

INDEX TO
APPENDIX A
OF THE
CODE OF THE TOWN OF ROCKY MOUNT, VA (2002), AS AMENDED

ZONING & DEVELOPMENT ORDINANCE

Note: Printed herein is the zoning and development ordinance, as adopted by the town council on April 20, 1992, and amended by Ord. of 1-11-93; Ord. of 3-8-93; Ord. of 6-27-94; Ord. of 11-14-94; Ord. of 3-19-01; and Ord. of 9-10-12.

Cross References: Administration, ch. 2; planning and zoning commission, § 2-151 et seq.; animals, ch. 10; livestock, § 10-31 et seq.; buildings and building regulations, ch. 14; compliance with zoning regulations, § 18-78; nuisances, § 22-26 et seq.; fair housing, ch. 26; solid waste, ch. 50; streets and sidewalks, ch. 54; utilities, ch. 58.

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ARTICLE 1.

TITLE, AUTHORITY, PURPOSE

1-1. Title.

An ordinance regulating and restricting the use of buildings, structures, and land, and providing for the administration, enforcement and amendment thereof in the Town of Rocky Mount, and for said purpose of dividing the Town into districts. This ordinance shall be known and cited as the "Zoning and Development Ordinance of the Town of Rocky Mount, Virginia".

1-2. Authority.

Whereas, by act of the General Assembly of Virginia, § 15.2-2280, et seq. of the Code of Virginia (1950), and amendments thereto, the governing body of any municipality may by ordinance classify territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of the article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

1-2-1. The use of land, buildings, structures, and other premises for agricultural, residential, business, industrial, flood plain, and other specific uses;

1-2-2. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

1-2-3. 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 space to be left unoccupied by uses and structures including variations in the sizes of lots based on whether a public community water supply or sewer system is available and used;

1-2-4. The excavation or mining of soil or other natural resources.

1-3. Purpose; intent.

Be it therefore ordained by the Rocky Mount Town Council upon recommendation of the Town of Rocky Mount Planning Commission and having given due notice of public hearings on the proposed zoning ordinance and having held such hearings, that the zoning regulations and districts herein set forth are for the purpose of promoting and improving public health, safety, convenience or welfare and to plan for the future development of the Town and of further accomplishing the objectives of § 15.2-2280 et seq. of the Code of Virginia (1950), as amended, and therefore, the

following is hereby known as the Zoning and Development Ordinance of the Town of Rocky Mount, Virginia, together with the accompanying Official Zoning Map. This ordinance has been designed to:

1-3-1. Provide for adequate light, air, convenience of access, from fire, flood, and other dangers;

1-3-2. Reduce or prevent congestion in the public streets;

1-3-3. Facilitate the creation of a convenient, attractive and secure community;

1-3-4. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, flood protection, parks, playgrounds, forests, recreational facilities, and other public requirements;

1-3-5. 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 or air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic, or other dangers; and,

1-3-6. Encourage economic development activities that provide desirable employment and enlarge the tax base.

1-4. Matters considered in the drawing of this ordinance.

This zoning ordinance and map are developed with reasonable consideration for the existing use and character of property; and the existing land use plan, the suitability of property for various uses, the trends of growth or change, the current and future requirement of the Town as to land for various purposes as determined by population and economic studies and other studies; the transportation requirements of the Town; the housing, parks, playgrounds, recreation areas, and other public services; for the conservation of natural resources, and the preservation of floodplain, and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout Rocky Mount.

ARTICLE 2.

EFFECTIVE DATE

The effective date of this ordinance shall be from and after its passage and legal application, and its provisions shall be in force thereafter until repealed.

ARTICLE 3.

CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS

3-1. Districts.

For the purpose of this ordinance the incorporated area of Rocky Mount, Virginia, is hereby divided into the following districts:

Residential Agricultural	RA
Residential	R1
Residential	R2
Residential	R3
Residential Planned Unit Development	RPUD
Residential Business	RB
Commercial Office	C1
Commercial Office	C2
Central Business District	CBD
General Business	GB
Industrial	M1
Industrial	M2
Public Open Space	POS
Flood Plain	FP1
Flood Plain	FP2

(Amended 1/12/04) (Amended 5/24/04)

3-2. District boundaries.

The boundaries of said zones so designated in Section 1 of this article are hereby established as shown on the zoning map of Rocky Mount on file in the Town Manager's office, which map is hereby declared to be a part of this ordinance. All notations, dimensions, and designations shown thereon shall be as much a part of this ordinance as if the same were all fully described herein.

3-3. Temporary application of the zoning ordinance to property coming into the town by annexation or boundary adjustment.

For the purpose of this ordinance, newly incorporate areas shall be temporarily classified into zoning districts according to the following table pending the orderly amendment of the Zoning Ordinance as provided in § 15.2-2286(A)(2) of the Code of Virginia (1950), as amended.

Franklin County zones will be classified as the following Town of Rocky Mount zones:

Franklin County Zone	Town of Rocky Mount Zone
A1, Agricultural District	RA, Residential Agricultural
RE, Residential Estates District	RA, Residential Agricultural
R1, Residential Suburban Subdivision District, lot size:	
>40,000 ft ² in area	RA, Residential Agricultural
39,999 ft ² - 15,000 ft ² in area	R1, Residential
<15,000 ft ² in area	R2, Residential
R2, Residential Suburban Subdivision District, lot size:	
>15,000 ft ² in area	R1, Residential
<15,000 ft ² in area	R2, Residential
RC1 Residential Combined Subdivision, lot size:	
>40,000 ft ² in area	RA, Residential Agricultural
39,999 ft ² in area - 15,000 ft ² in area	R1, Residential
<15,000 ft ² in area	R2, Residential
RMF, Residential Multifamily District	R3, Residential
RPD, Residential Planned Unit Development District	RPUD, Residential Planned Unit Development
PCD, Planned Commercial Development	C1/C2, Commercial Office
B1, Business District, Limited	GB, General Business
B2, Business District, General	GB, General Business
M1, Industrial District, Light Industry	M1, Industrial
M2, Industrial District, Heavy Industry	M2, Industrial
No Zone	R1, Residential

ARTICLE 4.

DEFINITIONS

4-1. General usage.

For the purpose of this ordinance, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the single tense include the plural, and the plural includes the singular. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The word "shall" is mandatory and the word "may" is permissive. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied". The word "lot" includes the words "plot" or "parcel". The word "building" includes the word "structure". The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of a building". The word "state" means the Commonwealth of Virginia. The word "town" means the Town of Rocky Mount, Commonwealth of Virginia and the term "town boundary" means any exterior boundary of the town. The term "construction standards" means those construction standards as approved by town council and the building official and included in the Virginia Uniform Statewide Building Code. The word "Code of Virginia" shall include "as amended". The word "adjacent" means "nearby" and not necessarily "contiguous".

4-2. Interpretation by the zoning administrator.

In case of any dispute over the meaning of a word, phrase, or a sentence, whether defined herein or not, the zoning administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in Article 1, provided however, that an appeal may be taken from any such determination as provided in Article 11.

4-3. Definitions.

Abattoir: A commercial slaughterhouse.

Accessory structure: See "Building, accessory".

Accessory use: A use of land or a use of a building or structure for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located.

Acreage: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

Administrator, zoning: The Town official charged with enforcement of the zoning

ordinance. The administrator may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

Adult day care center: A facility which provides supplementary care and protection during a part of the day only to four or more aged, infirm, or disabled adults who reside elsewhere, except a facility or portion of a facility licensed by the Commonwealth of Virginia State Board of Health or the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

Adult day care home: A single-family dwelling in which is operated a facility which provides supplementary care and protection during a part of the day only to less than four aged, infirm or disable adults who reside elsewhere, except a facility or portion of a facility licensed by the Commonwealth of Virginia State Board of Health or the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

A-frame or easel sign: Any upright sign with a rigid supporting frame either in the form of an inverted "V" or in the form of an easel. These signs are typically used to display a temporary message and are not permanently affixed to the ground.
(Amended 6/10/02)

Agriculture: The tilling of soil, the raising of crops, horticulture, viticulture, orchards, forestry, gardening, including the keeping of animals, and fowl, and including agricultural industry such as fruit packing plants, dairies or similar uses.

Alteration: Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

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

Apartment house: A building used or intended to be used as the residence of three or more families living independently of each other.

Assisted living facility: Any facility or any identifiable component of a facility in which the primary function is the provision on a continuing basis of shelter and other services, which may include meals, housekeeping, and personal care assistance, for elderly residents who are typically functionally impaired and socially isolated, but otherwise in good health and able to maintain a semi-independent lifestyle, not requiring the more intensive care of a nursing home.

Attached sign: Any sign that is affixed directly to a wall, roof, canopy, awning,

marquee, mansard wall, parapet wall, or porch of a building, and whose face is parallel to the building element to which it is attached. Attached signs have only one face visible from a public right-of-way. *(Amended 6/10/02)*

Auction house: An enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding. The term "auction house" shall not include on-premises estate, foreclosure, real estate or personal property sales conducted upon the estate, foreclosed or for sale property. The term "auction house" shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or sheriff's or bank repossession sales. *(Amended 5/24/04)*

Automobile dealership: The use of any building, land area or other premises for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use. *(Amended 2/5/04)*

Automobile graveyard: Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated are placed. (State Law References: Similar provisions, § 33.1-348 of the Code of Virginia (1950), as amended.)

Automobile rental/leasing: Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas. *(Amended 2/5/04)*

Automobile/truck sales and service: See automobile dealership.

Awning sign: A type of attached sign painted on, printed on, or otherwise affixed to the surface of an awning. *(Amended 6/10/02)*

Banner sign: A sign applied to cloth, paper, flexible plastic, or fabric of any kind and generally intended to be displayed on a temporary basis. *(Amended 6/10/02)*

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

Bed and breakfast establishment: A home occupation involving the rental of up to four rooms to overnight guests and offering breakfast meals only to said guests.

Boarding house: A building where, for compensation, lodging or meals are provided for at least five and up to 14 persons.

Building: Any structure having a roof supported by columns or walls, for the housing

or enclosure of persons, animals or chattels.

Building, accessory: A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such building structure shall be used for housekeeping purposes, with the exception that dwelling use shall not be prohibited for temporary family health care structures (as defined).

Building, community accessory: In high-density housing or planned developments, a structure and associated amenities owned and operated by a community corporation or association for the purpose of providing common meeting, social, recreational or dining spaces for the benefit of the members of the corporation or association. Some examples include: clubhouses, swimming pools and poolhouses, dining halls, ballrooms, tennis courts, locker rooms, recreational fields and associated buildings or similar uses associated with the mission of the corporation or association.

Building footprint: The outline of the total area covered by a building's perimeter, as measured from the outside of all exterior walls, at the ground level.

Building, height of: The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front to the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof, or to the mean height level between the eaves and 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.

Building, industrialized: A building constructed in one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection with or without other specified components, to comprise a finished building. All industrialized buildings shall meet the Southern Standard Building Code, BOCA National Building Code, or the ICBO Uniform Building Code and all applicable provisions of the Virginia Uniform Statewide Building Code. Manufactured homes are not considered industrialized buildings. *(Amended 12/10/07)*

Building line: The imaginary line extending across the front-most portion of a structure from side property line to opposite property line.

Building, main: 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.

Business sign: A sign which directs attention to a profession or business conducted, or to a commodity, service authority or entertainment sold or offered, upon the premises where the sign is located or in a building to which the sign is affixed. *(Amended 6/10/02)*

Business support services: Establishments or places of business engaged in the sale,

rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firm, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

Cabinet sign: A separate sign structure having definitive geometric limits and depth which encloses a particular message. Signs such as, but not limited to, plexiglass face signs shall be considered cabinet signs. Freestanding letters, numerals, or symbols affixed to or painted on a wall or similar surface shall not be considered cabinet signs. (Amended 6/10/02)

Cellar: A story having more than one-half of its area below grade and which may not be occupied for dwelling purposes.

Child day center: A facility complying with applicable Commonwealth of Virginia licensing requirements and operated for the purpose of providing care, protection and guidance to a group of 13 or more children separated from their parents or guardians during a portion of the day.

Church: An institution of the community for the practice of established religion including worship, religious education, and conduct of approved church programs and activities within the church proper.

Club: A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organizations, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A "club" does not include a building in which members reside. (Amended 2/5/04)

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

Commercial sign: A sign informing or advertising products or activities for sale or profit. (Amended 6/10/02)

Commercial truck: Any vehicle weighing more than 4,500 lbs. (empty weight) which is used for commercial purposes will be considered in this ordinance as a commercial truck.

Commission, the: The planning commission of Rocky Mount, Virginia.

Communications service center: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as major utility services or wireless telecommunications facilities. Typical

uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

Community center: See *community accessory building*.

Conditional zoning: Flexible provisions to provide the council and planning commission a degree of flexibility in proposed developments by use of special conditions agreed to by the owner and the governing body. In return for an owner agreeing to certain improvements or protection felt by the governing body to be necessary for the public good, a conditional zoning permit and contract called a proffer may be entered with the owner. Any proffered conditions must be present before the required hearing. Provisions for conditional zoning are found under § 15.2-2241-15.2-2246 of the Code of Virginia (1950), as amended. Council may direct that any permanent proffers affecting the real estate or real property be recorded in the instrument of legal title.

Condominium: Real property lawfully in existence pursuant to a condominium instrument created under the Condominium Act, Code of Virginia (1950), § 55-79.39 et seq., as amended. Condominiums shall be treated pursuant to this ordinance the same as any physically identical project under different forms of ownership.

Construction sign: A temporary sign identifying an architect, developer, builder, general contractor, subcontractor, material supplier, and/or financing entity participating in construction on the property on which the sign is located. (*Amended 6/10/02*)

Custom manufacturing: Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln. (*Amended 10/19/04*)

Dairy: A commercial establishment for the production and sale of wholesale dairy products.

Dance school: Any place, however designated, operated for the purpose of providing instruction in the art of dancing during any part of the day between the hours of 8:00 a.m. and 8:00 p.m., exclusive of Sundays and holidays.

Data center: An industrial building designed to hold large numbers of servers, computers, switches and related electronic equipment to facilitate storage of data from off-site sources. Typically, data centers include infrastructure support for high-speed communications connections, as well as the back-up power supplies required to maintain the integrity of the center in case of disaster.

Development: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, the placement of

manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations. (Amended 12/10/07)

Directional sign: Any sign displayed for the direction and convenience of the public, including signs which identify rest rooms, location of public telephones, public entrances, freight entrances or the like. (Amended 6/10/02)

District: A portion of the town within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are not permitted as set forth by this ordinance, within which certain yards and other open spaces are required, within which certain lot areas are established, or within which a combination of such conditions apply.

Double faced sign: A sign in which the opposite sides used to display information, provided that the opposite side is not placed at more than a 60 degree angle with the observed side. (Amended 6/10/02)

Dwelling: Any building, or portion thereof, which is designated for use for residential purposes, except hotels, motels, boarding houses, lodging houses, tourist cabins, and automobile trailers.

Dwelling, attached: One of two or more residential buildings having a common or party wall separating dwelling units.

Dwelling, multifamily: A building containing three or more dwelling units (an apartment house), with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family: A residential dwelling unit other than a manufactured home designed for and occupied by one family only. Industrialized buildings are considered single-family dwellings for purposes of this ordinance. (Amended 12/10/07)

Dwelling, semi-detached: One of two buildings, arranged as dwellings located on abutting walls without openings, and with each building having a separate lot with minimum dimensions required by district regulations.

Dwelling, single-family detached: A single-family dwelling separated from structures on adjacent lots.

Dwelling, temporary: A portable dwelling not necessarily attached to a permanent foundation.

Dwelling, two-family or duplex: A residential building of not more than two dwelling units, arranged one above the other or side by side, designed for occupancy by not more than two families

Dwelling unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. Each dwelling unit shall be inhabited by only a single family. (Amended 11/13/07)

Facade: The front wall of a building, or any architecturally distinguished wall of a building, or a wall that stands separate from the building behind, suggesting a building of different size or character.

Family: A family shall be defined as one of the following:

- (a) An individual;
- (b) Immediate family and up to two additional persons; or
- (c) A group of not more than four unrelated persons.

Under no circumstance shall a family exceed three persons per bedroom in a dwelling unit as identified by Franklin County Real Estate Records. (Amended 11/13/07)

Family, immediate: Includes the spouse, sons, daughters, mother, father, mother-in-law, father-in-law, sisters, brothers, stepparents, stepchildren, stepbrothers, stepsisters, grandchildren, and state-approved foster children of the owner or the head of household of a dwelling unit. (Amended 11/13/07)

Family day home: A single-family dwelling in which a facility as defined in § 63.2-100 of the Code of Virginia (1950), as amended, is operated for the purpose of providing care for more than five but less than 13 children separated from their parents or guardians during a portion of the day, exclusive of the provider's own children and any children who reside in the home. The care of five or less children for portions of a day shall be considered a home occupation.

Farmers' market: Any structure or land used for the sale or offering for sale of agricultural or horticultural produce, excluding livestock.

Flashing sign: An illuminated sign on which artificial light is not kept constant in intensity at all times when in use. Illuminated signs which indicate public service information such as time, date, temperature, weather or similar information should not be considered "flashing" signs. (Amended 6/10/02)

Flea market: An occasional or periodic market held in an open area, building or structure where groups of individual sellers offer goods for sale to the public and where there are ordinarily no long-term leases between sellers and operators.

Flood or flooding: (1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal water; or, the unusual and rapid accumulation or runoff of surface waters from any source; (2) The collapse or subsistence of land along the shore of a lake or other body of water as

a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part (1) of this definition.

Floodplain or floodprone area: Any land area susceptible to being inundated by water from any source.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freestanding sign: A sign which is supported by structures or supports in or upon the ground and is independent of any support from any building. This does not include portable or trailer type signs. (Amended 6/10/02)

Frontage: The minimum width of a lot measured from one 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.

Funeral home: A mortuary service facility licensed and inspected by the Commonwealth of Virginia which provides ordinary and customary on-site funerary services after death and before final disposition of a body, including, but not limited to: transfer of decedent remains to or from other mortuary services; embalming and associated disposition of fluids; preparation of remains for viewing and burial; holding wakes, memorials and funeral services; cremation of remains; pre-need planning; casket and vault sales; storage and parking for vehicles ordinarily used for funeral transportation.

Garage, private: Accessory 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.

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

Garden center: Establishments or places of business primarily engaged in retail or wholesale (bulk) sale from the premises, of trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell some material which they grow themselves. Typical uses include

plant nurseries, plant stores, and lawn and garden centers. *(Amended 2/5/04)*

Gasoline service station: A retail activity operated for the sale of gasoline, oil, minor accessories and vehicle repair work. All repair work, other than the sale of fuel and other products, shall be conducted within a completely enclosed building.

Gasoline station, self-service: A retail activity operated for the sale of gasoline, oil, minor accessories and other retail products (e.g., grocery items). No vehicle repair work is permitted on the premises.

Governing body: The town council of Rocky Mount, Virginia.

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

Group home: A dwelling unit serving up to eight mentally ill, mentally handicapped, or developmentally disabled persons who reside with one or more resident counselors or other staff persons in a residential facility for which the Virginia Department of Mental Health, Mental Retardation, and Substance Abuse services is the licensing authority under the Code of Virginia (1950), as amended. For the purposes of this definition, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401 of the Code of Virginia (1950), as amended. *(Amended 11/13/07)*

Guestroom: A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

Halfway house: Adult- and/or juvenile-care institutions or facilities established, operated or used by the Virginia Department of Corrections, the Federal Bureau of Prisons or any other agency or agent for such agencies that provides temporary accommodation, rehabilitation and counseling to persons re-entering society after being released from a correctional facility or other similar institution.

Historic district sign: A sign within a historic district announcing the location of a historic district, landmark, historic area, monument or property. These signs may have information relating to the historic, architectural, cultural, or archaeological significance of the historic area. *(Amended 6/10/02)*

Historic site sign: A sign erected and maintained by a public agency, or non-profit historical society, that identifies the location of, and provides information about, a historic place or event.

Home garden: A garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises.

Home occupation: An occupation carried on by the occupant of a dwelling unit as a secondary use, provided that: (a) No person other than members of the family residing on the premises shall be engaged in occupations; (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation; (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. Signs are not permitted in the conduct of a home occupation. (d) No home occupation shall be conducted in any accessory building. (e) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; (f) There shall be no sales in connection with such home occupation; (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuation in line voltage off the premises.

Home occupation sign: A sign associated with home occupation uses as provided for elsewhere in this ordinance. (Amended 6/10/02)

Home-owners' association: A non-profit organization (also known as an HOA) operating under recorded land agreements through which: (a) Each lot and/or home owner in a clustered or planned development is automatically a member; (b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and, (c) The charge, if unpaid, becomes a lien against the property.

Hospital: A facility, licensed by the Commonwealth of Virginia, in which the primary function is the provision of diagnosis, treatment and medical and nursing services, surgical or nonsurgical, for sick or injured persons, and which provides inpatient beds, and including ancillary facilities for outpatient and emergency care, training, research, administration and employee, patient and visitor services, but not including a facility exclusively or primarily for the care and treatment of psychiatric patients or persons suffering from substance abuse.

Hospital, special care: A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

Hotel: A building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals,

and in which provision is not generally made for cooking in individual rooms or suites.

