted upon completion. Grouting should be done with a mixture of 50% bentonite and 50% Portland cement.
12. If air track drilling is used to determine the depth of overburden and continuity of bedrock, then these operations must be monitored full time by a Geotechnical Engineer to confirm the findings of the driller.
13. Geotechnical studies shall be conducted at the site of each proposed building structure to determine the existence of karst features before issuance of a building permit. If karst features are found, the Geotechnical Engineer shall provide an engineered remediation design to support the planned structure. These measures shall become part of the plan set for the planned structure's foundation plan. The Geotechnical Engineer shall observe construction of the remediation and shall certify that the area is safe for building construction prior to the issuance of a building permit.
14. Storage tanks shall have impervious secondary containment. Underground fuel storage tanks shall have interstitial monitoring of tanks and piping systems.
15. No person shall place or cause to be placed, or divert or cause to be diverted, any substances or objects, other than surface water runoff, into any sinkhole.
16. Measures to permanently protect karst features and prevent an attractive nuisance shall be provided by the developer and identified on the site plan. These measures may include fencing and/or signage.
17. No septic systems shall be approved in karst areas due to the extreme risk of groundwater contamination. Development in identified karst areas must connect to public sewer at the owner's expense. Please see Chapter 23, Division 13.
18. Where a sinkhole is being utilized as a drainage outfall, an acceptable legal agreement shall be executed that absolves the Town of any liability and maintenance responsibilities associated with the sinkhole. The agreement should identify the developer or homeowners association as the responsible party for liability or maintenance.

Sec. 23-712. Subdivision Streets to be dedicated to VDOT.

When a street or drainage system is planned that will ultimately be dedicated to the Virginia Department of Transportation, and all or a portion of the planned facilities are in an area of karst terrain, VDOT shall be consulted and direction shall be obtained from VDOT as to if and how the facilities shall be constructed. In addition, where a sinkhole is being utilized as a drainage outfall, an acceptable legal agreement shall be executed that absolves VDOT and the Town of any liability and maintenance responsibilities associated with the sinkhole. The agreement should identify the developer or homeowners association as the responsible party for liability or maintenance. A sample legal agreement can be found in VDOT's Secondary Roads Division's publication "GUIDE FOR ADDITIONS, ABANDONMENTS,

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and AND DISCONTINUANCES – SECONDARY SYSTEM OF STATE HIGHWAYS”. The sample agreement shown in this publication is for stormwater management facilities but it can be modified slightly to cover the use of a sinkhole as a drainage outfall.

Nothing in this section replaces the requirements contained elsewhere in this ordinance.

Sec. 23-713. Miscellaneous Design Criteria.

All other criteria and specifications shall be in accordance with Town standards, where provided. Where Town standards are not provided, the Administrative Body shall provide those standards or shall rule upon the standards proposed by the Geotechnical Engineer. Economic hardship alone shall not prevent prescription of corrective and protective measures.

Sec. 23-714 – 23-730. Reserved.

DIVISION 5. KARST REMEDIATION IN DEVELOPED AREAS

Sec. 23-731. Remediation of Karst features.

In areas of the town where development has previously occurred over karst terrain, karst features may subside or collapse on occasion. In such cases, the Town shall be notified so the karst feature can be observed, and immediate precautions taken to avoid endangering persons and property. After the area has been secured, the Town Engineer shall be notified. The Town Engineer shall develop a remediation plan if determined necessary. The property owner shall bear all responsibility for the remediation of the karst feature.

Sec. 23-732 – 23-740. Reserved.

DIVISION 6. ENFORCEMENT

Sec. 23-741. Enforcement.

This division shall be enforced as set forth in Section 23-4 of the Zoning Ordinance.

Upon receipt of a complaint of a violation of this chapter from any citizen, the Zoning Administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the activity permitted on the site stop until the specified corrective measures are taken, or if activities have begun without an approved plan, the Zoning Administrator may require that all activities stop until an approved plan and required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harm to the groundwater and thus the public water supplies of the town, or endangering the public, or where activities have commenced without an approved plan or the required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and remains in effect for seven days from the date of service, pending application by the town or alleged violator for appropriate relief to the Frederick County Circuit Court. If the alleged violator has not obtained an approved plan and the required permits within seven days from the date of the service of the order, the Zoning Administrator may issue an order to the owner requiring all construction and other work on the site, other than corrective measures, be stopped until an approved plan and all required permits have been

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obtained. All such orders shall be served upon the owner by registered mail or certified mail to the address specified in the permit application or the land records of Frederick County.

Sec. 23-742 – 23-760. Reserved.