Identification sign: A permanent on-premises sign displaying only the name of a subdivision, multi-family housing project, shopping center, industrial park, office park, church, school, public or quasi-public facility or similar type use. An identification sign shall not be used for commercial or advertising purposes. (Amended 6/10/02)

Illuminated sign: Any sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. (Amended 6/10/02)

In-fill lot: Any lot, or parcel of land which legally existed at the time of the enactment of this ordinance with less than 150 feet of frontage on a public street. In fill lots are undeveloped lots surrounded by developed property. An "in-fill lot" may have been the earlier site of a building which was razed. The distinguishing feature of an "in-fill lot" is its being an undeveloped lot within a wholly developed area. Lots, tracts and acreage with more than 150 feet of frontage are not considered "in-fill" for purposes of this ordinance.

Junkyard: 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 § 33.1-348 of the Code of Virginia (1950), as amended.

kennel: An enclosure or structure used to house, shelter, restrain, exercise, board, breed, handle or otherwise keep or care for more than two dogs six months of age or older, from which they cannot escape. The enclosure or structure shall not mean a dwelling or a fence used to demarcate a property line.

Laboratory, research: A facility for scientific laboratory research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities. (Amended 2/5/04)

Laboratory, support: A facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials. The scientific analysis is generally performed for an outside customer, to support the work of that customer. This category includes environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products. Forensic laboratories for analysis of evidence in support of law enforcement agencies would also be included in this category. (Amended 2/5/04)

Lintel: The horizontal support member across the head of a door or window.

Livestock market: A commercial establishment wherein livestock is collected for sale and auctioned off.

Lodge: A facility providing meeting, recreational, social and/or dining spaces for a fraternal organization. Compare to *club*.

Lot: 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 ordinance, 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: A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.

Lot, depth of: The average horizontal distance between the front and rear lot lines.

Lot, double frontage: an interior lot having frontage on two streets.

Lot, flag/pipe stem: A lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipe stem lots are also referred to as panhandle lots or flag lots. *(Amended 4/14/03)*

Lot, interior: Any lot other than a corner lot.

Lot, irregular: A lot of such shape or configuration that technically meets the area, frontage and width to depth requirements of this ordinance, but meets these requirements by incorporating unusual elongations, angles, or curvilinear lines unrelated to topography or other natural land features. *(Added 4/14/03)*

Lot width: The average horizontal distance between side lot lines.

Lot of record: A lot which has been recorded in the office of the Clerk of the Circuit Court.

Manufacture and/or manufacturing: The process 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.

Manufactured home: A structure subject to federal regulation and which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the

required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. *(Amended 12/10/07)*

Manufactured home park: Lots or parcels of land designed for temporary or permanent parking and occupancy of one or more manufactured homes for human habitation. The location and operation of these parks are governed by the provisions of this ordinance, and the Uniform Statewide Building Code. A manufactured home park or subdivision shall contain at least five acres, and contain 25 or more manufactured homes for residential occupancy. *(Amended 12/10/07)*

Mini-warehouse; self serve storage: A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual compartmentalized and controlled-access stalls or lockers for the dead storage of customer's goods or wares. Mini-warehouses shall not be used as a site for the sale of goods or services.

Monument sign: A freestanding sign directly affixed to a structure built on-grade in which the sign and the structure are an integral part of one another. *(Amended 6/10/02)*

Motel: Any group of dwelling units, combined or separated, used for the purpose of housing more than 14 transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facility.

Mural sign: A permanent mural or message painted directly onto a building surface. *(Amended 6/10/02)*

Neighborhood grocery: A single store, the ground floor of which is 3,000 square feet or less and which offers for sale primarily most of the following articles: bread, milk, cheese, fresh produce, canned and bottled foods and drinks, tobacco products, candy, papers, magazines and books. Gasoline may also be offered for sale but only as a secondary activity. No more than three gasoline pumps are permitted at a neighborhood grocery and no auto repair work is allowed on the premises. Such establishments are commonly referred to as *convenience stores*.

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

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

Nonconforming sign: Any sign, the area, dimensions or location of which were lawful

at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision, or amendment of this ordinance. (Amended 6/10/02)

Nursery, horticultural: An agricultural or commercial facility wherein plants, trees, and shrubs are raised from seed or root stock for sale in retail or bulk garden centers.

Nursing home: Any facility or identifiable component of a facility in which the primary function is the provision on a continuing basis of nursing services and health related services for the treatment and in-patient care of two or more non-related individuals and which is licensed by the Commonwealth of Virginia as a nursing home, but excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Off-premises sign: Any sign which directs attention to a message, or business, commodity, activity, service or product not conducted, sold, or offered upon the premises where the sign is located. These signs may also be known as location signs, billboards, outdoor advertising signs, or general advertising signs. (Amended 6/10/02)

Office, general: Use of a site for business, professional or administrative offices, excluding medical offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices, or law, architectural, engineering, accounting or other professional offices. (Amended 2/5/04)

Office, medical: Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. (Amended 2/5/04)

On-premises sign: Any sign which directs attention to a message, or business, commodity, activity, service or product conducted, sold or offered upon the premises where the sign is located. (Amended 6/10/02)

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

Outdoor craft/food sales: During a town festival, the sale of crafts, bake goods and other food items to the general public. These sales are limited to five days' duration at any one time and no more than two events are allowed in a calendar year.

Outpatient mental health and substance abuse center: Establishments with medical staff providing outpatient services related to the diagnosis and treatment of

mental health disorders, and/or alcohol, drug or other substance abuse. These establishments may provide counseling and/or refer patients to more extensive treatment programs, if necessary. Included in this use type are outpatient alcohol treatment centers, outpatient detoxification centers, outpatient drug and substance abuse centers, and outpatient mental health centers. *(Amended 2/5/04)*

Parking, off street: Any space specifically allotted to the parking of motor vehicles. Such space shall not be in a public right-of-way.

Pennant sign: Pieces of cloth, plastic or flexible material generally triangular or rectangular in shape, and which typically are strung together in a series of lines which are hung from poles, between buildings or in other arrangements for the purpose of decoration or attracting attention on a temporary basis. *(Amended 6/10/02)*

Personal improvement services: Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health or physical fitness studios, dance studios, handicraft and hobby instruction. *(Amended 2/5/04)*

Personal service establishment: Any building wherein the occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this ordinance, personal service establishments shall include barbershops, beauty parlors, pet grooming establishments, tailors, dressmaking shops, dry cleaners, shoe cleaning, repair shops, photographic studios, linen and diaper service establishments.

Photocopy service: A business that reproduces drawings, plans, maps or other copies by means of blueprinting or photocopying.

Political sign: A sign relating to the election of a person to public office, or a political party, or a matter to be voted upon at an election called by a duly constituted public body. *(Amended 6/10/02)*

Portable sign: A freestanding temporary sign that is designed to be moved easily, and is not permanently affixed to the ground. *(Amended 6/10/02)*

Professional office: An office for the conduct of a professional use by persons generally engaged in rendering personal, executive, sales or administrative services or activities, including law, medicine, theology, architecture, accounting, engineering, insurance, real estate, stock brokers, and administrative agencies considered professional in character. The term, however, does not include repairs on sales or tangible personal property stored or located within the structure nor any use which would create any loud noise or noxious odors.

Projecting sign: A sign that is affixed directly to a wall, roof, canopy, awning, marquee, mansard wall, parapet wall or porch of a building, in which the face is

roughly perpendicular to the building element to which it is attached. (*Amended 6/10/02*)

Public service sign: A sign advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, fund raising activity or similar event when conducted by or for the benefit of any civic, religious, education or charitable cause. (*Amended 6/10/02*)

Public water and sewer systems: A water or sewer system operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the state corporation commission, and subject to special regulations as herein set forth.

Rail transfer facility: A facility, either standalone or incorporated with an industrial facility, designed to accommodate the intermodal transfer of goods and raw materials to or from rail cars and to or from highway carriers.

Real estate sign: An on-premises sign for the purpose of advertising the sale, lease, or the completion of the sale or lease of real estate. (*Amended 6/10/02*)

Recycling collection centers: A neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. The term includes a collection point for bottles, newsprint, paper, aluminum can, and plastic containers generated from residential areas.

Required open space: Any space required in any front, side or rear yard.

Research and development: A business that engages in research, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. (*Amended 2/5/04*)

Restaurant: 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 or refreshment stands. For the purposes of this ordinance, a dinner theater is considered to be a restaurant.

Retail outlet stores: a retail activity offering for sale goods or products which are produced only on the same premises. Outlet stores shall not exceed 25 percent of the total floor area of the manufacturing facility.

Retail stores: A business enterprise whose principal use is the sale of goods, merchandise, and products directly to the consumer.

Retail stores and shops: Buildings for display and sale of merchandise at retail or for

the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following, which will serve as illustration: drug store, news stand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.

Roof sign: A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted or fastened to a roof. (*Amended 6/10/02*)

Rooming house: A building where, for compensation, lodging and meals are provided for one to four persons.

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

Satellite dish antenna (or earth station) height: This shall mean the height of the antenna or dish measured vertically from the highest point of the antenna or dish, when positioned for operation, to the grade or permanent structure to which the antenna or its base is attached.

Sawmill: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products. This use includes lumber mills and planing mills.

Screen planting: The installation of and maintenance of plant material arranged so as to provide a visual barrier at least six feet in height between abutting uses.

Self-serve storage: See definition for mini-warehouse.

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

Shelter: An alternative living site providing accommodations, services, and supervision to individuals who are victims of: abuse, homelessness, teenage pregnancy, orphaned and/or similar uses.

Sign: Any presentation or representation by lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a public business, a commodity, or

product, which are visible from any public way and used as an outdoor display. (Amended 6/10/02)

Sign area: A square, rectangle, triangle, circle, or other geometric configuration, encompassing the entire advertising area, excluding architectural trim and structural supports. (Amended 6/10/02)

Sign height: The vertical distance measured from grade to the highest portions of the sign or sign structure. (Amended 6/10/02)

Sign setback: The minimum distance required between any property line and any portion of the sign or sign structure. (Amended 6/10/02)

Sign structure: The supports, uprights, bracing or framework of any structure, be it single-faced, double-faced, v-type, or otherwise. (Amended 6/10/02)

Special exception: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provision for such special exception is made in this zoning ordinance.

Sports and fitness complex: A facility including the following activities or sports: ice hockey, gymnastics, basketball, football, wrestling, handball, tennis, racquet ball, exercise, running, weight lifting, volley ball, and indoor soccer. The facility may also provide other regular organized or franchised events, health club facilities, swimming pool, athletic courts, snack bar, restaurant and retail stores supporting persons utilizing the complex.

Store: See *retail stores and shops*.

Story: 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. See Virginia Uniform Statewide Building Code for identification of heights associated with various building use classifications.

Story, half: 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 floor area is finished off for use.

Street or road: A thoroughfare which affords principal means of access to abutting property.

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

Structure: Anything constructed or erected, the use of which requires a permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

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

Suspended sign: A sign that is suspended from a wall, roof, canopy, awning, marquee, mansard wall, parapet wall, or porch of a building by means of brackets, hooks or chains, and the like, and whose face is roughly perpendicular or parallel to the building element to which it is attached. *(Amended 6/10/02)*

Temporary sign: An attached on-premises sign, made of non-rigid material, designed and displayed for a seasonal or brief activity such as, but not limited to, sales, specials, promotions, holidays, auctions, business grand openings, and signs advertising the lease or vacancy of rental units in multi-unit residential developments. Symbols, figures, balloons, and other similar items shall be considered temporary signs. *(Amended 6/10/02)*

Theater, indoor: A building designated and/or used for the commercial exhibition of motion pictures or plays to the general public. For the purpose of this ordinance, a dinner theater shall be deemed a restaurant.

Tourist court, auto court, motel, inn, cabins, or motor lodge: One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Tourist home: A dwelling where only lodging is provided for compensation for up to 14 persons (in contradistinction to hotels and boarding houses) and open to transients.

Townhouse: Single-family dwelling units separated by common party walls designed to meet the fire protection requirements as set forth in the Virginia Uniform Statewide Building Code, as amended, in a series of including three or more units. Each unit shall be served by an individual exterior entrance door and shall be

designed to be individually owned along with the parcel of land which it occupies.

Travel trailer: A vehicular, portable structure built on a chassis, as a temporary dwelling for travel, recreation, and vacation, having body width not exceeding eight feet and being of any length provided its gross weight does not exceed 4,500 pounds or being of any weight provided its body length does not exceed 29 feet.

Usable open space: The area of a lot, or the area within a planned unit development, which is not covered by buildings and is not devoted to parking areas, driveways, or other vehicular maneuvering area. Usable open space may include yard areas, as well as other outdoor space available for active or passive use by occupants of the premises, provided that for any area to qualify as usable open space under the requirements of this ordinance, the dimensions of such area shall not be less than 15 feet in length and width. *(Amended 5/24/04)*

Use, accessory: A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

V-shaped sign: A sign with two faces arranged in a v-formation. *(Amended 6/10/02)*

Variance: A relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, 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 for variance, nor shall a variance be granted because of the presence of non-conformities in the zoning division or district or adjoining zoning divisions or districts. No exception to or variance from the terms of this chapter shall be granted for any proposed use, development or activity within the floodway as herein defined which will cause any increase in flood levels during the 100-year flood, or in the floodway fringe and/or additional floodway fringe where applicable, which will increase flood levels beyond the point which the floodplain provisions of this chapter are designed to prevent.

Wayside stand, roadside stand, wayside market: Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

Wholesale: Any business which deals in the bulk supply of goods that are sold to others who will retail the same goods in smaller quantities at a marked-up retail price. A wholesale business is a supply source for goods and raw materials.

Yard: An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(a) **Yard, front:** An open space on a lot 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.

- (b) *Yard, rear:* 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 lot.
- (c) *Yard, side:* 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 Administrator: See administrator, zoning.

ARTICLE 5.

GENERAL PROVISIONS

5-1. Zoning permits and procedure for rezoning.

5-1-1. *Permit required.* No permitted principal or accessory building or structure or use of buildings, structures and uses permissible by special exception or special use shall be constructed, reconstructed, moved, added to or otherwise allowed without a permit issued by the zoning administrator. No building and zoning permit shall be issued except in conformity with the provisions of this ordinance, unless the building inspector receives a written order from the board of zoning appeals and zoning administrator in the form of an administrative order, special exception or variance as provided by this ordinance.

5-1-2. *Exception.* A zoning permit is not required for reconstruction of conforming buildings or structures which do not involve a change in structure size and use.

5-1-3. *Review by commission.* The commission may request a review of a zoning permit in order to determine if the contemplated use is in accordance with the district in which the construction lies.

5-1-4. *Application.* An application for a zoning permit shall be made to the zoning administrator on forms to be provided by the zoning administrator who shall require and be furnished with all such plans and documents as may be required to determine whether the proposed structure and facilities will be in compliance with the provisions of this ordinance. Each such application for zoning permit shall be accompanied by the following items or as much thereof as the zoning administrator deems pertinent and such additional information as the zoning administrator may require as being pertinent:

- (a) A statement from the water and sewer superintendent that applicable regulations and requirements have been complied with.
- (b) A grading permit, as required by the erosion and sediment control ordinance.
- (c) The intended use.
- (d) If a dwelling, the number of families or housekeeping units.
- (e) Two copies of a plot plan signed by the applicant drawn to scale showing dimensions and location of the structure with respect to property lines and public highways; and streets provided, no part of which is to be

located less than the setback distance from any property line right-of-way of any public highway or street. Any other information which the administrator may deem necessary for consideration of the application may be required.

- (f) Number, size, location and lighting of signs, if any.
- (g) Off-street parking and other facilities.

5-1-5. *Structures in violation.* No zoning permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of the provisions of this ordinance or any other applicable law, ordinance or regulations. The issuance of such zoning permit, however, shall not afford protection to any owner who is found to be violating this or any other applicable law, ordinance, or regulation.

5-1-6. *Issuance of zoning permit.* If it appears that the proposed structure and use of land or structure is in conformity with the provisions of this ordinance, a zoning permit shall be issued to the applicant by the zoning administrator.

- (a) *Certificate.* Whenever a zoning permit is issued, the zoning administrator shall also furnish the applicant with a certificate indicating that the said zoning permit has been issued and is valid for the period stipulated therein. The applicant shall thereupon deliver said certificates to the building inspector.

5-1-7. *Lots previously platted.* Residential lots platted before enactment of this ordinance must obtain a zoning permit before construction of structures may begin.

5-1-8. *Conformance to plans.* Zoning permits issued on the basis of the application authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, and construction at variance with the authorized use shall be deemed a violation of this ordinance, and punishable as provided under Article 12 thereof.

5-1-9. *Fire code and safety regulations.* Buildings to which state fire safety regulations apply as set by the State Corporation Commission shall conform to such regulations.

5-1-10. *Conditional use zoning.* (See definition, Article 4.)

In situations where more flexible and adaptable zoning methods are needed, conditional zoning may be allowed subject to certain conditions that are not generally applicable to land similarly zoned.

This article permits conditional zoning on a case-by-case basis. Each conditional zoning is considered an individual amendment to this article, and shall be identified within the zoning map as a conditional zoning with the date of formal council approval. If zoning districts and uses exist within the zoning ordinance and map to accommodate the activity or use requested, a detailed explanation shall be provided to both planning commission and council as to why a conditional zoning is necessary.

1. Conditional zoning shall follow the same requirements as a conventional rezoning with the following additional requirements: proposed amendments to this article may include the proffering in writing, signed by the property owner (and the petitioner if different from the property owner of record), of reasonable conditions in addition to the regulations provided for in the desired zoning district. Any such proffered conditions must be in writing in such format as directed by the town attorney prior to the public hearing held by the governing body. Council may direct that any permanent proffers affecting the real estate or real property be recorded in the instrument of legal title. In addition to any voluntary proffers the document must adhere to the following:
 - (a) The zoning itself must give rise for the need for the conditions.
 - (b) Such conditions shall have a reasonable relation to the zoning.
 - (c) Such conditions shall not include a cash contribution to the town.
 - (d) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the zoning and development ordinance of the Town of Rocky Mount.
 - (e) Such conditions shall not include payment for or construction of off-site improvements except those provided for in the zoning ordinance of the Town of Rocky Mount.
 - (f) No condition shall be proffered that is not related to the physical development or physical operation of the property.
 - (g) All such conditions shall be in conformity with the comprehensive plan, as may be formulated from time to time.
 - (h) A detailed preliminary site plan as provided for under Article 9 of this ordinance shall accompany the application.
 - (i) The town council reserves unto itself the right to specify special

conditions related to signs, parking, transition yards, and hours of operation.

2. The zoning administrator shall be vested with all necessary authority on behalf of the governing body to administer and enforce conditions attached to the amendment to this article, including:
 - (a) The ordering in writing of the remedy of any non-compliance with such conditions.
 - (b) The bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding.
 - (c) Requiring a guarantee satisfactory to the governing body in an amount sufficient for, and conditioned upon, the construction of any physical improvements required by the condition, or a contract for the construction of such improvements and the contractor's guarantee, in like amount to be released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part to the satisfaction of the governing body. Provided, that failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy, or building permit, as may be appropriate.
3. The zoning map shall show by an appropriate symbol upon the map the existence of conditions attached to the affected lot, tract or parcel. The zone district boundary color need not be changed to reflect any approved conditional zoning. The symbol on the zoning map is sufficient to identify the action of council. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance and conditions in addition to the regulations provided for in a particular zoning district or zone.
4. Any zoning applicant who is aggrieved by the decision of the zoning administrator pursuant to the provisions of this sub-section may petition the governing body for the review of the decision of the zoning administrator.
5. There shall be no amendments or variation of conditions created pursuant to the provisions of this sub-section until after a public hearing before the governing body and advertised pursuant to the provisions of the article.

6. Any action or actions of the governing body that legally relieves the owner of any zoning requirements related to land (real estate) or building (real property) related to size, shape, height, setback, side yard, building line, area regulation, or density may be acknowledged in the instrument of title and deed. Issues related to the use or occupancy may not be included in the title instrument, as they do not run concurrently with the real property. The expense of recording such instrument shall be the responsibility of the owner.

5-1-11. *Rezoning procedures.* Rezoning requests will be submitted to the zoning administrator and referred to the planning commission for its review and recommendation. The final determination on the rezoning request will be made by the governing body after the following procedure is completed:

1. The written request for rezoning shall be submitted to the planning commission by the zoning administrator.
2. Notice shall be given of the required public hearing in accordance with the requirements of § 15.2-2204 of the Code of Virginia (1950), as amended. Adjacent property owners (front, back and side) and the applicant shall be notified in writing as to the rezoning or conditional zoning request and public hearing date.
3. A public hearing shall be held by the planning commission. If requested, the zoning administrator may make a report and recommendation to the planning commission on the subject request. Other parties may appear in person and present their views.
4. The commission shall make a recommendation to the governing body after the public hearing is held.
5. The governing body shall then hold its own public hearing in conformity with all notice requirements under § 15.2-2204 of the Code of Virginia (1950), as amended, and make the final determination on the rezoning request.

5-2. Certificates of zoning compliance (occupancy permits) for new, altered or nonconforming uses.

5-2-1. *General.* It shall be unlawful to use or occupy or permit the use of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the administrative official stating the proposed use of the building or land conforms to the requirements of this ordinance.

5-2-2. *Nonconforming structures and uses.* No nonconforming structure or use shall be renewed, changed or extended until a certificate of zoning compliance shall have been issued by the administrative official. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this ordinance. This subsection shall be administered in conformity with, and governed by, the provisions of the § 15.2-2307 of the Code of Virginia (1950), as amended.

5-2-3. *Temporary certificates.* A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

5-2-4. *Administrator.* The administrative official shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

5-2-5. *Violation.* Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and punishable under Article 12 of this ordinance.

5-3. Uses not provided for.

5-3-1. A use not provided for is a use that is not included within the text of the permitted district uses. Because of their nature and anticipated impact, these uses require a review by the commission and governing body before approval is granted. Uses not provided for are treated as a zoning amendment and the town council hereby reserves unto itself the right to approve or disapprove uses not provided for.

5-4. Special exceptions.

5-4-1. *Generally.* A special exception is a conditional use that is permitted within a use district after review and recommendation by the commission and approval by the governing body. The town council hereby reserves unto itself the right to issue such special exception permits (§ 15.2-2286(A)(3) of the Code of Virginia (1950), as amended).

Wherever a use or structure is listed either as a permissible use and/or is listed as a special exception, application shall be made to the zoning administrator who shall refer said application to the planning commission. Procedures and standards for determinations affecting permissible uses or structures and special exceptions shall be as provided in the district regulations and as follows:

5-4-2. *Procedures.* Special exception requests will be reviewed by the

commission upon referral by the zoning administrator. The final determination of the request will be made by the governing body after the following procedure is completed:

- (1) A written application for a special exception or use not provided for shall be submitted indicating the section of this ordinance under which the special exception or use not provided for is sought and stating the grounds on which it is requested.
- (2) Notice of a public hearing or joint hearing shall be in accordance with § 15.2-2204 of the Code of Virginia (1950), as amended.
- (3) A public hearing or joint hearing shall be held. Any party may appear in person, or by agent or attorney.
- (4) The commission shall within 30 days of receiving the application make a recommendation on the subject use after a public hearing is held.
- (5) Before any special exception shall be allowed and the use permit issued, the governing body shall hold a public hearing or joint hearing advertised in accordance with § 15.2-2204 of the Code of Virginia (1950), as amended, and make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following as applicable:
 - (a) Adequate ingress and egress to property and proposed structure(s) with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - (b) Off-street parking and loading areas as required with particular attention to the items in subsection (a) above and economic, noise, glare, or odor effects of the special exception or special use on adjoining properties and properties generally in the district.
 - (c) Refuse and service areas, with particular reference to the items in subsections (a) and (b).
 - (d) Utilities, with reference to locations, availability, and compatibility.
 - (e) Screening and buffering with reference to type, dimensions, and character.

- (f) Signs, if any, and proposed exterior lighting with reference to any glare, traffic, safety, economic effect, and compatibility and harmony with other properties in the district.
 - (g) Required yards and other open space.
 - (h) General compatibility with adjacent properties and other property in the district.
- (6) The governing body will also make a determination that the use will not:
1. Affect adversely the health or safety of persons living or working in the neighborhood of the proposed use;
 2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
 3. Be in conflict with the purpose of the comprehensive plan of the Town of Rocky Mount.

5-4-3. Issuance of special exception permits may be made subject to conditions as the governing body deems necessary to carry out the intent of this ordinance.

5-5. Widening of highways and streets.

Whenever there shall be plans in existence approved by either the Virginia Department of Transportation or by the governing body for the widening of any street or highway, the commission may require additional front yard setbacks for any new construction, addition or relocation of structures 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 or planned improvement.

5-6. Temporary use permits.

5-6-1. In case of catastrophe deemed sufficient in the judgment of the town manager involving instances wherein the replacement, reconstruction or major repair of improvements, which have been substantially damaged or destroyed and rendered unusable, is required, the town manager may under conditions hereinafter set forth, issue a special temporary use permit for the use of a temporary structure or mobile unit, as a temporary substitute for any structure or use permitted by this chapter, upon being satisfied that the intended use is only temporary and will alleviate a hardship during periods required for reconstruction, replacement or repair. Such permit shall be issued for a period not exceeding 90 calendar days and which may, upon application to the town manager, be renewed or extended for an additional

period of 90 calendar days by the town manager for good cause shown, but not thereafter. No such permit shall be renewed by the town manager unless reasonable progress has been made toward the replacement, reconstruction and repair of such improvements.

5-6-2. Any such temporary structure or unit approved by the town shall be required to meet the setback requirements contained in the chapter for accessory buildings as defined in this chapter and as applicable to the district in which such temporary structure is to be located.

5-6-3. No such permit shall be issued for more than one such structure on any one lot, the same to be only for single occupancy.

5-6-4. Upon granting such permit, evidence thereof in the form of a card or a suitable placard, at least eight inches square shall be issued to the applicant containing information indicating the date of the issuance of the permit, its purpose, and its expiration date, which shall be prominently displayed upon the premises during the period for which the permit is valid. Such placard may also be used to indicate a date of renewal and the expiration of such renewal.

5-6-5. No extension or renewal beyond the periods above-mentioned may be permitted except by application to the town council, which may grant the same by an affirmative vote of a majority of the members of council, which such extension of council shall in no case exceed 180 calendar days.

5-6-6. Nothing herein contained shall be construed to modify any provisions of this chapter related to nonconforming uses, nor shall any temporary structure or unit be used to continue any nonconforming use or activity, the restoration or replacement of which would be prohibited.

5-6-7. Nothing herein contained shall be deemed to prohibit the tool sheds and usual temporary structures normally and necessarily associated with the construction, reconstruction, replacement or repair of improvements.

5-6-8. The town manager may permit sewer and water utilities to the temporary structure. Application for the cost of temporary utilities shall be under the standard procedures and at the standard rate for sewer and water connections and service. Such utilities shall be permanently abandoned once the temporary use permit expires, and sewer connections shall be sealed off permanently in accordance with the instructions of the town engineer and the water connection shall be cut at the main.

5-6-9. Upon the expiration of the period for which any such special temporary use permit is issued, or lawful extension thereof, or within 15 days after occupancy of the main structure, the unit shall forthwith be removed from the property upon which it is located, by the applicant (or other person then in possession of the property if

not the applicant), and failure to do so shall constitute a misdemeanor under this chapter and shall be punishable as herein provided.

5-7. Fees.

The Town Council may establish by general rule for the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of this zoning ordinance or to the filing or processing of appeals and amendments. All applications for rezoning, permits, reviews, approvals or other actions for which fees are specified by such general rule, shall be accompanied by the required application fee. A schedule of such fees shall be made available in the office of the zoning administrator.

Additionally, if a proposed development contains more than 30,000 square feet of area the town may require that the development be reviewed by an independent professional licensed by the Commonwealth of Virginia to perform flood plain evaluations. The determination of need shall be decided by the zoning administrator to assure the safety of the development for all Rocky Mount Residents. In this event the applicant shall pay the town the actual documented expense times a multiplier of (1.15).

Additionally, if a proposed development seeks a special exception to build within a flood zone, the town may require that such variance request be reviewed by an independent professional licensed by the Commonwealth of Virginia to perform flood plain evaluations. The determination of need shall be decided by the zoning administrator to assure safety of the development for all Rocky Mount Residents. In this event the applicant shall pay the town the actual documented expense times a multiplier of (1.15).

This ordinance shall be in full force and effect as of July 1, 2003.
(*Ordinance of June 16, 2003*)

5-8. Administration.

5-8-1. *Zoning administrator.* The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of this ordinance, and the bringing of legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding. The zoning administrator shall be guided in all of his actions pursuant to this ordinance by the purposes, intent and spirit of this ordinance and the standards set forth in Article 1 of this ordinance. The zoning administrator may be assisted in the enforcement of this ordinance by the chief of police, town attorney, Commonwealth Attorney and all other officials of the Town of Rocky Mount, and

Franklin County, Virginia, pursuant to their respective fields.

5-9. Interpretation.

5-9-1. 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 aforesaid districts as shown on the zoning map, the following rules should apply:

- (1) Where district boundaries are indicated as approximately following or being at right angles to the center line of streets, highways, alleys, railroad main tracks, such center lines or line at right angles to such center lines 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, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
- (3) If no distance, angle, 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 said zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

5-10. Existing plans or construction.

Nothing contained herein shall require any change in the construction of any building or structure for which a permit was granted prior to the effective date of this ordinance. However, such construction must commence within 30 days after this ordinance becomes effective. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

ARTICLE 6.

SUPPLEMENTARY DISTRICT REGULATIONS

6-1. General provisions.

In addition to regulations indicated for individual districts in the district regulations, the regulations below apply in more than one district.

6-1-1. *Sight triangle for corner lots.* On a corner lot, no fence, wall, hedge, or other planting or structure that will, as determined by the zoning administrator, materially obstruct vision between a height of two and one-half feet and eight feet above the center line grades of the intersecting streets shall be erected, placed or maintained within the area formed by the intersection of right-of-way lines at points which are:

6-1-1.1. Fifteen feet in distance from the intersection of the right-of-way lines at the corner of the lot in industrial and commercial districts, and;

6-1-1.2. Twenty feet in distance from such intersection in other districts.

6-1-2. *Erection of more than one principal structure on a lot.* In any district (except in R1 and R2), more than one structure housing a permitted or permissible use may be erected on a single lot or tract provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot. A lot with more than one permitted structure shall be served by public water and sewer.

6-2. Application of regulations.

The regulations set by this ordinance within each district shall be minimum or maximum limitations as appropriate to the case and shall apply uniformly to each class or kind of structure or land, and except particularly as hereinafter provided:

6-2-1. *Use, occupancy and construction.* No building, structure, or land shall hereafter be used and no building, structure or part thereof shall hereafter be constructed except in conformity with all of the regulations herein specified for the district in which it is located.

6-2-2. *Height, bulk, density, lot coverage, yards and open spaces.* No building or other structure shall hereafter be erected or altered:

6-2-2.1. To exceed the height or bulk;

6-2-2.2. To accommodate or house a greater number of families;

6-2-2.3. To occupy a greater percentage of lot area;

6-2-2.4. To have narrower or smaller rear yards, front yards, side yards, or other open space than herein required; or in any other manner contrary to the provisions of this ordinance.

6-2-3. Required yard, open space, area, parking or loading space for one structure or use, not to be used to meet requirements for another. No part of a yard, or other open space, area, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, area, or off-street parking or loading space similarly for any other building.

6-2-4. Reduction of lots or areas below minimum requirements prohibited. No lot or area existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein except for the purpose of meeting or exceeding standards set forth herein. Lots or areas created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

6-2-5. Reduction of yards below minimum requirements. No yards existing at the time of passage of this ordinance shall be reduced in dimensions below the minimum requirements set forth herein, unless such yard restrictions reduce the building area to unreasonable dimensions. In such cases, the board of zoning appeals shall determine the minimum requirements consistent with provision of adequate light, air, prevention of loss of life, health, and safety from fire or other dangers, and prevention of danger in travel. Yards created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

6-2-6. Reduction of required off-street parking or loading space. No existing off-street parking or loading space, and no parking or loading space hereafter provided, which meets all or part of the requirements for off-street parking or loading space set forth in these requirements, shall be reduced or eliminated so that resulting reduction results in areas not meeting requirements or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

6-3. Regulations for certain potential uses.

6-3-1. *Manufactured home park regulations. (Amended 12/10/07)*

6-3-1.1. No manufactured home within a manufactured home park shall be located within 50 feet of an existing residence.

6-3-1.2. Prior to the development of a manufactured home park, the developer must submit a site development plan to the planning commission and the town council for approval. The plan shall be prepared at a scale of one inch equals 100 feet or one inch equals 200 feet and shall depict the following items:

- (a) Location and size of the manufactured home park.
- (b) Location and size of the manufactured home lots.
- (c) Location and width of the proposed internal streets, and common walkways.
- (d) Location and size of the proposed sanitary facilities.
- (e) Location and size of the proposed service building and recreation area.
- (f) Location and size of water facilities.

6-3-1.3. The manufactured home park shall be developed in accordance with the approved plan.

6-3-1.4. The manufactured home park shall be well-landscaped.

6-3-1.5. Each manufactured home lot shall meet the following minimum requirements:

- (a) Minimum lot area: 5,000 square feet.
- (b) Distance between manufactured homes and parking spaces shall be arranged to provide a distance of 20 feet between units, but in no case closer than 10 feet to the individual lot line of the manufactured home space. Setback from the front right-of-way should be 10 feet and 10 feet from the rear property line.
- (c) Minimum lot width: 50 feet.
- (d) Minimum lot length: 100 feet.
- (e) Minimum yard requirements: front, 20 feet; rear, 20 feet; side, 12

feet.

- (f) Maximum height: No manufactured home shall exceed 14 feet in height. This provision does not apply to utility poles and TV and radio aerials.

6-3-1.6. *Street improvements.* Surfaced streets and pedestrian walkways, having a minimum way width of 30 feet, shall be provided within the manufactured home park to accommodate vehicular and pedestrian movement. The minimum right-of-way width shall include 20 feet for cartway (moving lanes); eight feet for parallel guest parking and two feet for pedestrian use. All streets shall be constructed in accordance with the construction standards of the Virginia Department of Transportation.

6-3-2. *Townhouses.*

6-3-2.1. *Definition.* For the purposes of this section, townhouses are defined as single-family dwelling units separated by common party walls designed to meet the fire protection requirements as set forth in the Virginia Uniform Statewide Building Code, as amended, in a series including three or more units. Each unit shall be served by an individual exterior entrance door and shall be designed to be individually owned along with the parcel of land which it occupies.

6-3-2.2. *Number of contiguous units.* No more than eight townhouses shall be contiguous.

6-3-2.3. *Minimum width.* Minimum width for the portion of the lot on which the townhouse is to be constructed shall be 18 feet from center of wall to center of wall.

6-3-2.4. *Lot area.* Minimum lot area shall be as required to meet other provisions of these regulations.

6-3-2.5. *Separation requirements.* Any building containing a group of five or more townhouses shall be separated by at least 40 feet from any other townhouse building. Any building containing a group of four or less townhouses shall be separated by at least 20 feet from any other building containing a group of four or less townhouses.

6-3-2.6. *Setback regulations.* The minimum setback shall be 25 feet from any common vehicular drive, street or parking space.

6-3-2.7. *Side yard regulations.* Where a group of townhouses adjoins another zone district or use, a side yard 30 feet in width shall be

provided for the end residence within the group. Where a group of townhouses adjoins a private drive or parking area or walkway intended for the common use of townhouse occupants, a side yard 15 feet in width shall be provided, but half the width of such private drive or parking area or walkway shall be allowed to be counted as a portion of the required 15 feet; provided, that in no case shall a side yard of less than ten feet in width be provided for each end residence in any group of townhouses. No accessory building shall be erected in any required side yard.

6-3-2.8. *Rear yard regulations.* Each townhouse shall have a minimum rear yard of 40 feet, except when the rear yard abuts an area intended for the common use of townhouse occupants such yard shall be at least 25 feet. An accessory building not exceeding ten feet by ten feet may be constructed in any rear yard, not closer than five feet to the property line, and not further than 15 feet from the property line.

6-3-2.9. *Individual lot area.* Each townhouse shall have a yard containing not less than 1,600 square feet for interior lots and 2,500 square feet for end lots. Townhouses shall be served by public water and sewer.

6-3-2.10. *Height regulations.* The height of all townhouses shall be limited to 25 feet. Accessory buildings shall not exceed 15 feet.

6-3-2.11. *Visibility at access points for automobiles.* At the intersection of any private drive or entrance or exit for a common parking area with a public street, no fence, wall, hedge, other planting or structure forming a material impediment to visibility between a height of two and a half feet and ten feet shall be erected, planted, placed or maintained, and no vehicle so impeding visibility shall be parked within triangular areas defined by lines connecting points as follows: beginning at the point where the midline of the private entrance or exit for a common parking area intersects the public right-of-way, thence to a point 35 feet along the right-of-way line in the direction of approaching traffic, thence a point 25 feet toward the interior of the property along the previously described midline, and thence to point of beginning.

6-3-2.12. *Maintenance.* Maintenance to townhouse exteriors, yards, special lighting, drainage, utilities, common parking areas, common walkways, and any other area intended for the common use of townhouse occupants shall be the sole responsibility of the developer/owner of the townhouse development until such time as the developer/owner creates an association whose members shall be all of the individual owners of the townhouses in the townhouse development. The developer/owner may provide, among other things, that any costs of maintenance may be assessed to the individual townhouse owners and

constitute a lien on the individual townhouse lots on a pro rata basis. The maintenance shall be provided in a manner so as to discharge any responsibility to the Town of Rocky Mount.

6-3-2.13. *Utilities.* All townhouse units shall have individual utility connections. Maintenance easements as required by the town engineer for service lines shall be included by the developer for each townhouse unit. If main utility lines cross property not owned by the town, the developer shall grant the town an easement of 20 feet in width for these lines.

6-3-2.14. *Architectural treatment.* The facades of each unit of a townhouse structure shall be varied by changing front yard setbacks and utilizing variations in materials or design, so that no more than two abutting townhouse units have the same front yard setback depth or the same architectural treatment of facades or rooflines. Front yard setbacks of adjoining staggered units shall vary a minimum of two feet with a maximum of six feet.

6-3-2.15. *Site plan/subdivision requirement.* Before a zoning permit shall be issued or construction commenced on a townhouse development, detailed site plans indicating compliance with the substantive provisions of Article 9 and Section 6-3-2 of the zoning and development ordinance, as well as the provisions of the Town's subdivision ordinance, shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

6-3-3. *Temporary family health care structures.*

6-3-3.1. In all residential districts, temporary family health care structures shall be allowed to be placed on a lot, provided that:

- (a) The primary use of the property is a single-family dwelling;
- (b) The occupant of the temporary family health care structure meets the qualifications of a mentally or physically impaired person as defined in Section 6-3-3.2 below, and a letter of certification, written by a physician licensed in Virginia, has been provided to the zoning administrator;
- (c) The property is occupied by the caregiver as his/her residence;
- (d) The temporary family health care structure shall comply with all setback requirements that apply to the primary structure, and with any maximum floor area ratio limitations that may apply to the

primary structure;

- (e) Only one temporary family health care structure shall be allowed on a lot or parcel of land;
- (f) The proper permits shall be obtained before a temporary family health care structure may be placed on a lot or parcel of land. Required permits may include, but are not limited to, a zoning permit, building permit, electrical permit, mechanical permit, and plumbing permit.

6-3-3.2. For purposes of Section 6-3-3:

- (a) *Caregiver* means an adult who provides care for a mentally or physically impaired person within the Commonwealth of Virginia. A caregiver shall be either related by blood, marriage, or adoption to, or be the legally appointed guardian of the mentally or physically impaired person for whom he/she is caring;
- (b) *Mentally or physically impaired person* means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200 of the Code of Virginia (1950), as amended, as certified in a writing provided by a physician licensed by the Commonwealth of Virginia.
- (c) *Temporary family health care structure* means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (1) is primarily assembled at a location other than its site of installation; (2) is limited to one occupant who shall be the mentally or physically impaired person; (3) has no more than 300 gross square feet; and (4) complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code. Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

6-3-3.3. Any temporary family health care structure installed according to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable codes and requirements, including permits, for such connection.

6-3-3.4. Any temporary family health care structure installed according to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

6-3-3.5. A letter of certification, written by a physician licensed by the Commonwealth of Virginia, shall be provided to the zoning administrator on an annual basis to ensure continued compliance with this section. The zoning administrator may inspect the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance inspection.

6-3-3.6. No signage advertising or otherwise promoting the existence of the temporary family health care structure shall be permitted, either on the exterior of the structure or elsewhere on the property.

6-4. Screening and transitional yards.

6-4-1. *Intent.* Where screening is required in this ordinance, it is the intent to provide a physical integration of uses which promotes the public health, welfare and safety by preventing visual pollution, the overcrowding of land, the undue congregation of people and vehicles and to promote the peaceful enjoyment of property within the Town of Rocky Mount. Screening is to limit the view and reduce the noise between incompatible abutting uses to ease the transition from one zone to another.

6-4-2. *Applicability.* Certain activities shall be screened by structures, walls, fences, landscaping or a combination thereof in order to ease the transition of one land use or activity to another. In addition, as required by this article, a transitional yard shall be provided when zones of different intensities abut. Such transitional yard shall be provided in accordance with Section 6-4-3 below.

6-4-3. *Specific standards.*

- (A) Required screening shall be provided in accordance with the following standards to achieve the intent of this section, except where otherwise provided in the district regulations of this ordinance:
1. The screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
 2. Architectural screening (fences, man made barriers, berms, etc.) shall be at least six feet in height and shall be subject to the provisions of Section 6-5. Vegetative material shall be alive and in good health. Evergreen vegetation shall be not less than one and one-half inches diameter measured six inches above ground. Vegetative material shall be maintained in good condition and allowed to grow at least six feet in height.

3. Screening design and development shall be compatible with the existing and proposed land use and the development character of the surrounding land structures.
 4. Screening shall be of sufficient density and diversity to achieve the intent of this section.
- (B) The following list of specific screening provisions is descriptive of configurations which, among others, meet the standards of subsection (A) above:
1. White pines, Lob pines, Eastern red cedar, Norway spruce, Canada hemlock, or similar tree.
 2. Yew, box honeysuckle or similar dense hedge.
 3. A six-foot-high architectural screen (fences, man-made structures, berms, etc.) supplemented with plantings.

6-4-4. Specific transitional yard standards.

- (a) A transitional yard shall be required in any zoning district when that district abuts or adjoins a zoning district of lower intensity, and shall be measured from the zoning district line to produce a transitional yard of at least minimum depth in accordance with the following chart:

TRANSITIONAL YARD STANDARDS

Abutting District (Higher Intensity)	Abutting District (Lower Intensity)			
	R1 (feet)	R2 (feet)	R3 (feet)	Commercial (feet)
R2, RPUD	20			
R3, RB	30	20		
Commercial	50	50	30	
Industrial	60	60	50	30

(Amended 5/24/04)

- (b) Nothing in this section shall be interpreted as authorizing the reduction of any yard in any district.
- (c) The transitional yard shall be provided in the higher intensity use yard. A screen meeting the provisions of Section 6-5 shall be provided in the transitional yard.

6-4-5. *Along public streets.* For zoning permits involving new construction the following list of activities in addition to being screened as prescribed, shall be

screened so that the activity is not visible from a public street within 300 feet of the lot on which the activity is located: articles or materials being stored, maintained, repaired, processed, erected, fabricated, dismantled, or salvaged.

6-5. Sight triangles established.

At every intersection of street rights-of-way a sight triangle shall be established within a triangular area formed by the intersection of each street right-of-way line, the apex of said triangle being at the intersection of such right-of-way lines and the two legs of such triangle running back from the apex being 12 feet in length for existing development and 25 feet for new construction. Within the sight triangle there shall be maintained a clear visibility zone above the height of three feet when measured from the level of the curb nearest to such street or three and one-half feet when measured from the level of the street at its centerline where there is no curb.

ARTICLE 7.

OFFSTREET PARKING REGULATIONS

7-1. Parking regulations.

7-1-1. *Automobile parking space.* There shall be provided at the time of erection of any main building, enlarged or increased in capacity, minimum off-street parking space with adequate provision for ingress and egress by standard sized automobiles as follows:

7-1-2. *Parking space of dwelling.* In all residential districts be provided either in a private garage or on the lot, space for parking two automobiles for each dwelling unit in a new dwelling or each dwelling unit added in case of the enlargement of an existing building.

7-1-3. *Commercial trucks.* Commercial trucks shall not be parked in R1 or R2 residential districts at any time, with the following exceptions: commercial trucks moving furniture, commercial trucks delivering retail goods, commercial trucks used for the construction of housing, and commercial trucks used for installing utilities.

7-1-4. *For buildings other than dwellings.* Off-street parking spaces, aisles and driveways shall have the following minimum dimensions: *(Amended 5/24/04)*

Parking Angle	Parking Space Width (feet)	Parking Space Length (feet)	One-Way Aisle/Driveways Width (feet)	Two-Way Aisle/Driveway Width (feet)
0°	9	22	12	24
45°	9	18	15	24
60°	9	18	20	24
90°	9	18	24	24
None	None	None	12	24

Other specific requirements are as follows:
(Amended 3/11/02, 5/24/04(X), and 12/10/07(H))

	Type of Use	Minimum Number of Parking Spaces
A.	Lodging, rooming or boarding houses	1 space for each accommodation.
B.	Theaters, general auditoriums, stadiums and similar places of assembly	1 space for every 3 fixed seats.
C.	Hospitals	1 space for each 2 patient beds.

D.	Medical and dental clinics	At least 10 parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of 3 doctors or dentists.
E.	Motels, hotels and tourist homes	1 parking space for each individual sleeping or living unit.
F.	Funeral homes	At least 40 spaces. Additional spaces may be required administratively by the zoning administrator in consultation with the planning commission.
G.	Liquor stores and flea markets	1 space per 100 square feet of floor area.
H.	Manufactured home parks	At least 2 onsite parking spaces per dwelling unit.
I.	Sanitariums, nursing homes and convalescent homes	1 space for each 2 patient beds.
J.	Gasoline service stations (with repair)	Adequate spaces to be determined administratively by the zoning administrator in consultation with the planning commission.
K.	Passenger terminal facilities, convention halls, schools, gymnasiums, skating rinks, libraries, institutions, community centers, post offices, junkyard, civic clubs, museums, sports and fitness complex, cemeteries, veterinary uses, colleges, sports fitness complex and similar uses	Adequate spaces to be determined administratively by the zoning administrator in consultation with the planning commission.
L.	Bowling alleys	5 spaces for each alley.
M.	Laundromats	1 space per 4 machines.
N.	Office building	2 spaces for each separate office. Additional spaces may be required by the zoning administrator based on the character of the building.
O.	Churches	1 space for every 5 seats in the main auditorium or sanctuary.
P.	Auto and recreational vehicle sale lots	4 spaces per 1,000 square feet of sales area.
Q.	Restaurants	1 space per 100 square feet of floor area.
R.	Banks and professional offices	1 space per 200 square feet of floor area.
S.	Warehouses and wholesale stores	1 space per 400 square feet of floor area.
T.	Industrial uses	0.75 times the maximum number of employees on premises at any 1 time.

U.	Retail business	The minimum requirement for off-street parking shall be 7 spaces for the first 1,000 square feet of retail sales floor area, and 1 space for each 225 square feet of retail sales floor area thereafter; that the minimum parking space be 9 1/2 feet wide by 18 feet long, and that the minimum aisle width be 25 feet width for two-way aisle, and 20 feet width for one-way aisle; and further, that the spaces for compact cars be 9 feet wide, providing they do not exceed 5 percent of the total number of required parking spaces on the site.
V.	Miniwarehouses	1 space for each 8 storage cubicles equally distributed throughout the storage area.
W.	Personal service establishments	1 space for each 300 square feet of floor area.
X.	Auction houses	To be determined by town council through the granting of a special use permit upon recommendation by planning commission.

7-2. Parking standards.

7-2-1. *General standard for parking lots.* When lots with parking spaces for more than four cars are permitted or required in district, the following conditions shall be complied with:

7-2-2. The parking space required in any industrial or commercial district shall be provided upon the premises, or within 500 feet of an authorized or public parking area, such distances to be measured along lines of public access to the property. The administrator may request that the location of parking for employees be identified before a zoning permit is issued. If insufficient parking is evident the zoning permit shall not be issued.

The parking space required for any use located in any residential district shall be located on the same plot as the principal building except that the parking spaces required for any church may be on a separate lot within 500 feet, as measured along lines of public access thereto, of the lot on which the church is located.

7-2-3. All parking spaces shall have direct access to a public street. Adequate space shall be provided for maneuvering of vehicles. A site plan of a parking lot showing entrances, exits, barricades, bumper guards and drainage plans shall be submitted to the zoning administrator for approval prior to issuance of a construction permit.

7-2-4. Any light fixture used to illuminate such parking area shall be arranged

as to direct the light away from adjoining premises used or zoned for residential purposes.

7-2-5. Parking areas for zones other than residential uses which adjoin premises zoned or used for residential uses shall be screened with a solid wall, a fence, an evergreen tree or shrub fence at least six feet in height, located on a strip of land not less than six feet in width, guarded with wheel bumpers. Where any parking lots abut a street line, wheel bumpers shall be placed thereon and properly maintained.

7-2-6. All off-street parking spaces shall be properly graded and maintained in such manner as to permit use thereof at all times. Such parking spaces shall not be reduced in total extent, after their provision there under, except upon the approval of the zoning administrator after proof that the parking spaces provided are no longer needed by reason of a change in use of the premises to which the parking facilities are adjunct.

7-2-7. All non-residential driveways and parking spaces are to be paved with asphalt, concrete, plant mix, or brick.

7-2-8. The zoning administrator with approval of the planning commission may impose additional parking requirements for any zoning applicants if conditions are present that if not controlled could affect the health and safety of the public.

ARTICLE 8.

SIGN REGULATIONS

8-1. Purpose.

These sign regulations are intended to define, permit, and control the use of signs which are legible from the public right-of-way. Town Council has adopted these regulations in order to achieve all of the following community goals and objectives:

- (1) Protect the health, safety, and welfare of the public.
- (2) Equitably distribute the privilege of using the public environs to communicate private information.
- (3) Safeguard the public use and nature of the streets and sidewalks.
- (4) Protect and enhance the visual environment of the town.
- (5) Discourage the diminishing of property values and historic integrity within the town.
- (6) Minimize visual distractions to motorists using the public streets.
- (7) Promote an aesthetically pleasing environment for the citizens of this town. Large freestanding signs are discouraged. *(Amended 8/14/06)*
- (8) Promote the economic growth of the Town of Rocky Mount by creating a community image that is conducive to attracting new business and industrial development.
- (9) Permit reasonable legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk, density, and area.
- (10) Promote the safety of persons and property by requiring that signs do not create a hazard due to collapse, fire, decay, or abandonment.
- (11) Ensure that signs do not obstruct fire-fighting efforts, and do not create traffic hazards by confusing or distracting motorists or by impairing drivers' ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.
- (12) Provide for reasonable advertising of business and civic products and services, with recognition of the effects of signage on the character of the community.

(13) Control visual clutter, and encourage high professional standards in sign design and display.

(14) Establish clear procedures for the administration and enforcement of this ordinance.

(Ord. of 6/10/02)

8-2. Definitions.

The following terms, wherever used or referred to in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

A-Frame or Easel Sign: Any upright sign with a rigid supporting frame either in the form of an inverted "V" or in the form of an easel. These signs are typically used to display a temporary message and are not permanently affixed to the ground.

Attached Sign: Any sign that is affixed directly to a wall, roof, canopy, awning, marquee, mansard wall, parapet wall, or porch of a building, and whose face is parallel to the building element to which it is attached. Attached signs have only one face visible from a public right-of-way.

Awning Sign: A type of attached sign painted on, printed on, or otherwise affixed to the surface of an awning.

Banner Sign: A sign applied to cloth, paper, flexible plastic, or fabric of any kind and generally intended to be displayed on a temporary basis.

Business Sign: A sign which directs attention to a profession or business conducted, or to a commodity, service authority or entertainment sold or offered, upon the premises where the sign is located or in the building to which the sign is affixed.

Cabinet Sign: A separate sign structure having definitive geometric limits and depth which encloses a particular message. Signs such as, but not limited to, plexiglass face signs shall be considered cabinet signs. Freestanding letters, numerals, or symbols affixed to or painted on a wall or similar surface shall not be considered cabinet signs.

Commercial Sign: A sign informing or advertising products or activities for sale or profit.

Construction Sign: A temporary sign identifying an architect, developer, builder, general contractor, subcontractor, material supplier, and/or financing entity participating in construction on the property on which the sign is located.

Directional Sign: Any sign displayed for the direction and convenience of the public, including signs which identify rest rooms, location of public telephones, public entrances, freight entrances or the like.

Double Faced Sign: A sign in which the opposite sides are used to display information, provided that the opposite side is not placed at more than a sixty (60) degree angle with the observed side.

Flashing Sign: An illuminated sign on which artificial light is not kept constant in intensity at all times when in use. Illuminated signs which indicate public service information such as time, date, temperature, weather or similar information should not be considered "flashing" signs.

Freestanding Sign: A sign which is supported by structures or supports in or upon the ground and is independent of any support from any building. This does not include portable or trailer type signs.

Historic District Sign: A sign within a historic district announcing the location of a historic district, landmark, historic area, monument or property. These signs may have information relating to the historic, architectural, cultural, or archaeological significance of the historic area.

Historic Site Sign: A sign erected and maintained by a public agency, or non-profit historical society, that identifies the location of, and provides information about, a historic place or event.

Home Occupation Sign: A sign associated with home occupation uses as provided for elsewhere in this ordinance.

Identification Sign: A permanent on-premises sign displaying only the name of a subdivision, multi-family housing project, shopping center, industrial park, office park, church, school, public or quasi-public facility or similar type use. An identification sign shall not be used for commercial or advertising purposes.

Illuminated Sign: Any sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Monument Sign: A freestanding sign directly affixed to a structure built on-grade in which the sign and the structure are an integral part of one another.

Mural Sign: A permanent mural or message painted directly onto a building surface.

Nonconforming Sign: Any sign, the area, dimensions or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision, or amendment of this ordinance.

Off-Premises Sign: Any sign which directs attention to a message, or business, commodity, activity, service or product not conducted, sold, or offered upon the premises where the sign is located. These signs may also be known as location signs, billboards, outdoor advertising signs, or general advertising signs.

On-Premises Sign: Any sign which directs attention to a message, or business, commodity, activity, service or product conducted, sold or offered upon the premises where the sign is located.

Pennant Sign: Pieces of cloth, plastic or flexible material generally triangular or rectangular in shape, and which typically are strung together in a series on lines which are hung from poles, between buildings or in other arrangements for the purpose of decoration or attracting attention.

Political Sign: A sign relating to the election of a person to public office, or a political party, or a matter to be voted upon at an election called by a duly constituted public body.

Portable Sign: A freestanding temporary sign that is designed to be moved easily, and is not permanently affixed to the ground.

Projecting Sign: A sign that is affixed directly to a wall, roof, canopy, awning, marquee, mansard wall, parapet wall or porch of a building, and whose face is roughly perpendicular to the building element to which it is attached.

Public Service Sign: A sign advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, fund raising activity or similar event when conducted by or for the benefit of any civic, religious, education or charitable cause.

Real Estate Sign: An on-premises sign for the purpose of advertising the sale or lease, or the completion of the sale or lease, of real estate.

Roof Sign: A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted or fastened to a roof.

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

Sign Area: A square, rectangle, triangle, circle, or other geometric configuration, encompassing the entire advertising area, excluding architectural trim and structural supports.

Sign Height: The vertical distance measured from grade to the highest portions of the sign or sign structure.

Sign Setback: The minimum distance required between any property line and any portion of a sign or sign structure.

Sign Structure: The supports, uprights, bracing or framework of any structure, be it single-faced, double-faced, v-type, or otherwise.

Suspended Sign: A sign that is suspended from a wall, roof, canopy, awning, marquee, mansard wall, parapet wall, or porch of a building by means of brackets, hooks or chains, and the like, and whose face is roughly perpendicular or parallel to the building element to which it is attached.

Temporary Sign: An attached on-premises sign, made of a non-rigid material, designed and displayed for a seasonal or brief activity such as, but not limited to, sales, specials, promotions, holidays, auctions, business grand openings, and signs advertising the lease or vacancy of rental units in multi-unit residential developments. Symbols, figures, balloons, and other similar items shall be considered temporary signs.

V-Shaped Sign: A sign with two faces arranged in a v-formation.
(Ord. of 6/10/02)

8-3. Permitted signs.

- (A) Any sign displayed in the Town of Rocky Mount shall comply with:
- (1) All provisions of the Town of Rocky Mount Zoning and Development Ordinance.
 - (2) All applicable provisions of the Uniform Statewide Building Code and all amendments thereto.
 - (3) All state and federal regulations pertaining to the display of signage.
- (B) If any two or more sections of the above referenced regulations are in conflict, the provision that provides the most restrictive standard shall apply.

(Ord. of 6/10/02)

8-4. Exempted signs.

The following signs shall be exempted from regulations, and may be displayed within the Town of Rocky Mount without obtaining a sign permit. However, an electrical permit shall be required for any sign requiring or incorporating electrical

service.

- (1) Signs of a duly constituted governmental body, such as, but not limited to, traffic, warning, directional, street, regulatory signs or governmental signs which are directly related to the health, safety, convenience or welfare of the community. Hospital emergency signs are also exempt under this section.
- (2) Any sign with an area of two square feet or less, giving only the name of the premises, occupant, and/or street address. Signs which are subject to the regulations of the Virginia Department of Transportation and which are placed in the public rights-of-way or on town owned property by the town. *(Amended 8/14/06)*
- (3) Signs on the inside of establishments, except those signs specified in Section 8-5 (Prohibited Signs), which shall not be included.
- (4) Memorial tablets or signs, provided they are displayed by a public or quasi-public agency.
- (5) Directional signs provided that each sign does not exceed five square feet per sign and no such sign shall contain any advertising matter.
- (6) Non-illuminated signs warning trespassers or announcing property as posted.
- (7) Signs displayed on a truck, bus or other vehicle.
- (8) Flags and insignia of any government except when displayed in connection with commercial purposes.
- (9) On-premises real estate signs in residential or agricultural districts not exceeding five square feet in area, or on-premises real estate signs in commercial or industrial zoning districts not exceeding 16 square feet in area. On-premises real estate signs larger than these exempted may be installed as temporary signs in accordance with Section 8-8 (Temporary Signs).
- (10) Clocks that display time and temperature through the use of mechanical means or the controlled display of lights, provided these devices do not display any other message.
- (11) Political campaign signs provided that they are located outside the public right-of-way and are removed within seven days after the campaign.
- (12) Signs displayed between Thanksgiving and Christmas associated with the

sale of Christmas trees and wreaths not exceeding 36 square feet. Signs larger than these exempted may be installed as temporary signs in accordance with Section 8-8 (Temporary Signs).

- (13) Signs that are displayed by or promote civic, religious, educational or charitable organizations or causes provided such signs are displayed no longer than 30 days per calendar year.
- (14) Yard sale signs and the like, provided that such signs shall not be attached in any way to utility poles, meter posts or trees within any public right-of-way. No person shall put up any notice upon any building, wall, fence or other property of another person without having first obtained the consent of the owner of such property. The maximum time limit for display of such signs shall be three consecutive days.
- (15) Integral decorative or architectural features of buildings or grounds, except letters, trademarks, moving parts or apparently moving light or advertising in any form.
- (16) Signs that would not be legible from a public right-of-way.

(Ord. of 6/10/02)

8-5. Prohibited signs.

The following signs are prohibited within the Town of Rocky Mount. These prohibited signs shall take precedence over any sign exempted by Section 8-4 (Exempted Signs).

- (1) Any sign that due to its size, location, color, or illumination obscures a sign displayed by a public authority for the purpose of giving traffic or safety instructions or directions.
- (2) Any sign, except an official public notice, which is nailed, tacked, posted, or in any other manner attached to any utility pole, or structure-supporting wire, cable, or pipe; or to public property of any description.
- (3) Any sign located within a public right-of-way, except for signs displayed by a duly constituted governmental authority, signs provided for in Section 8-9 (Banners Over the Public Right-of-Way) and portable signs in the Central Business District.
- (4) Flashing or revolving lights, or beacons intended to direct attention to a location, building, or service, or any similar device otherwise displayed that imitates by its design or use, emergency service vehicles or equipment.

- (5) Any sign that simulates an official traffic sign or signal, and which contains the words "STOP", "GO", "SLOW", "CAUTION", "DANGER", "WARNING" or similar words.
- (6) Any sign or portion thereof that rotates, or otherwise moves through the use of electrical or wind power. This prohibition does not include time, temperature and date signs and traditional barber poles.
- (7) Signs advertising activities or products that are illegal under federal, state or county/town law.
- (8) Any sign that obstructs any building, door, window or other means of ingress and egress, or interferes with an opening required for ventilation.
- (9) Any electrical sign that does not display the UL, ETL, CSA or ULC label, unless such sign is constructed, installed, and inspected in accordance with Section 8-8 (Temporary Signs).
- (10) Signs or sign structures that are erected on, or extend over, a piece of property without the expressed written permission of the property owner or the owner's agent.
- (11) Any sign that due to its size, location or height obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property.
- (12) Permanent large floating or stationary balloons.
- (13) Portable mounted trailer signs are strictly prohibited in all zoning districts.
- (14) Off-premises signs. Governmental signs located in Town rights-of-way shall not be included in this subparagraph. (Refer to Section 8-4(1) (Exempted Signs)).
- (15) A sign or illumination that causes any glare into or upon any building or land other than the building and land to which the sign is accessory.

(Ord. of 6/10/02)

8-6. Sign permits.

- (A) No sign may be erected or displayed, enlarged, relocated, changed or modified without an approved sign permit, except as provided in Section 8-4 (Exempted Signs). Temporary signs in conformance with this Article do not require a sign permit. Applications for a sign permit may be obtained from

the Town of Rocky Mount Department of Community Development. Signs that are not visible from a public right-of-way do not have to conform to the provisions of Section 8-14 (District Regulations), and the square footage of such signs shall not be included when calculating allowable signage on a lot.

- (B) Any owner of a parcel of land upon which a sign is to be displayed, or any authorized agent of such owner, may apply for a sign permit.
- (C) Every application for a sign permit shall include a sketch of the property indicating the square footage of all existing signs of the property, and the area, size, structure, design, location, lighting, and materials for the proposed signs. In addition, the Administrator may require that the application contain any other information that is necessary to ensure compliance with, or effectively administer, these regulations.
- (D) A non-refundable sign permit fee, determined by Town Council, is due and payable with the filing of a sign permit application. More than one sign on one building or group of buildings located on the same parcel of land may be included on one application provided that all such signs are applied for at one time.
- (E) After the issuance of an approved sign permit, the applicant may install and display any such signs approved. Once installed, the Administrator may inspect the sign(s) for conformance with the approved sign permit and this ordinance. If the displayed sign(s), due to size, location, height or number do not conform to the information on the approved sign permit, or the applicable standards of this ordinance, the Administrator may notify the applicant in accordance with Article 12 (Violation and Penalty).
- (F) Any sign permit issued shall be null and void if any sign for which the permit was issued is not installed in accordance with the permit within six months of the date the permit was approved.
- (G) Maintenance, repair or restoration of nonconforming signs shall be in accordance with Section 8-12 (Nonconforming Signs).
- (H) Upon the occupant's vacating a lot or building, the owner, within six months after the vacation shall professionally hood all signs, sign supports, and attendant hardware on the premises, unless the provisions of the next sentence are applicable. An owner with a new tenant or a new owner has six months after such vacation to use or remove all signs, sign supports, and attendant hardware. Each subsequent occupant of the lot or building shall obtain a new sign permit prior to erecting or changing the structure of any sign. If a vacated sign is nonconforming, within six months after vacation the owner shall remove all signs, sign supports and attendant hardware from the premises, unless a new tenant or owner uses the signs within that

six month period.

8-7. Measurement of sign area and distances.

(A) Sign area shall be calculated as follows:

- (1) The area of a suspended, attached, or projecting sign, where the letters, numerals, or symbols are on a sign surface which is hung or affixed to a structure, shall be the total area of the hung or affixed structure.
- (2) The area of an attached sign where the sign consists of words, symbols, or numerals painted on or affixed to a wall, fence, or other building element shall be the entire area within a continuous perimeter enclosing the extreme limits of each word, group of words, symbol, numeral, groups of symbols, or groups of numerals, where the symbols or numerals are meant to be read as a unit.
- (3) The area of a freestanding sign shall be the total area of all surfaces (excluding poles or other support structures) visible from the public right-of-way. For double, multi-faced or V-shaped signs, only the area of surfaces visible at any one time, at any one point on the public right-of-way shall be measured when calculating sign area.

The area of monument-type freestanding signs shall be determined by:

- (a) The size of the copy area
 - (b) Visual breaks in the structural components of the sign; and/or
 - (c) Variation in the monument's color scheme.
- (B) The minimum separation between freestanding signs shall be the shortest distance between two signs, measured along street frontage.
- (C) In situations where these criteria do not provide guidance in determining sign area or minimum separation, the Zoning Administrator shall make the determination.

(Ord. of 6/10/02)

8-8. Temporary signs.

- (A) Except as provided in subsections (B) and (C) below, pertaining to real estate and construction signs, temporary signs shall comply with the following standards:

- (1) Each business or use on a lot shall be allowed to display a temporary sign for a period not to exceed 30 days. Businesses that wish to display temporary signs in excess of these provisions may apply for a permanent sign permit, which shall be evaluated against the applicable district standards. *(Amended 8/14/06)*
 - (2) No business or establishment shall display more than two temporary signs simultaneously and the total square footage of any temporary signs displayed at one time shall not exceed 60 square feet. Temporary signs shall be setback from the public right-of-way a minimum of five feet, except in the Central Business District where portable signs may be placed in the right-of-way.
 - (3) The Zoning Administrator shall have the authority to order the removal of a temporary sign for reason of damage or deterioration to the sign. No handwritten temporary signs shall be allowed.
- (B) Real estate signs greater than 16 square feet in commercial or industrial zoning districts may be installed on a lot provided that each such sign does not exceed 96 square feet in area, and has a minimum sign setback of 15 feet from any public right-of-way. Real estate signs greater than five square feet in agricultural or residential zoning districts may be installed on a lot provided that each such sign does not exceed 36 square feet in area, and has a minimum sign setback of 15 feet from any public right-of-way. All real estate signs must be removed within 14 days after the property has been sold or leased.
- (C) On-premises construction signs may be installed on active construction sites. No construction sign shall exceed 96 square feet in area in commercial or industrial zoning districts, or 36 square feet in agricultural or residential zoning district. Any such sign must have a minimum sign setback of 15 feet from any public right-of-way. All construction signs must be removed from a construction site prior to the issuance of a certificate of zoning compliance for the building or project.

(Ord. of 6/10/02)

8-9. Signs in or over the public right-of-way.

- (A) Signs may be displayed in or over a right-of-way for two consecutive weeks provided Town Council grants approval. Town Council delegates the authority to approve signs in or over the right-of-way to the Zoning Administrator. Town Council/Zoning Administrator may attach conditions in the display of these signs.

In determining whether to grant or deny the request to display a sign, the

Town Council/Zoning Administrator shall be guided by the following standard: the event or cause for which the sign is to be displayed shall be of a town-wide, public nature. In this regard, the Council finds that the Town does not, and has not, designated the air space over the public streets or the medians of public rights-of-way as a public forum or a limited public forum, and it is reasonable to restrict messages there to those of a town-wide or public nature.

(B) Banners shall meet the following criteria:

- (1) Banners over a right-of-way shall have a minimum street clearance of 17 feet over grade.
- (2) Banners in medians shall not interfere with the use of the right-of-way and shall not impair visibility of the traveling public.
- (3) The person granted permission to display a banner over the public right-of-way or in a public median shall reimburse the Town for the Town's reasonable and customary cost for Town's erection and removal of the banner and shall deposit with the Town an amount equal to that cost prior to the erection of the banner. The Town Manager shall determine the cost to erect and remove the banner, using the cost of labor, materials, and equipment. Only designated town employees shall erect and remove banners.
- (4) Banners shall have reinforced eyelets in each corner and a continuous reinforced border around the perimeter of the banner.
- (5) Air vents shall be provided in each banner to allow air to pass through the banner.
- (6) The Zoning Administrator may set standards for banner size and shape in conjunction with the Public Works Director.

(Ord. of 6/10/02)

8-10. Illuminated signs.

(A) Signs may be illuminated either through the use of backlighting or direct lighting provided the following standards are met:

- (1) The applicant on the sign permit must provide information on any illumination proposed as part of a sign.
- (2) No light from any illuminated sign shall cause direct glare into or upon any building other than the building to which the sign is related.

(3) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property, or any adjoining right-of-way.

- (B) Any sign containing electrical components shall conform to current UL, ETL, CSA or ULC standards and display a label from one of these recognized testing labs; or as an alternative, shall be designed and constructed to standards that would allow one of the above referenced labels to be affixed and thereafter inspected by Franklin County Building Inspections to insure compliance with these standards.

(Ord. of 6/10/02)

8-11. Projecting and suspended signs.

- (A) Projecting or suspended signs shall not extend more than six feet from any wall or other structure to which it is affixed.
- (B) The bottom edge of any projecting or suspended sign must be at least ten feet above the ground if located above any publicly accessible walkway or driveway.
- (C) No projecting or suspended sign shall project or suspend over an adjoining lot, without the express written consent of the adjoining property owner.

(Ord. of 6/10/02)

8-12. Nonconforming signs.

- (A) 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 nonconforming use, shall be deemed a nonconforming sign and may remain except as qualified in subsection (C), below. No nonconforming sign shall be enlarged, extended, structurally reconstructed, or altered in any manner; except a sign head may be changed so long as the new head is equal to, or reduced in height, sign area, and/or projection, and so long as the sign is not changed from an on-premises sign to an off-premises sign.
- (B) The addition of lighting or illumination to a nonconforming sign, shall constitute an expansion of a nonconforming structure, and shall not be permitted under these regulations.
- (C) Nonconforming signs may remain, provided they are kept in good repair, except for the following:
- (1) A nonconforming sign which is destroyed or damaged to the extent exceeding 50 percent of its replacement value shall not be altered,

replaced or reinstalled unless it is in conformance with these sign regulations. If the damage or destruction is 50 percent or less of its replacement value, the sign may be restored within 90 days of the damage or destruction, but shall not be enlarged in any manner.

(2) A nonconforming on-premises sign shall be removed if the structure or use to which it is accessory is destroyed or demolished to the extent exceeding 50 percent of the principal structure's value.

(3) Whenever a change in zoning occurs by petition of the owner, contract purchaser with the owner's consent or the owner's agent upon a lot which contains a nonconforming on-premises sign, such sign shall not be permitted without being modified in such a manner as to be in full compliance with these sign regulations.

(Ord. of 6/10/02)

8-13. Damaged or neglected signs.

(A) The Zoning Administrator shall have the authority to order the removal, without compensation, of any sign or sign structure that is neglected or due to damages poses a clear danger to the health, safety and welfare of the public. *(Amended 8/14/06)*

(B) In lieu of removal, the Zoning Administrator may require the immediate repair of any sign or sign structure which has been damaged or which has deteriorated so as to become a public hazard. The repair of any nonconforming sign shall be in accordance with Section 8-12 (Nonconforming Signs).

(Ord. of 6/10/02)

8-14. District regulations.

(A) RA, R-1, R-2, R-3, RPUD, RB and POS Zoning District Regulations
(Amended 5/24/04)

(1) *District Sign Maximum.* A maximum of two permanent signs and three directional signs is permitted per lot in a residential zoning district.

(2) *Freestanding Sign Maximum, Residential Development.* One freestanding identification sign is permitted at each principal entrance to a residential development within a residential zoning district, up to a maximum total of two freestanding identification signs. No individual sign shall exceed 16 square feet in area and shall give only the name of the residential development.

- (3) *Freestanding Signs, Public Recreation Areas.* In areas of public recreation such as public parks, a governmental entity may erect up to three freestanding identification signs with a combined area of 50 square feet. No individual sign shall exceed 36 square feet.
 - (4) *Business Signs.* Each permitted business in a residential district shall be allowed a maximum of 45 square feet of sign area. Of the maximum number of signs permitted in subparagraph (1) above, one freestanding sign not to exceed 20 square feet is permitted, provided the lot contains a minimum of 200 feet of frontage on a public street. No freestanding sign shall be located within 15 feet of any other freestanding sign on an adjacent or adjoining lot.
 - (5) *Freestanding Signs.* Any freestanding sign erected must have a minimum sign setback of 40 feet from the centerline of any public right-of-way, or 15 feet from any property line, whichever is greater. Signs advertising the sale or rent of the premises are exempted from this setback and may be erected within two feet of the property line.
 - (6) *Historic Site Signs.* A maximum of 15 square feet shall be allowed per sign.
 - (7) *Temporary Signs.* Temporary signs shall be allowed in accordance with Section 8-8 (Temporary Signs).
 - (8) *Freestanding Signs, Height.* No freestanding sign shall exceed five feet in height.
 - (9) *Illuminated Signs.* No sign shall be illuminated.
- (B) C-1, C-2 Office District Regulations (Amended 1/12/04 and 2/5/04)
- (1) *District Sign Maximum.* A maximum of three signs per lot, plus three directional signs, is permitted in the C-1, Commercial Office District.
 - (2) *Multi-establishment Building Sign Maximum.* Notwithstanding the foregoing, a maximum of two signs is permitted per establishment in a multi-establishment building.
 - (3) *Business Signs.* Each permitted business in a C-1 district shall be allowed a maximum of 200 square feet of sign area. Of the maximum number of signs permitted in subparagraph (1) above, a maximum of one sign may be a freestanding ground sign not exceed 60 square feet, provided the lot contains a minimum of 100 feet of frontage on a public street. If two uses share the same lot or lots under single ownership, each use may install a freestanding sign in compliance with these regulations. Such signs shall not be closer than 15 feet. If more than two uses share the

same lot or lots under single ownership, they shall be considered a shopping center for sign purposes and shall comply with the regulations governing shopping centers. In shopping center developments, one freestanding identification sign shall be allowed announcing the name of the shopping center and listing the tenants. The size of this sign shall be limited to 125 square feet. No freestanding sign shall be located within 15 feet of any freestanding sign on an adjacent or adjoining lot. (Amended 2/5/04)

- (4) *Freestanding Signs, Setbacks.* Any freestanding sign erected must have a minimum sign setback of 40 feet from the centerline of any public right-of-way, or 15 feet from any front property line, whichever is greater. Signs advertising the sale or rent of the premises are exempted from this setback and may be erected within two feet of the property line.
- (5) *Identification Signs.* Identification signs shall be subject to the same regulations as business signs within this district.
- (6) *Historic Site Signs.* A maximum of 15 square feet shall be allowed per sign.
- (7) *Temporary Signs.* Temporary signs shall be allowed in accordance with Section 8-8 (Temporary Signs).
- (8) *Freestanding Signs, Height.* No freestanding sign shall exceed 15 feet in height.

(C) GB General Business District Regulations

- (1) *District Sign Maximum.* A maximum of five signs plus three directional signs per lot is permitted in the GB, General Business Zoning District.
- (2) *Multi-establishment Building Sign Maximum.* Notwithstanding the foregoing, a maximum of two signs is permitted per establishment in a multi-establishment building.
- (3) *Shopping Center Signs.* In shopping center developments, one freestanding identification sign shall be allowed announcing the name of the shopping center and listing the tenants. The size of this sign shall be limited to 300 square feet. Out parcels of shopping center developments are excluded from this provision and may erect their own freestanding sign so long as it conforms to subparagraph (4) of this section.
- (4) *Business Signs.* Each permitted business in a GB district shall be allowed a maximum of 500 square feet of sign area. No on-premises freestanding sign shall be allowed on any lot having less than 100 feet of lot frontage.

The required minimum separation for freestanding signs on a lot or lots under single ownership shall be 250 feet for a single use. If two uses share the same lot or lots under single ownership, each use may install a freestanding sign in compliance with these regulations. Such signs shall not be closer than 15 feet. If more than two uses share the same lot or lots under single ownership, they shall be considered a shopping center for sign purposes and shall comply with the regulations governing shopping centers. No freestanding sign shall be located within 15 feet of any other freestanding sign on an adjacent or adjoining lot. Freestanding signs may not exceed a total of 100 square feet in area.

- (5) *Freestanding Signs.* Any freestanding sign erected must have a minimum sign setback of 40 feet from the centerline of any public right-of-way, or 15 feet from any front property line, whichever is greater. Signs advertising the sale or rent of the premises are exempted from this setback and may be erected within two feet of the property line.
 - (6) *Identification Signs.* Identification signs shall be subject to the same regulations as business signs within this district.
 - (7) *Historic Site Signs.* A maximum of 15 square feet shall be allowed per sign.
 - (8) *Temporary Signs.* Temporary signs shall be allowed in accordance with Section 8-8 (Temporary Signs).
 - (9) *Freestanding Signs, Height.* No freestanding sign shall exceed 25 feet in height.
- (D) CBD Central Business District Regulations
- (1) *District Sign Maximum.* A maximum of three signs plus three directional signs is permitted per lot in the Central Business District.
 - (2) *Multi-establishment Building Sign Maximum.* Notwithstanding the foregoing, a maximum of two signs is permitted per establishment in a multi-establishment building.
 - (3) *Shopping Center Signs.* In shopping center developments, one freestanding identification sign shall be allowed announcing the name of the shopping center and listing the tenants. The size of this sign shall be limited to 60 square feet. Out parcels of shopping center developments are excluded from this provision and may erect their own freestanding sign so long as it conforms to subparagraph (4) of this section.
 - (4) *Business Signs.* Each permitted business in the CBD shall be allowed a maximum of 60 square feet of signage. No freestanding sign shall be

allowed on any lot having less than 50 feet of lot frontage. The required minimum separation for freestanding signs on a lot or lots under single ownership or control shall be one 100 feet. If two uses share the same lot or lots under single ownership, each use may install a freestanding sign in compliance with these regulations. Such signs shall not be closer than 15 feet. If more than two uses share the same lot or lots under single ownership, they shall be considered a shopping center for sign purposes and shall comply with the regulations governing shopping centers. No freestanding sign shall be located within 15 feet of any other freestanding sign on an adjacent or adjoining lot. No freestanding sign shall exceed 20 square feet in area, per freestanding sign. In residential areas of the CBD, the maximum allowed square footage for freestanding signs shall be two square feet. *(Amended 7/14/2008)*

- (5) *Freestanding Signs.* Any freestanding sign erected must have a minimum sign setback of five feet from any front property line. Signs advertising the sale or rental of the premises are exempted from this setback and may be erected within two feet of the property line.
 - (6) *Identification Signs.* Identification signs shall be subject to the same regulations as business signs within this district.
 - (7) *Historic Site Signs.* A maximum of 15 square feet shall be allowed per sign.
 - (8) *Temporary Signs.* Temporary signs shall be allowed in accordance with Section 8-8 (Temporary Signs).
 - (9) *Freestanding Signs, Height.* No freestanding sign shall exceed eight feet in height. Freestanding signs over six feet in height may have no more than two sides; those less than six feet in height may have three or four sides.
 - (10) *Freestanding Signs, Small Lots.* Freestanding signs on lots less than 100 feet in lot width shall have the maximum square footage for a freestanding reduced by one percent for each foot less than the 100 foot minimum lot width. *(Amended 7/14/08)*
 - (11) *Electronic Signs.* Electronic message signs are prohibited. *(Amended 7/14/08)*
- (E) M-1 and M-2 Industrial Zoning Regulations
- (1) *District Sign Maximum.* A maximum of five signs per lot, plus three directional signs, is permitted in the M-1 and M-2 industrial zoning districts.

- (2) *Multi-establishment Building Sign Maximum.* Notwithstanding the foregoing, a maximum of two signs is permitted per establishment in a multi-establishment building.
- (3) *Business Signs.* Each permitted business in a M-1 or M-2 district shall be allowed a maximum of 500 square feet of sign area. No on-premises freestanding sign shall be allowed on any lot having less than 100 feet of lot frontage. The required minimum separation for freestanding signs on a lot or lots under single ownership or control shall be 250 feet. If two uses share the same lot or lots under single ownership, each use may install a freestanding sign in compliance with these regulations. Such signs shall not be closer than 15 feet. If more than two uses share the same lot or lots under single ownership, they shall be considered a shopping center for sign purposes and shall comply with the regulations governing shopping centers. No freestanding sign shall be located within 15 feet of any other freestanding sign on an adjacent or adjoining lot. Freestanding signs may not exceed a total of 100 square feet in area.
- (4) *Freestanding Signs.* Any freestanding sign erected must have a minimum sign setback of 40 feet from the centerline of any public right-of-way, or 15 feet from any front property line, whichever is greater. Signs advertising the sale or rent of the premises are exempted from this setback and may be erected within two feet of the property line.
- (5) *Identification Signs.* Identification signs shall be subject to the same regulations as business signs within this district.
- (6) *Historic Site Signs.* A maximum of 15 square feet shall be allowed per sign.
- (7) *Temporary Signs.* Temporary signs shall be allowed in accordance with Section 8-8 (Temporary Signs).
- (8) *Freestanding Signs, Height.* No freestanding sign shall exceed 25 feet in height.

(Ord. of 6/10/02)

8-15. Special signage districts and regulations.

- (A) *Shopping Centers.* Within shopping centers' square footage that existed prior to the adoption of this ordinance, new or existing business may modify or replace their existing attached signs provided the area of the modified or new signage is equal to or less than the original displayed signage. Modifications to freestanding signs shall be in accord with the district regulations.

- (B) *Lots Without Public Street Frontage.* Lots without public street frontage that existed upon the effective date of this ordinance shall be allowed signage based upon the applicable district regulations as provided for in Section 8-14 (District Regulations) of this ordinance. Permitted signage shall be calculated based upon the frontage width of the lot that parallels the nearest public street.
- (C) *Awnings.*
- (1) Awnings are to be treated as signs for permitting and maintenance and repair purposes.
 - (2) Awnings are permitted to be placed on the front or side exterior of buildings in which there is a building use.
 - (3) Awnings may not be placed on a building in such a manner as to constitute a hazard to pedestrian or vehicular traffic. Awnings may not obstruct lighting within the pedestrian way.
 - (4) Awnings must be located above transom windows allowing a minimum of eight feet clearance above the grade or the sidewalk.
 - (5) Awnings must maintain a reasonable setback from the edge of the sidewalk, so as to not cause safety hazards.
 - (6) Replacement awnings must be of a metal tube frame with canvas cover. Awning materials, form and colors should complement the building architecture and that of adjacent buildings.
 - (7) Signs painted on or attached as part of an awning cover must be attached flat against the surface of the awning. The sign may not extend beyond the valance or be attached to the underside.
 - (8) Letters shall not exceed eight inches in height.
 - (9) The Zoning Administrator may refer awning designs to the Town of Rocky Mount Planning Commission for review.
- (D) *Franchise Signs.* Franchise signs must conform to the standards for height, size, and number as defined in this sign ordinance. Franchises are encouraged to select a company sign design in keeping with the character of the zoning district in which they are located.
- (E) *Mural Signs.* A special use permit is required for all new signs of this type. Mural signs shall comply with the dimensional requirements of a wall sign. Exceptions are granted to landmark signs that may be preserved and maintained, even if they no longer pertain to the present use of the

premises.

- (F) *Gasoline Price Display Signs.* In addition to the signs otherwise permitted by this ordinance, gasoline stations shall be permitted to erect and maintain up to two changeable message signs not to exceed 12 square feet on each face or one changeable message sign not to exceed 24 square feet per face for the purpose of displaying gasoline prices. Notwithstanding any other provision contained in this section, such signs may be affixed to the structure of a pole sign on the property.

(Ord. of 6/10/02)

8-16. Variances.

Requests for variances to these sign regulations shall follow the procedures outlined in Article 11 of the Zoning Ordinance. The Board of Zoning Appeals, in considering any variance request, shall follow the guidelines of this article and the Code of Virginia (1950), § 15.2-2309, as amended. The power to grant variances does not extend to an economic hardship related to the cost, size, or location of a new sign, or to the convenience of regional or national businesses which propose to use a standard sign when it does not conform to the provisions of this section.

(Ord. of 6/10/02)

8-17. Interpretation.

Any sign for which specific regulations are not set forth by this article shall be subject to the interpretation and approval of the Zoning Administrator.

(Ord. of 6/10/02)

ARTICLE 9.

SITE PLAN REVIEW REQUIREMENTS

Statement of Intent

The purpose of these requirements is to promote the orderly development of certain activities in the town and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this ordinance, site plans for certain uses or land shall be submitted to and reviewed by the zoning administrator.

The zoning administrator may authorize the submission of a preliminary site plan for communicative purposes to minimize the expense of a proposed project for the owner. The preliminary plan is intended to serve as a conceptual document for planning uses only. The final site plan containing all information and proffers, as required under this article shall be submitted to the zoning administrator for compliance review before the project is determined to be in compliance with this ordinance.

9-1. Developments and uses requiring a site plan.

9-1-1. A site plan may be required for any development in any zoning district; however, a site plan is required and shall be submitted for each of the following developments or uses:

- (a) All multi-family developments and commercial activities.
- (b) All industrial uses.
- (c) All special exceptions.

9-2. Procedure for preparation.

9-2-1. Site plans or any portion thereof shall be prepared by a licensed professional who is authorized by the Commonwealth of Virginia to practice as such.

9-2-2. Site plans shall be prepared to a scale of one inch equal to 50 feet or larger, unless otherwise authorized by the zoning administrator.

9-2-3. A site plan may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the

site plan.

9-2-4. All horizontal dimensions shown on the site plan shall be in feet and decimal fractions of a foot to the closest 1/100 of a foot; and all bearings in degrees, minutes and seconds.

9-2-5. Every site plan shall show the name and address of the owner or developer, the north-point, the date, the scale of the drawing, and the number of sheets. In addition, it shall reserve a blank space three inches wide by five inches long for the use of the approving authority.

9-2-6. Six copies of the site plan shall be submitted to the zoning administrator for review.

9-3. Required information on the site plans.

9-3-1. All site plans shall contain the following information:

- (a) Location of the tract on an insert map at a scale of not less than one inch equal to 2,000 feet indicating the scale, the north-point, and such information as the names and numbers of adjoining roads, streams, subdivisions, or other landmarks, sufficient to clearly identify the location of the property.
- (b) A boundary survey of the tract by bearings and distances certified by a licensed professional authorized by the Commonwealth of Virginia to practice as such.
- (c) The location and dimensions of the required sidewalk and gutters along all public street frontages.
- (d) All existing property lines; existing streets and easements, their names, numbers and widths; the location and size of existing sanitary and storm sewers, gas lines, water mains, culverts, and other utilities and their easements; existing buildings; existing watercourses; and any other prominent physical features on or adjoining the tract.
- (e) Existing zoning and zoning district boundaries on the tract and on adjoining properties.
- (f) The present use of all adjoining properties.
- (g) Existing topography with contours drawn at two-foot contour intervals. Where the existing slope is less than two percent, either one-foot contours and/or spot elevations where necessary but not more than 50

feet (horizontally) apart in any direction.

- (h) Proposed changes in zoning, if any.
- (i) The proposed location, general use, number of floors, height and floor area for each building; and, where applicable, the number, size and type of dwelling units.
- (j) All off-street loading spaces, parking and walkways, the type of surfacing, size, angle of parking spaces, width of aisles, and a specific schedule showing the number of parking spaces provided.
- (k) All proposed water and sanitary sewer facilities, in pipe sizes, types and grades, and where connection is to be made to Town or other utility systems; all proposed gas lines and other utilities and their easements.
- (l) The location dimensions and character of construction of proposed streets, alleys, driveways; and the location, type and size of vehicular entrances to the site.
- (m) Proposed finished grading at two-foot contour intervals with spot elevations.
- (n) Provisions for the adequate disposition of natural and storm water indicating location, sizes, types and grades of ditches, catch basins, pipes, and connections to existing drainage systems or suitable outlet. Drainage calculations shall be submitted to verify validity of the drainage plan (refer to Article 10 of this ordinance).
- (o) Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction. A copy of the approved development plan including the developer's planned erosion and sedimentation control measures will be forwarded to the legally responsible soil and erosion control agent who exercises jurisdiction within the town limits.
- (p) Delineation of any floodplains.
- (q) Location, type, size and height of fencing, retaining walls and screen planting where required under the provisions of this or any other town ordinance.
- (r) The location of wooded areas on the property and the trees and wooded areas that will be retained.

- (s) The location and dimensions of proposed recreation space and required amenities and improvements.
- (t) The location, character, size, height and orientation of proposed signs and outdoor lighting systems.

9-3-2. All features and elements of the site plan shall, in all respects, conform to all applicable provisions and standards of the Code of Virginia; the ordinances of the Town of Rocky Mount; and the standards and requirements of the Virginia Department Transportation and the Virginia Department of Health.

9-4. Procedure for processing.

The zoning administrator shall review all site plans. The zoning administrator shall verify the completeness and compliance of the site plan with all applicable requirements. The zoning administrator shall circulate the site plan to the relevant town, county and state agencies and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended. The reviewing agencies and officials may include, but need not be limited to, the town attorney, the town manager, the town engineer, the planning and zoning department of the town and/or county, the Virginia Department of Transportation, and the Virginia Department of Health.

9-4-1. *Action by zoning administrator.* Except under abnormal circumstances, within 30 days of the receipt of the site plan, the zoning administrator shall approve, subject to conditions, or disapprove the site plan and notify the applicant in writing of the action taken. In cases when the site plan approval is subject to conditions or when the site plan is denied approval, the zoning administrator shall set forth in writing any conditions or changes which might make the site plan acceptable.

9-4-2. *Appeals.* An applicant may appeal any decision of the zoning administrator within 30 days of such decision to the board of zoning appeals in accordance with the provisions of § 15.2-2311 of the Code of Virginia (1950), as amended.

9-4-3. *Site plan prerequisite to issuance of permits.* No permit shall be issued to construct, erect, build or modify any structure nor shall any permit or authorization be granted to improve or develop land subject to the provisions of this article unless a site plan has been submitted to and approved by the Rocky Mount zoning administrator, except as otherwise provided by ordinance.

9-4-4. *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 12 months of the final approval. The zoning administrator may grant an

extension of one year if a written request is received from the owner of the affected property.

9-4-5. *Amendments to the site plan.* After a site plan has been approved by the zoning administrator, minor adjustments of the site plan which comply to the spirit of this article and other provisions of this chapter may be approved the zoning administrator. Deviation from an approved site plan without prior written approval of the zoning administrator shall void the plan and the zoning administrator shall require the applicant to submit a new site plan for consideration. Any major revision of an approved site plan shall require a new site plan be drawn and submitted for review and action in accordance with this article.

9-5. Exemptions from site plan requirements.

The lawful construction, alteration, and occupancy of a one or two-family dwelling, with or without a garage, on a lot on which there exists no other building or use shall be exempt from site plan requirements.

9-6. Compliance with approved site plan.

9-6-1. Inspections shall be made during the installation of on-site improvements by the administrator or his designated representative according to responsibility to insure compliance with the approved site plan.

9-6-2. The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site development plan and shall make one set of approved plans available at the site at all times that work is being performed. Such plans shall be available for inspection by authorized regulatory officials upon their introduction and presentation of official credentials.

ARTICLE 10.

IMPROVEMENTS AND SECURITY

Statement of Intent

The purpose of this Article is to insure adequate and timely provision of improvements for development. These regulations shall apply for all developments requiring submittal of site plans, but exempt from the Subdivision Ordinance. It will provide uniform standards for development whether submitting a site plan or plat. This Article also provides a means by which improvements are secured before approval of a submitted site plan.

10-1. Application of Improvement Requirements.

10-1-1. All improvement requirements in this Article apply to development requiring submittal of a site plan. Site plan approval is required before issuance of land disturbing permits and zoning permits for the following:

- (a) Multi-family developments.
- (b) Commercial uses.
- (c) Industrial uses.
- (d) Special exceptions.
- (e) Any other required site plan submittal not previously covered under the Town Subdivision Ordinance.

10-1-2. Single-family residential units and duplexes on a single tax parcel are automatically exempt from the requirements in this Article.

10-1-3. Multiple single-family residential units on more than a single tax parcel shall meet the improvement requirements of the Town Subdivision Ordinance. All subdivision plats requiring public improvements, stormwater management, or an erosion and sediment control plan shall be submitted concurrently with a site plan. Approval of these subdivision plats are contingent upon an approved site plan for the project.

(Ord. of 6/11/07)

10-2. Required Improvements.

10-2-1. Streets, drive aisles, or parking areas (private or public) that are available for access for general use by the public unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one acre.

- (a) Cross drains and catch basins
- (b) Curbs and gutters
- (c) Paving

10-2-2. Street design.

- (a) Street grades may not exceed 12%, nor be less than 0.5% except as expressly approved by the zoning administrator.
- (b) Street intersections shall provide landings of not more than 2% grade for a distance of 50 feet.
- (c) All streets shall be constructed with VDOT standard CG-6 or CG-7 curb and gutter and be a minimum of 30 feet in width, as measured from face of curb to face of curb, or greater based upon projected traffic generation by the development.
- (d) Street intersections and entrances shall be designed so as to provide a minimum VDOT stopping sight distance.
- (e) All entrances and curb cuts to the development shall be provided by the developer in accordance with the standards of the "Minimum Standards of Entrances to State Highways," latest edition, published by VDOT.
- (f) For design standards not explicitly set forth herein, VDOT standards shall apply.

10-2-3. Parking area design.

- (a) Parking areas shall be separated from street right-of-way with a strip of land at least three feet in width.
- (b) Parking areas shall be constructed with VDOT standard CG-6 or CG-7 curb and gutter.
- (c) Entrances shall provide landings of not more than 6% grade for a distance of 30 feet.
- (d) Off street parking shall conform to Article 7 of this ordinance.

- (e) For design standards not explicitly set forth herein, VDOT standards shall apply.

10-2-4. Required street name signs shall be provided and installed by developer. Once the streets have been accepted for maintenance by the Town, the Town will maintain all standard signs.

10-2-5. The developer shall provide traffic signalization if the development causes the need for new traffic control devices and these devices shall be installed in accordance with the Manual of Uniform Traffic Control Devices standards.

10-2-7. The developer shall provide curb cut ramps for handicap access at each intersection or entrance regardless of whether a sidewalk is installed at that location.

10-2-8. The developer shall provide street trees every 30 feet fronting public right-of-way beginning no further than 15 feet from the right or left property lines. These trees will be located outside of Town right-of-way and be maintained by the property owner. When planted, trees shall be a minimum of one and one half inch in diameter six inches above the ground.

10-2-9. Street lights shall be provided on all dedicated streets except "local" streets as defined by VDOT. The street light layout shall be per Illumination Engineering Society standards. The Town will submit the lighting plan to the electric utility company for cost estimate for installation. The cost provided the Town will be per current contracts between the Town and the electric service provider. The installation cost shall be paid 50% by the developer and 50% by the Town.

10-2-10. Sidewalks shall be provided by the developer on all sites fronting public right-of-way and shall be placed so as to provide for eventual continuation with proposed or future sidewalks in the vicinity of the site. Sidewalks shall be constructed of concrete and shall be a minimum of five feet in width. A minimum two-foot planting strip is required between the curb and sidewalk for pedestrian/vehicle separation and to provide for mailbox and utility service placement. Sidewalk construction materials and specifications shall meet current VDOT standards. If the planned sidewalk is not currently within Town right-of-way, the owner shall dedicate fee simple title of the area from the sidewalk to the right-of-way to the Town.

10-2-11. Sewer, water, and drainage easements at least 20 feet in width shall be dedicated to the Town for necessary improvements. The site plan shall indicate dedicated sewer, water, and drainage easements. A plat showing dedicated easements shall also be submitted for approval and subsequent recordation.

10-2-12. Public water required.

- (a) Public water shall be extended at the developer's cost to the development.

- (b) If public water facilities are reasonably available to serve the proposed development, but inadequate capacity as determined by the zoning administrator exists, the developer shall at his expense upgrade the public water mains or facilities to provide the additional capacity. Adequate capacity shall be determined as enabling 750 gallons per minute fire flow to be attained at the critical hydrant as determined by the zoning administrator or other designee, without dropping residual pressures elsewhere within the public water system to or below twenty 20 pounds per square inch.
- (c) The developer shall install the public water distribution system within the development, including water mains, service lateral through the curb line for each user, and fire hydrants, and upon its completion, shall dedicate and convey title to the water distribution system to the Town.
- (d) Public water system design and construction shall be in accordance with Town Water Specifications incorporated by reference. Fire hydrant placement shall be as specified in town water specifications.
- (e) Water mains shall be looped within or through the development or terminated with a fire hydrant or blow-off.
- (f) Each user or tenant shall be required to have a separate water meter.

10-2-13. Sanitary sewer required.

- (a) Sanitary sewerage facilities shall be extended at the developer's cost to the development.
- (b) Sanitary sewerage facilities shall connect with public sanitary sewerage systems.
- (c) If public sanitary sewerage facilities are reasonably available to serve the proposed development but inadequate capacity, as determined by the zoning administrator or other designee, in such facilities exists, the developer shall at his expense upgrade the sanitary sewerage lines or facilities to provide the additional capacity.
- (d) The developer shall install the sanitary sewer system within the development, in accordance with the standards of this division, and upon its completion, shall dedicate and convey ownership of the sanitary sewer system to the Town.
- (e) The sanitary sewage plan shall include calculations of the amount of sanitary flow to be discharged from the development upon complete

occupancy of the site.

- (f) The sanitary sewer shall be designed and constructed so as to serve by gravity the lowest floor elevation of proposed structures.
- (g) Private grinder pumps or pump stations shall not be permitted unless expressly approved by the zoning administrator. Considerations to be used in this variance evaluation shall be the engineering feasibility of providing gravity sewer to the structure, and the cause of the request.
- (h) Basements without interior access, which are not intended for habitation may be constructed without sewer service.
- (i) Sewer design and construction shall be in accordance with Town Sanitary Sewer Specifications, incorporated herein.

10-2-14. Stormwater management required. Additions to buildings or uses which do not result in an increase of greater than ten percent of the floor area of a building and where the number of required parking spaces is increased no more than six spaces are exempt from these requirements.

- (a) The developer shall design and construct stormwater management facilities for the development. The design shall include, but not be limited to, an analysis of: proposed stormwater drainage facilities, pre- or post-development stormwater runoff calculations, impacts on downstream properties, impacts upon downstream stormwater management facilities, and existing and potential runoff from upstream drainage areas. All designs for stormwater management shall be in accordance with professionally accepted hydraulic engineering practices, the Virginia Erosion and Sediment Control Handbook or any later, comparable source, the Town of Rocky Mount Erosion and Sediment Control Ordinance, and formal stormwater policies of the Town.
- (b) The developer shall install the stormwater management system, including detention facilities. Where a proposed development includes more than one lot, a common storm water management system, serving all of the lots in the development, shall be provided, unless otherwise approved by the Town.
- (c) Each phase of a phased development shall demonstrate compliance with these stormwater management regulations.
- (d) The engineering calculations shall demonstrate that the rate of runoff from the development will be equal to or less than the pre-development rate of runoff as evaluated under the ten year frequency storm. The entire drainage area of the proposed development shall be considered in

the design. The entire tract proposed for development shall be considered as if it were fully developed. Stormwater detention may be waived by the zoning administrator if the developer provides field survey verification and calculations demonstrating that the existing downstream system is adequate to carry the increased runoff from the development to the point where the total drainage area is at least 100 times greater than the area of the development site under consideration. A regional stormwater management plan, adopted by Town Council, may establish a different detention standard for areas within the region. Detention of lower frequency storms shall be required by the agent if required by the relevant regional stormwater management plan.

- (e) The engineering calculations shall demonstrate the safe passage of the 25 year storm and the 100 year storm through the stormwater management facility. When the routing of these storms directs flow over an adjacent or adjoining road crossing, the depth of flow over the road shall not exceed one foot.
- (f) Where the downstream channel is inadequate to carry the outfall from the detention pond during a 25 year storm event, the 25 year storm shall also be detained to pre-development levels or the downstream channel made adequate to carry the outfall to the point where the total drainage area is at least 100 times greater than the area of the development site under consideration.

10-2-15. Use of watercourses and low-lying lands except as needed and approved for access and entrance.

- (a) Watercourses that drain 100 acres or more shall be preserved in their natural state as drainage ways.
- (b) Low-lying lands along such watercourses, subject to flooding during a 100 year storm or more frequently, shall be preserved in their natural state as drainage ways.
- (c) The developer shall retain natural drainage patterns and routes. The transfer of stormwater from one natural basin to another shall not be permitted.

10-2-16. Maintenance of stormwater management facilities.

Stormwater management facilities serving a development shall be maintained by the owner or equivalent body for that development unless town maintenance or another arrangement is approved by Town Council. Maintenance responsibility shall be designated on the site plan and plat recording dedicated easements. The

developer shall provide a maintenance easement to the party responsible for maintaining the facilities.

10-2-17. Storm drainage design and construction.

The developer shall design and construct a storm drainage system for the development. Design and construction of the storm drainage system for streets, parking areas, and aisles within the development including pipes, culverts, and appurtenances shall be in accordance with VDOT standards unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one acre.
(Ord. of 6/11/07)

10-3. Security for Construction of Public Improvements.

10-3-1. Surety in lieu of completion.

- (a) Where the developer wishes to receive final site plan approval, but physical public improvements and installations including, but not limited to, stormwater management facilities shown on the site plan have not been completed, in whole or in part, the developer may enter into a public improvements agreement with the Town and submit performance surety in the amount sufficient for and conditioned upon the satisfactory construction or completion of said improvements or installations.
- (b) Such physical improvements and installations shall include, but not be limited to, any street, curb, gutter, sidewalk, drainage or sewerage system, waterline as part of a public system, other improvement intended for dedication to public use to be maintained by the Town, site-related improvements required by this or other chapters of this ordinance for vehicular ingress or egress, public access streets, structures necessary to ensure the stability of slopes, and stormwater management facilities.

10-3-2. Public improvements agreement.

Where the developer chooses to post surety in lieu of completion of those physical improvements shown on the approved engineering plan and/or site plan in order to proceed with development, he or she shall enter into a public improvements agreement, approved as to content and form by the Town Attorney, with the Town prior to approval of the final site plan. The administrator shall provide to the developer a sample public improvements agreement during review of the site plan.

10-3-3. Time of performance.

The period within which improvements or installations shall be completed and

inspected for acceptance shall be specified in the public improvements agreement. Unless otherwise provided by the agent, the period shall not exceed one year from the date of final site plan approval. In approving the time of performance of the public improvements agreement, the administrator shall require a report containing the following information from the developer:

- (1) Percent of public improvements already completed, and
- (2) Rate of construction activity including the estimated completion date for each major feature (roads, sewer, water, lights, etc.) remaining to be completed.

The administrator shall not permit a public improvements agreement to be executed where, on the basis of the report submitted by the developer, it is apparent that the improvements or installations covered by said agreement cannot reasonably be expected to be completed by the deadline established therein.

10-3-4. Form of security.

- (a) The developer shall furnish to the Town a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the agent, in an amount sufficient for and conditioned upon the construction of such facilities.
- (b) The developer may furnish a bank or savings institution's irrevocable letter of credit on certain designated funds, satisfactory to the agent as to the bank or savings institution, the amount and the form. The letter of credit may be used in lieu of the certified check, cash escrow, or bond. The letter of credit shall be automatically renewable and irrevocable unless upon receipt of a letter, the administrator reduces or releases the security.
- (c) The amount of the certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of the estimated construction costs.

10-3-5. Periodic partial release of security.

- (a) Upon completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, the administrator is authorized to make periodic partial release of the security.

- (b) A maximum of three periodic partial releases per any 12 month period shall be authorized. The administrator shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 90 percent of the original amount for which the performance guarantee was taken.
- (c) The administrator shall provide for the periodic partial release of any bond, escrow, letter of credit, or other performance guarantee required by this chapter within 30 days after receipt of written notice by the developer of completion of part or all of any facilities required to be constructed.
- (d) No such release need be made if the administrator notifies the developer in writing of non-receipt of approval by the applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures prior to the end of the 30 day period.
- (e) If no such action is taken by the administrator within the 30 day time period, the request shall be deemed approved and a partial release granted to the developer.

10-3-6. Final and complete release of security.

- (a) In addition to the written request for release of security and 30 day time period established in Section 10-3-5 above, the developer shall submit a second written request for the final and complete release of security. This request shall be sent by certified mail return receipt to the administrator. The administrator shall approve or deny the request within ten working days of receipt of the request for final release. If no action is taken the request shall be deemed approved and final release granted to the developer.
- (b) Upon final completion and acceptance of the facilities, the administrator shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the developer. For purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the Town or other public agency which is responsible for maintaining and operating such facility.

10-3-7. Grounds for refusal to release security.

The administrator shall not refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not

directly related to the specified defects or deficiencies in construction of facilities covered by said bond, escrow, letter of credit, or other performance guarantee.

10-3-8. Use of security.

- (a) In those cases where performance surety has been posted and the required improvements or installations have not been completed within the terms of the public improvements agreement, the administrator shall declare the developer to be in default and may draw on the posted surety. After the funds or proceeds from the property have been received, the administrator shall cause such improvements to be completed. The developer shall be fully and completely responsible and liable for the entire cost of completing the improvements, even when such cost exceeds the amount of the surety.
- (b) If the funds or proceeds from the surety are insufficient to complete the improvements, the administrator and the Town Attorney shall proceed to obtain such funds from the developer, its successor or assigns including such reasonable costs as may be expended in the process.
- (c) If any funds remain after all improvements or installations are completed and accepted with all necessary fees paid and no defects are found therein which must be repaired, such remaining funds, less any such reasonable administrative or overhead costs which may have accrued, shall be returned to the developer within 180 days of final acceptance of the final improvement or installation.

(Ord. of 6/11/07)

10-4. Waivers authorized

Waivers to any section of this Article of the Zoning and Development Ordinance shall be authorized and granted according to the process outlined in the Subdivision Ordinance.

(Ord. of 6/11/07)

ARTICLE 11.

PROVISIONS FOR APPEAL

11-1. Board of zoning appeals.

11-1-1. A board consisting of five members shall be appointed by the circuit court of Franklin County. Members of the board may receive compensation as authorized by the town council. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

11-1-2. The term of office shall be for five years. One of the appointed members shall be an active member of the planning commission.

11-1-3. Any member of the board may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

11-1-4. 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 interest.

11-1-5. The board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman.

11-2. Powers of the board of zoning appeals.

11-2-1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or § 15.2-2280, et seq., of the Code of Virginia (1950), as amended. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

11-2-2. To authorize upon appeal or original application in specific cases such variance as defined in § 15.2-2201 of the Code of Virginia (1950), as amended, from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or whereby reason of exceptional topographic conditions or other extraordinary situation

or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

No variance shall be authorized by the board unless it finds:

- (a) That the strict application of the ordinance would produce undue hardship relating to the property;
- (b) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- (c) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized except after notice and hearing as required by § 15.2-2204 of the Code of Virginia (1950), as amended. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under this ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

11-2-3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204 of the Code of

Virginia (1950), as amended. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

11-2-4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by this ordinance and § 15.2-2204 of the Code of Virginia (1950), as amended, the board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

11-2-5. No provision of this article shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of ordinances duly adopted by the town council.

11-3. Rules and regulations.

11-3-1. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required.

11-3-2. The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

11-3-3. The meeting of the board shall be held at the call of its chairman or at such times as a quorum of the board may determine.

11-3-4. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

11-3-5. The board shall keep minutes of its proceedings showing each member's vote 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.

11-3-6. All meetings of the board shall be open to the public.

11-3-7. A quorum shall be at least three members.

11-3-8. No action of the board shall be valid unless authorized by a majority vote of those members present and voting, except 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 the ordinance or to effect any variance from the ordinance.

11-4. Appeal to the board of zoning appeals.

11-4-1. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this ordinance, or any modification of zoning requirements pursuant to § 15.2-2286 of the Code of Virginia (1950), as amended. Any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. The appeal shall be taken within 30 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 zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. Any civil penalties imposed for violations of the zoning ordinance shall not accrue or be assessed during the pendency of the 30-day appeal period.

11-4-2. 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.

11-5. Procedure on appeal.

11-5-1. Appeals shall be mailed or otherwise delivered to the board of zoning appeals in care of the zoning administrator. A copy should be mailed to the individual, official, department, or agency concerned, if any.

11-5-2. The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify the 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 the ordinance or to effect any variance from the ordinance. 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.

11-6. Certiorari to review decision of board.

11-6-1. Any person or persons jointly or severally aggrieved by a decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board, or bureau of the county or municipality, may file with the Clerk of the Circuit Court of Franklin County a petition specifying the grounds on which aggrieved within 30 days after the final decision of the board.

11-6-2. 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 must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, 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.

11-6-3. Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the

board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

11-6-4. 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 the 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.

11-6-5. 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 evidence as it may direct and report the evidence 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.

11-6-6. In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286 of the Code of Virginia (1950), as amended, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

11-6-7. In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, or application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

11-6-8. Costs shall not be allowed against the town, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the

locality may request that the court hear the matter on the question of whether the appeal was frivolous.

ARTICLE 12.

VIOLATION AND PENALTY

12-1. Issuance of permits.

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 ordinance. They shall issue permits for uses, building or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of the ordinance, shall be null and void.

12-2. Penalty for violation.

Any person, firm, or corporation, whether as principal, agent, employer, or otherwise, violating, causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, may be fined not less than \$10.00, and not more than \$500.00. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

12-3. Service of notice of violation.

Upon becoming aware of any violation of any provision of this ordinance, the zoning administrator shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the zoning administrator has specified in such notice, he shall institute such action as may be necessary to terminate the violation.

ARTICLE 13.

AMENDMENTS

13-1. Amendment procedure.

The regulations, restrictions and boundaries established within this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by a majority of votes of the governing body provided:

13-1-1. The planning commission shall hold at least one public hearing on such proposed amendment after notice as required by Code of Virginia, § 15.2-4309 of the Code of Virginia (1950), as amended, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon the completion of its work, the commission shall present the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials.

13-1-2. Before approving and adopting any amendment, the governing body shall hold at least one public hearing thereon, pursuant to the public notice as required by Code of Virginia, § 15.2-2204 of the Code of Virginia (1950), as amended, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by Code of Virginia, § 15.2-2204 of the Code of Virginia (1950), as amended. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the zoning ordinance.

13-1-3. Amendments may be initiated by resolution of the governing body, by motion of the planning commission, or by petition of any property owner or his agent addressed to the governing body.

13-1-4. The governing body and the planning commission shall refuse to hold further hearings on a renewed application for the same amendment or zoning permit by the same applicant, or applicants, their successors or assigns for a period of 12 months after the commission's action thereof, except and unless the planning commission or governing body shall find and determine from the information supplied by a request for a rehearing that is unusual, or changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, property and general welfare and that a reconsideration is justified. If the rehearing is denied, the case shall not be reopened for at least 12 months from the date of the original action by the planning commission.

13-1-5. Changes shall be made by the governing body in the zoning ordinance or the zoning map only after such changes have been referred to the commission for a report. Action shall be taken by the governing body only after a report has been received from the commission, unless a period of 90 days has elapsed after the first meeting of the commission after the proposed amendment or re-enactment has been referred to the commission after which time it may be assumed the commission has approved the changes or amendments.

ARTICLE 14.

SEVERABILITY

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

ARTICLE 15.

CONFLICTING ORDINANCES

In the interpretation and application of the provisions of this ordinance, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing higher standards, shall govern.

ARTICLE 16.

RESERVED.

ARTICLE 17.

RESERVED.

ARTICLE 18.

RESERVED.

ARTICLE 19.

RESIDENTIAL, AGRICULTURAL, DISTRICT RA

Statement of Intent

This district is comprised of certain quiet, low-density areas where each residential unit is located on one acre or more of land. This zone is not considered to be a main district within the zoning ordinance. This area also contains certain open areas where similar residential, agricultural development appears likely to occur. The regulations of this district are designed to stabilize and protect the basic characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all intensive commercial activities. To these ends, development is limited to a relatively low concentration and permitted uses are limited basically to dwellings providing homes for residents plus certain additional uses related to agricultural uses on larger tracts of land. Certain additional uses such as schools, churches, parks, playgrounds, agricultural businesses, veterinary clinics, kennels, tree nurseries, tree farms and certain public utilities are likely to be present to serve residents of this district.

Use Regulations

19-1. Use by right.

19-1-1. Single-family dwellings.

19-1-2. Schools.

19-1-3. Churches.

19-1-4. Parks and playgrounds.

19-1-5. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

19-1-6. Public utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities

including water and sewerage facilities.

19-1-7. Gardens.

19-1-8. Home occupations, as defined.

19-1-9. Satellite dish antennas, not to exceed a height of 20 feet only when installed at ground level, provided such antenna shall be located behind the setback line of the main dwelling. All towers, antennas, guy wires or similar devices shall be at least three feet from any property line, except on the side yard facing a street which must be set back 25 feet. The installation of a ground-mounted or roof-mounted satellite dish shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

19-1-10. Agricultural operations primarily engaged in the production of crops including vegetables, fruits and similar crops including the sale of site grown crops on the premises.

19-1-11. Agricultural operations primarily engaged in the raising of livestock including cattle, swine, sheep, goats, poultry, fish or other similar livestock provided the minimum lot area shall be five acres and no farm buildings intended to shelter such animals shall be located closer than 300 feet to the property line of an adjoining property.

19-1-12. Veterinary clinics.

19-1-13. Kennels including those with a conditional use permit.

19-1-14. Stables which are accessory to a single-family dwelling provided a minimum of two acres is provided for each horse to be stabled.

19-1-15. Tree farms.

19-1-16. Greenhouses including those with retail sales on premises.

19-1-17. Group homes, as defined. *(Amended 11/13/07)*

19-1-18. Manufactured homes placed on a permanent foundation.
(Amended 12/10/07)

19-1-19. Adult day care homes, as defined.

19-1-20. Temporary family health care structures, as defined.

19-2. Use by special exception.

19-2-1. Custom manufacturing. (*Amended 10/19/04*)

19-2-2. Family day homes, as defined.

19-3. Parking regulations.

19-3-1. Off street parking shall conform to Article 7 of this ordinance.

19-4. Sign regulations.

See Article 8 (Sign Regulations). (*Amended 6/10/02*)

19-5. Area regulations.

The minimum lot area for permitted uses shall be one acre (43,560 square feet) or more. For permitted uses utilizing individual sewage disposal systems, the required area for any such area shall be approved by the health official. The health official and the administrator may require a greater area if considered necessary by soil and site conditions.

19-6. Setback regulations.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

19-7. Frontage regulations.

19-7-1. Each lot shall abut for a minimum of 25 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

19-7-2. The minimum lot width at the building line shall be 150 feet.

19-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

- 19-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front line of such lots, for the purposes of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

(Amended 4/14/03)

19-8. Yard regulations.

The following yard regulations shall apply in an RA agricultural district:

- 19-8-1. *Side.* Each side yard of a main structure shall be ten percent or more of the lot width at the at the building line.

- 19-8-2. *Rear.* Each main structure shall have a rear yard of 35 feet or more.

19-9. Height regulations.

Buildings may be erected up to 35 feet in height except that:

- 19-9-1. A public or semipublic building such as a church, school or library may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

- 19-9-2. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennas, active solar collectors, wind generators, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

- 19-9-3. No accessory building which is within 20 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

19-10. Special provisions for corner lots.

- 19-10-1. On the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.

- 19-10-2. The side yard on the side facing the side street shall be 35 feet or more for both the main and accessory building.

- 19-10-3. Each corner lot shall have a minimum lot width at the setback line of

175 feet or more.

19-10-4. On a corner lot, a fence, wall, hedge or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6).

19-11. Site plan.

A site plan may be required prior to issuance of a zoning permit. (See Article 9 of this ordinance for an outline of site plan requirements).

19-12. Bulk regulations. *(Amended 12/10/07)*

19-12-1. The main building shall have a minimum finished floor area of 1,000 square feet.

19-12-2. The main building excluding porches, stoops, and decks shall be a minimum of 20 feet in width at each end of the structure.

ARTICLE 20.

RESIDENTIAL DISTRICT R1

Statement of Intent

This district is composed of certain quiet, low-density areas where the density of housing may range from one to three units per acre. This district also contains certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all intensive commercial activities. To these ends, development is limited to relatively low concentrations and permitted uses are limited basically to dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches and certain public facilities that serve the residents of the district.

Use Regulations

Only one main building and its accessory buildings may be located on any lot or parcel of land in Residential District R1. Structures to be erected or land to be used shall be for the following uses:

20-1. Use by right.

20-1-1. Single-family dwellings.

20-1-2. Schools.

20-1-3. Churches.

20-1-4. Parks and playgrounds.

20-1-5. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

20-1-6. Public utilities: poles, lines, distribution transformers, pipes, meters

and other facilities necessary for the provision and maintenance of public utilities including water and sewage facilities.

20-1-7. Home gardens, as defined.

20-1-8. Home occupations, as defined.

20-1-9. Satellite dish antennas: private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

20-1-12. Group homes, as defined. *(Amended 11/13/07)*

20-1-13. Adult day care homes, as defined.

20-1-14. Temporary family health care structures, as defined.

20-2. Use by special exception.

20-2-1. Bed and breakfast establishments. *(Amended 8/14/06)*

20-2-2. Family day homes, as defined.

20-3. Parking regulations.

20-3-1. Offstreet parking shall conform to Article 7 of this ordinance.

20-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

20-5. Area regulations.

The minimum lot area for permitted uses shall be 15,000 square feet or more. For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The health official and the administrator may require a greater area if considered necessary by soil and site

conditions.

20-6. Setback regulations.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

20-7. Frontage regulations.

20-7-1. Each lot shall abut for a minimum of 25 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

20-7-2. The minimum lot width at the building line shall be 100 feet.

20-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

20-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

(Amended 4/14/03)

20-8. Yard regulations. (See also Article 20-10, special provisions for corner lots.)

20-8-1. Side - Each side yard of a main structure shall be 15 percent or more of the lot width at the building line.

20-8-2. Rear - Each main structure shall have a rear yard of 35 feet or more.

20-9. Height regulations.

Buildings may be erected up to 25 feet in height above the finished floor elevation except that:

20-9-1. A public or semi-public building such as a school, church or library may be erected to a height of 60 feet from finished floor elevation provided that

required front, side, and rear yards shall be increased one foot for each foot in height over 25 feet.

20-9-2. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennas, active solar collectors, wind generators, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

20-9-3. No accessory building which is within 20 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

20-10. Special provisions for corner lots.

20-10-1. On the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.

20-10-2. The side yard on the side facing the side street shall be 35 feet or more for both the main and accessory building.

20-10-3. Each corner lot shall have a minimum width at the setback line of 125 feet or more.

20-10-4. On a corner lot, a fence, wall, hedge or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6.)

20-11. Site plan.

A site plan may be required prior to issuance of a zoning permit. (See Article 9 of this ordinance for an outline of site plan requirements.)

20-12. Bulk regulations. *(Amended 12/10/07)*

20-12-1. The main building shall have a minimum finished floor area of 1,000 square feet.

20-12-2. The main building excluding porches, stoops, and decks shall be a minimum of 20 feet in width at each end of the structure.

ARTICLE 21.

RESIDENTIAL DISTRICT R2

Statement of Intent

This district is composed of certain medium density residential uses where housing densities may range from three to eight units per acre. This district also contains certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of an adult population with children. To this end, this district is protected against encroachment of general commercial or industrial uses.

Use Regulations

In Residential District R2, structures to be erected or used shall be for one or more of the following uses:

21-1. Use by right.

21-1-1. Single-family dwellings.

21-1-2. Two-family dwellings.

21-1-3. Schools.

21-1-4. Churches.

21-1-5. Parks and playgrounds.

21-1-6. Home occupations, as defined.

21-1-7. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

21-1-8. Public utilities: poles, lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.

21-1-9. Satellite dish antennas: private non-commercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

21-1-10. Home gardens, as defined.

21-1-11. Group homes, as defined. *(Amended 11/13/07)*

21-1-12. Adult day care homes, as defined.

21-1-13. Temporary family health care structures, as defined.

21-2. Use by special exception.

Special Exceptions as provided under Article 5, Section 5-4.

21-2-1. General hospitals.

21-2-2. Clubs and lodges, as defined.

21-2-3. Townhouses (see Article 6).

21-2-4. Family day homes, as defined.

21-3. Parking regulations.

Off-street parking shall conform to Article 7 of this ordinance.

21-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

21-5. Area regulations.

21-5-1. For lots containing or intended to contain a single permitted use the minimum lot area shall be 10,000 square feet, plus 4,000 square feet for each additional dwelling. For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

21-6. Setback regulations.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line". Landscaping may be required for special exceptions within any established or required front setback area. The plans and execution must take into consideration traffic hazards. The minimum lot width at the setback line shall be 80 feet.

21-7. Frontage regulations.

21-7-1. Each lot shall abut for a minimum of 25 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

21-7-2. The minimum lot width at the building line shall be 80 feet.

21-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

21-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of front yard setback requirements shall be that of the pipe portion of the lot closest to and parallel to the street right-of-way.

(Amended 4/14/03)

21-8. Yard regulations. (See also: Article 21-10, special provisions for corner lots.)

21-8-1. *Side.* Each side yard of a main structure shall be 15 percent or more of the lot width at the building line.

21-8-2. *Rear.* Each main structure shall have a rear yard of 25 feet.

21-9. Height regulations.

Buildings may be erected up to 25 feet in height above the finished grade elevation except that:

21-9-1. A public or semi-public building such as a school, church or hospital may be erected to a height of 60 feet from the finished floor provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

21-9-2. Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flagpoles, active solar collectors, wind generators, 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.

21-10. Special provisions for corner lots.

21-10-1. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets. A minimum lot width on a corner lot shall be 100 feet at the building line.

21-10-2. The side yard facing the side street shall be 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "side yard setback line".

21-10-3. On a corner lot, a fence, wall, hedge, or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6.)

21-11. Site plan.

21-11-1. A site plan may be required prior to issuance of a zoning permit. (See Article 9 of this ordinance for an outline of site plan requirements.)

21-12. Bulk regulations. *(Amended 12/10/07)*

21-12-1. The main building shall have a minimum finished floor area of 800 square feet for a single-family dwelling and 1,400 square feet for a two-family

dwelling/duplex.

21-12-2. The main building excluding porches, stoops, and decks shall be a minimum of 20 feet in width at each end of the structure.

ARTICLE 22.

RESIDENTIAL DISTRICT R3

Statement of Intent

This district is composed of certain high density residential uses, where housing densities may range from eight or greater units per acre, as well as less intensive commercial operations which do not detract from the general residential character of the area. This district also contains certain open areas where similar development appears likely to occur in the future.

Use Regulations

In Residential District R3, structures to be erected or used shall be for one or more of the following uses:

22-1. Use by right.

22-1-1. Any use permitted by right in residential districts R1 and R2.
(Amended 12/10/07)

22-1-2. Multiple-family dwellings.

22-1-3. Group homes, as defined.

22-1-4. Townhouses (see Article 6).

22-1-5. Funeral homes.

22-1-6. Rooming and boarding.

22-1-7. Tourist homes.

22-1-8. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

22-1-9. Public utilities: poles, lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewer facilities.

22-1-10. Satellite dish antennas: private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

22-1-11. Adult day care homes, as defined.

22-1-12. Temporary family health care structures, as defined.

22-2. Use by special exception.

22-2-1. General hospitals.

22-2-2. Manufactured home parks, as defined and as regulated in Article 6 (Supplementary District Regulations). *(Amended 12/10/07)*

22-2-3. Family day homes, as defined.

22-3. Parking regulations.

Off-street parking shall conform with the regulations in Article 7 of this ordinance. For multiple-family developments, townhouses and commercial uses, a landscaped area of at least six feet in width shall be maintained at all times between parking areas and any street right-of-way line or any lot zoned for residential district R1 or R2.

22-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

22-5. Area regulations.

22-5-1. For lots containing or intended to contain a single permitted use served by public water and sewer the minimum lot area shall be as follows:

- (1) Single-family and two-family dwellings shall conform with the area, width and frontage regulations of residential district R2.
- (2) Townhouses shall conform to the regulations specified in Article 6.
- (3) Multiple-family dwellings, other than townhouses, shall meet the following minimum lot area requirements plus 10,000 square feet for the first dwelling unit in the development:

One bedroom: 1,200 square feet.

Two bedrooms: 1,400 square feet.

Three bedrooms: 1,800 square feet.

Four or more bedrooms: 2,000 square feet.

22-5-2. Apartments and townhouses shall be served by public water and sewer.

22-5-3. *Lot coverage.* Maximum lot coverage of all buildings shall be 50 percent or less.

22-6. Setback regulations.

Buildings shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line". No buildings shall be required to set back from the street a distance greater than the setback line observed by the one or two existing buildings on the immediate adjoining lots on either side which is further removed from the street. Landscaping may be required for special exceptions within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

22-7. Frontage regulations.

22-7-1. Each lot shall abut for a minimum of 25 feet upon a dedicated and approved street within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

22-7-2. The minimum lot width at the building line shall be 80 feet, plus 10 feet for each additional permitted use.

22-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

22-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of front yard setback requirements shall be that of the pipe portion of the lot closest to and parallel to the street right-of-way. *(Amended 4/14/03)*

22-8. Yard regulations.

22-8-1. Single-family and two-family dwellings shall conform with the regulations for residential district R2.

22-8-2. Townhouses shall conform to the requirements of Article 6.

22-8-3. Multiple-family dwellings and other permitted uses shall have the following minimum yards:

Side. Each side yard shall be a minimum of 25 feet plus one foot for each foot of height over 25 feet.

Rear. Each main building shall have a minimum rear yard of 25 feet.

Interior. For dwelling groups, each multiple-family building shall be separated by 60 feet between facing living areas and 30 feet between exterior walls or corners of buildings placed at right angles (90 degrees) to one another. All interior yards shall be increased one foot for each additional foot of height over 25 feet.

22-9. Height regulations.

22-9-1. Single-family and two-family dwellings shall comply with regulations for residential district R2.

22-9-2. Townhouses shall comply with the regulations in Article 6.

22-9-3. Multiple-family dwellings may be erected to a maximum height, from the first floor elevation, of 38 feet. *(Amended 12/10/07)*

22-9-4. Other buildings may be erected to a maximum height of 38 feet, except that: *(Amended 12/10/07)*

- (1) Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, television antennae, flagpoles, active solar collectors, wind generators and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (2) No accessory buildings shall be more than one story in height.

22-10. Provisions for corner lots.

The side yard facing the side street shall be 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "side yard setback line".

22-11. Screening regulations.

Screen planting shall be maintained for all uses in this R3, except for single-family and two-family dwellings, on all sides fronting on residential districts R1 or R2.

22-12. Site plan.

A detailed site plan will be required by the administrator for all uses prior to the issuance of a zoning permit unless otherwise provided for. (See Article 9 of this ordinance for an outline of site plan requirements).

22-13. Bulk regulations. *(Amended 12/10/07)*

22-13-1. Single-family and two-family dwellings shall comply with regulations for residential district R2.

ARTICLE 23

RESIDENTIAL PLANNED UNIT DEVELOPMENT RPUD

Statement of Intent

The purpose of this district is to provide for the development of planned residential communities that incorporate a variety of housing options. The RPUD district is intended to allow greater flexibility than is generally possible under conventional zoning district regulations by encouraging ingenuity, imagination and high quality design to create a superior living environment for the residents of the planned community. Incorporation of significant areas of open space is a primary component of these provisions as a means to maintain critical natural and cultural resources, balanced with development at densities that compensate for maintenance of these resources. The RPUD district is particularly appropriate for parcels that contain a number of constraints to conventional development. In addition to an improved quality of design, the RPUD district creates an opportunity to reflect changes in technology of land development, provide opportunities for new approaches to home ownership, and provide for an efficient use of land which can result in reduced development costs. The minimum size of an RPUD district shall be five contiguous acres.

Use Regulations

23-1. Use by right.

- 23-1-1. Single-family dwellings, detached.
- 23-1-2. Single-family dwellings, attached.
- 23-1-3. Two-family dwellings.
- 23-1-4. Townhouses.
- 23-1-5. Community accessory buildings, as defined.
- 23-1-6. Parks and playgrounds.
- 23-1-7. Community centers.
- 23-1-8. Home occupations.
- 23-1-9. Public utilities.

- 23-1-10. Tennis courts.
- 23-1-11. Recreational areas.
- 23-1-12. Clubs.
- 23-1-13. Security houses.
- 23-1-14. Adult day care homes, as defined.
- 23-1-15. Temporary family health care structures, as defined.

(Ord. of 5/24/04)

23-2. Use by special exception.

- 23-2-1. Golf courses.
- 23-2-2. Family day homes, as defined.

(Ord. of 5/24/04)

23-3. Area regulations.

The minimum lot area for permitted uses shall be 5,000 square feet or more. All lots shall be served by public water and sewer systems.

(Ord. of 5/24/04)

23-4. Frontage regulations.

23-4-1. Each lot shall abut for a minimum of 50 feet (minimum of 25 feet in a cul-de-sac) upon a dedicated and approved street located within the Town limits and maintained by the Town or the Virginia Department of Transportation.

23-4-2. The minimum lot width at the building line shall be 50 feet.

23-4-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that due to its geometric characteristics, results in the creation of an irregular lot.

23-4-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots,

for the purposes of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.
(Ord. of 5/24/04)

23-5. Setback regulations.

Structures shall be located 20 feet or more from any street right-of-way, except in cul-de-sac lots where structures shall be located where the lot width equals 50 feet. This shall be known as the "setback line."
(Ord. of 5/24/04)

23-6. Yard regulations.

23-6-1. Side - Each main structure shall have a side yard of five feet or more.

23-6-2. Rear - Each main structure shall have a rear yard of 10 feet or more.
(Ord. of 5/24/04)

23-7. Height regulations.

Buildings may be erected up to 25 feet in height above the finished floor elevation.
(Ord. of 5/24/04)

23-8. Special provisions for corner lots.

23-8-1. On the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

23-8-2. The side yard on the side facing the side street shall be 20 feet or more for both the main and accessory building.

23-8-3. On a corner lot, a fence, wall, hedge or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator.
(Ord. of 5/24/04)

23-9. Open space requirements.

23-9-1. *Usable open space.* The total usable open space within a planned unit development shall be not less than 25 percent of the gross acreage of the planned unit development. Usable open space shall be as defined in Article 4 of this ordinance, provided that no more than 25 percent of the required percentage of usable open space shall be in the form of water surfaces or wetlands, and land that slopes greater than 35 percent shall not be counted as usable open space.

23-9-2. *Rate of construction.* The construction of all usable open spaces which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. The zoning administrator shall not issue a zoning permit for any building or structure shown on the final development plan unless the usable open space has been adequately assured to the zoning administrator in a manner satisfactory to the planning commission. This may be a bond, corporate surety or other acceptable financial guarantee, including escrow agreements.
(Ord. of 5/24/04)

23-10. Management of open spaces.

23-10-1. There shall be established a nonprofit association, a stock or membership corporation, trust or foundation of all individuals or corporations owning residential property within the planned unit development to ensure maintenance of open spaces.

23-10-2. When the open space is to be maintained through a nonprofit association, corporation, trust or foundation, said organization shall conform to the following requirements:

- (1) The developer must establish the organization prior to the sale of any lots.
- (2) The membership in the organization shall be mandatory for all residential property owners, present or future, within the planned development, and said organization shall not discriminate in its members or shareholders.
- (3) The organization shall manage all open space and recreational and cultural facilities; shall provide for the maintenance, administration and operation of said land and improvements, and any other land within the planned community; and shall secure adequate liability insurance on the land.
- (4) The organization shall conform to the Condominium Act, §§ 55-79.39 - 55-79.103 of the Code of Virginia (1950), as amended.

(Ord. of 5/24/04)

23-11. Preliminary development plan.

23-11-1. The application for designation of an RPUD district shall be in compliance with the amendment requirements of Article 5 of this ordinance and shall include the concurrent submittal and approval of a preliminary development plan and the concurrent submittal and approval of a preliminary subdivision plat, pursuant to the Subdivision Ordinance of the Town of Rocky Mount.

23-11-2. The preliminary development plan required at the time of application shall consist of:

- (1) The location and floor area size of all existing buildings, proposed building envelopes, structures and other improvements, including maximum heights and types of dwelling units. Such drawings should be sufficient to relay the basic architectural intent of the proposed improvements, but should not be encumbered with final detail at this stage.
- (2) The location and size, in acres or square feet, of all areas to be conveyed, dedicated or reserved as usable open space.
- (3) The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, including major points of ingress and egress to the development.
- (4) The existing and proposed pedestrian circulation system, including its interrelations with the vehicular circulation system, indicating proposed treatments of points of conflict.
- (5) The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric, gas and telephone lines.
- (6) A general landscape plan indicating the treatment of materials used for private and common open spaces.
- (7) Enough information on land areas adjacent to the proposed RPUD to indicate the relationship between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape.

- (8) The proposed treatment of the perimeter of the RPUD, including distances, materials and techniques used, such as screens, fences and walls.
- (9) Any additional information as required in writing by the review authority necessary to evaluate the character and impact of the proposed RPUD.
- (10) Written documents, including the following:
 - a. A development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.
 - b. Quantitative data for the following: Total number and type of dwellings units; parcel size; proposed lot coverage of buildings and structures; total amount of open space (including a separate figure for usable open space); and other studies as required by the review authority.

(Ord. of 5/24/04)

23-12. Final development plan.

23-12-1. *Generally.* Within six months following the approval of the rezoning with the preliminary development plan, the applicant shall file with the zoning administrator a final development plan containing in a final, detailed form the information required in section 23-11-2. At his or her discretion and for good cause, the zoning administrator may extend for six months the period for filing of the final development plan.

23-12-2. *Non-submission action.* If no final development plan is submitted within such time period, Town Council may advertise for rezoning of the property back to its previous or other classification on its own motion.

23-12-3. *Time limit for beginning construction.* If no construction has begun in the RPUD within six months from the approval of the RPUD and recording of documents, Town Council may advertise for rezoning of the property back to its previous or other classification on its own motion.

(Ord. of 5/24/04)

23-13. Revisions to final development plan.

23-13-1. Major revisions to the final development plan shall be reviewed and approved following the procedures and requirements of Article 5 of this ordinance. Major revisions include, but are not limited to changes such as:

- (1) Any change in the density of the development;
- (2) Substantial change in circulation or access;
- (3) Substantial change in the mixture of dwelling types included in the project;
- (4) Substantial changes in grading or utility provisions;
- (5) Reduction in the approved open space, landscaping or buffering;
- (6) Substantial change in the architectural or site design features of the development;
- (7) Any other change that the zoning administrator finds is a major divergence from the approved final development plan.

23-13-2. All other changes in the final development plan shall be considered minor amendments. The zoning administrator, upon receipt of a written request of the owner, may approve such minor amendments.

- (1) If the zoning administrator fails to act on a request for a minor amendment to the final development plan within 15 calendar days, it shall be considered approved.
- (2) A request which is disapproved by the zoning administrator shall be considered a major amendment and shall be subject to the approval process outlined above for such amendments.

(Ord. of 5/24/04)

ARTICLE 24.

RESIDENTIAL BUSINESS DISTRICT RB

Statement of Intent

The purpose of this district is to allow certain types of neighborhood commercial uses to be developed in an area that is generally residential in character. The purpose is to stabilize neighborhood aesthetics by enabling light density commercial purposes that will not detract from the residential character of a neighborhood.

This zoning district is characterized by a number of smaller lots of insufficient lot areas to comply with the minimum lot requirements for an R1 and R2 district. Consequently, the light density commercial uses add value and flexibility of use to residential property which might otherwise diminish in value.

Traffic and parking congestion is held to a minimum to protect and preserve property values in the surrounding residential area. Commercial uses shall provide off street parking in accordance with this ordinance. The commercial uses permitted should include only activities which will not detract from the normal operation of area households. Business related activities hours of operation shall not be conducted later than 8:00 p.m. or earlier than 8:00 a.m. such as to maintain the residential harmony of the area. No outside sales, service or storage is permitted. Direct on-site retail sales are prohibited in an RB district. (See definition of *retail stores and shops*).

Use Regulations

In Residential Business District RB, structures to be erected or land to be used shall be for one or more of the following uses:

24-1. Use by right.

- 24-1-1. Single-family dwellings.
- 24-1-2. Two-family dwellings.
- 24-1-3. Churches.
- 24-1-4. Personal service establishments (as defined).
- 24-1-5. General offices. (*Amended 2/5/04*)

24-1-6. Group homes (as defined). *(Amended 11/13/07)*

24-1-7. Medical offices. *(Amended 2/5/04)*

24-1-8. Photocopy services.

24-1-9. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

24-1-10. Public utilities; poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewer facilities.

24-1-11. Barber shops.

24-1-12. Beauty shops.

24-1-13. Satellite dish antennas. Private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antennas shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line, except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

24-1-14. Music and dance instruction.

24-1-15. Bed and breakfast establishments.

24-1-16. Bakeries and off premises food catering.

24-1-17. Wholesale businesses and warehouse storage activities must be conducted within the main structure. Outside storage of materials, or performance of any service is strictly prohibited. All activities must be within the main structure.

24-1-18. Home occupations, as defined.

24-1-19. Adult day care homes, as defined.

24-1-20. Temporary family health care structures, as defined.

24-2. Use by special exception.

24-2-1. Family day homes, as defined.

24-2-2. Child day centers, as defined.

24-2-3. Adult day care centers, as defined.

24-3. Area regulations.

24-3-1. For lots containing or intended to contain a single permitted use the minimum lot area shall be as follows:

- (1) Single-family and two-family dwellings shall conform with the area, width and frontage regulations of residential district R2.
- (2) Permitted business activities shall maintain the prescribed setback, side and rear yard requirements as provided for in section 24-5-2. No minimum lot area is prescribed for business activities listed above.
- (3) Other conditions related to the area and parking follow.

24-3-2. For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

24-4. Setback regulations.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

24-5. Frontage regulations.

24-5-1. Each lot shall abut for a minimum of 25 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

24-5-2. The minimum lot width at the building line shall be 80 feet.

24-5-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

24-5-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of front yard setback requirements shall be that of the pipe portion of the lot closest to and parallel to the street right-of-way. (*Amended 4/14/03*)

24-6. Yard regulations.

24-6-1. Single-family and two-family houses shall comply with the yard regulations as specified for residential district R2.

24-6-2. Commercial uses shall have the following minimum yards:

Side. The combined side yard for both sides shall equal or exceed 15 feet, with no structure being closer than five feet to any property line. When abutting residential districts R1 or R2, the side yard shall comply with Article 6, Section 6-5-4.

Rear. Each main building shall have a minimum rear yard of 15 feet. When abutting residential districts R1 or R2, the rear yard shall not be less than 25 feet.

24-7. Height regulations.

24-7-1. Single-family and two-family dwellings shall comply with the height regulations as specified for residential district R2.

24-7-2. Other buildings may be erected to a maximum height of 25 feet above finished grade elevation, except that:

- (1) Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, television antennae, flagpoles, active solar devices, wind generators and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (2) Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building.

An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

24-8. Provisions for corner lots.

The side yard facing the side street shall be 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "side yard setback line".

24-9. Parking regulations.

Off-street parking shall conform to Article 7 of this ordinance.

24-10. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

24-11. Screening regulations.

Buffering and screening shall be in conformance with Article 6, Section 6-4.

24-12. Site plan.

A detailed site plan will be required by the administrator for all commercial uses prior to the issuance of a zoning permit. (See Article 9 of this ordinance for an outline of site plan requirements). For any zoning permit involving a business, the operator shall provide the name of the business, a detailed description of the business, and a statement of the hours of operation which will be made part of the zoning permit.

24-13. Bulk regulations. *(Amended 12/10/07)*

24-13-1. The main building shall have a minimum finished floor area of 600 square feet.

24-13-2. The main building excluding porches, stoops, and decks shall be a minimum of 20 feet in width at each end of the structure.

ARTICLE 25.

RESERVED.

ARTICLE 26.

RESERVED.

ARTICLE 27.

COMMERCIAL OFFICE, LIMITED DISTRICT C1

Statement of Intent

The C1 office district is intended to encourage the orderly development of the existing land area for professional office development. The uses may include professional and business services, and other such uses for which existing structures may be adopted. This district requires direct public access, but is protected from heavy traffic which is found in a general business zone. This district includes numerous professional activities serving the needs of the community, such as medical offices and clinics, libraries, schools, counseling facilities and services, community services, and financial institutions.

Use Regulations

The following uses shall be permitted as principal uses in the C1 district:

27-1. Use by right.

- 27-1-1. Non-profit counseling facilities and services.
- 27-1-2. Elementary, secondary, trade, business, art, and vocational schools.
- 27-1-3. Colleges, universities, and community colleges.
- 27-1-4. Child day centers, as defined.
- 27-1-5. Churches.
- 27-1-6. Libraries, museums, art galleries, and other associated educational and instructional activities.
- 27-1-7. Community centers.
- 27-1-8. Medical offices. *(Amended 2/5/04)*
- 27-1-9. Personal service establishments (as defined).
- 27-1-10. General offices. *(Amended 2/5/04)*
- 27-1-11. Financial institutions.

- 27-1-12. Post offices.
- 27-1-13. Indoor theaters and assembly halls.
- 27-1-14. Sports and fitness centers.
- 27-1-15. Parks and playgrounds.
- 27-1-16. Communications service centers.
- 27-1-17. Adult day care centers, as defined.

27-2. Use by special exception.

- 27-2-1. Motels and hotels.
- 27-2-2. Radio/television stations and services.
- 27-2-3. Veterinary hospitals, kennels.
- 27-2-4. Outpatient mental health and substance abuse centers. (*Amended 2/5/04*)

27-3. Parking regulations.

27-3-1. *Requirements.* Off-street parking shall conform to Article 7 of this ordinance in addition to the following requirements:

27-3-2. *Surfacing.* All parking lots shall be surfaced with asphalt, concrete or other impermeable surface to protect against pot holes, erosion and dust, unless the town engineer allows an alternative surface treatment in order to control storm water runoff. All parking areas shall include landscaped islands of concrete curbing. In addition, all parking areas shall be bordered by a curb of concrete.

27-3-3. *Ingress and egress.* Provisions shall be made for safe and efficient ingress and egress to and from public streets and highways servicing the use without undue congestion to or interference with normal traffic flow.

27-3-4. *Service areas.* Adequate areas shall be provided for loading and unloading of delivery trucks and other vehicles; servicing of uses by refuse collection, fuel, fire and other service vehicles; automobile access ways; and pedestrian walkways. Service areas shall be screened from view from any abutting roadway and from within the parking area.

27-3-5. *Parking distance from building.* In no case shall parking be located within ten feet of any building.

27-3-6. *Joint use parking.* In the C1 office district, the required off-street parking for uses on the same or adjoining lots may be provided in a single common facility subject to all the following:

- (a) That all required off-street spaces are provided for each use during periods of maximum combined use;
- (b) That the common parking areas are located within 300 feet of the principal use associated with such parking; and
- (c) That a written parking plan is submitted and approved by the zoning administrator and/or the planning commission.

27-4. Sign regulations.

See Article 8 (Sign Regulations). (*Amended 6/10/02*)

27-5. Area regulations.

In the C1 office district, the minimum lot area shall be 15,000 square feet and the minimum lot frontage shall be 50 feet.

27-6. Setback regulations.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

27-7. Frontage regulations.

27-7-1. Each lot shall abut for a minimum of 50 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

27-7-2. The minimum lot width at the building line shall be 100 feet.

27-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount

Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

27-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front line of such lots, for the purposes of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

(Amended 4/14/03)

27-8. Yard regulations.

27-8-1. *Side:* Each side yard of a main structure shall be ten percent or more of the lot width at the building line.

27-8-2. *Rear:* Each main structure shall have a rear yard of 35 feet or more.

27-9. Height regulations.

27-9-1. Buildings may be erected up to 35 feet in height from grade subject to building code compliance. Any variance in height shall be subject to approval of the board of zoning appeals. Any variance will not be granted until due consideration is given to fire safety and fire flow capabilities of the community.

27-9-2. Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, television antennae, radio aerials, active solar collectors and wind generators are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

27-10. Development requirements.

The general plan for a use in the commercial office district zone C1 shall include evidence and facts showing that it has considered and made provisions for, and the development shall be executed in accordance with, the following essential conditions:

27-10-1. The development shall consist of a harmonious selection of uses and 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 and efficient office area.

27-10-2. A landscaping planting area shall be provided along street frontage occupied by a C1 office district use at least seven feet in depth and must be located

between the property line and a minimum of three feet within the inside of the curb.

27-10-3. A perimeter landscaped strip shall be provided adjoining the side and rear property lines. The landscaped strip shall be at least seven feet wide, except the landscape strip shall be at least 15 feet wide where the property abuts a residential district, and may be broken by driveways perpendicular to the property line and by necessary curb cuts. The perimeter landscaped strip shall contain a number of trees equal to at least one tree per 30 linear feet of landscaped area.

27-10-4. A landscaped open space strip a minimum of six feet wide shall be provided adjacent to buildings. Up to one-half of the square footage of this open space may be transferred to the perimeter landscaped strip in order to provide increased screening or buffering for adjacent streets or developed properties.

27-10-5. Buffering and screening shall further comply with Article 6-6 of this ordinance.

27-11. Requirements for permitted uses.

Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, detailed site plans indicating compliance with the substantive provisions of this ordinance (Article 9) and in sufficient detail to show the operations and processes of the use shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

ARTICLE 28.

COMMERCIAL OFFICE, GENERAL DISTRICT C2

Statement of Intent

The C2 district is intended to encourage the orderly development of the existing land area for professional office development. The uses may include professional and business services and other such uses for which existing structures may be adopted. This district requires direct public access, but is protected from heavy traffic which is found in general business zones. This district includes numerous professional activities serving the needs of the community, such as medical offices and clinics, libraries, schools, counseling facilities and services, community services, as well as financial institutions.

The C2 district also provides, by special exception, for clean, environmentally-friendly, light industrial uses. The district encourages the achievements of a planned, mixed-use development while also protecting surrounding property, natural features, and scenic beauty.

Use Regulations

The following uses shall be permitted as principal uses in the C2 district:

28-1. Use by right. *(Amended 2/5/04)*

- 28-1-1. Colleges, universities, and community colleges.
- 28-1-2. Child day centers, as defined.
- 28-1-3. Adult day care centers, as defined.
- 28-1-4. Personal service establishments, as defined.
- 28-1-5. Financial institutions.
- 28-1-6. Indoor theaters and assembly halls.
- 28-1-7. Sports and fitness centers.
- 28-1-8. Restaurants and catering establishments.
- 28-1-9. Retail outlet stores.

28-1-10. Communications service center.

28-1-11. Satellite dish antennas. Private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line, except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

28-1-12. Business support services.

28-1-13. Clubs, as defined.

28-1-14. General offices.

28-1-15. Medical offices.

28-1-16. Personal improvement services (as defined).

28-1-17. Research and development.

(Ord. of 1/12/04)

28-2. Use by special exception. *(Amended 2/5/04)*

28-2-1. Motels and hotels.

28-2-2. Veterinary hospitals or kennels.

28-2-3. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders.

28-2-4. Blacksmith shops, and welding or machine shops, excluding punch presses exceeding 40 ton rated capacity and drop hammers.

28-2-5. Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soaps, toiletries and food products.

28-2-6. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously-prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fur, fiberglass, hair, horn, leather, paper, glass,

plastic, precious or semi-precious metals or stones, shell, straw, textiles, tobacco, wood, yarn, and paint.

28-2-7. Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

28-2-8. Manufacture of musical instruments, toys, novelties and metal stamps.

28-2-9. Monumental stone works.

28-2-10. Enclosed laboratories and facilities for manufacturing and research and development.

28-2-11. Cabinet, furniture, and upholstery shops if conducted within a completely enclosed building.

28-2-12. Lumber and building supply (with storage within a completely enclosed building).

28-2-13. Plumbing and electrical supply (with storage within a completely enclosed building).

28-2-14. Machinery sales and service (under cover).

28-2-15. Automobile rental or leasing.

28-2-16. Automobile sales within a completely enclosed building.

28-2-17. Churches.

28-2-18. Community centers.

28-2-19. Contractor equipment rental within a completely enclosed building.

28-2-20. Elementary, secondary, trade, business, art and vocational schools.

28-2-21. Garden centers.

28-2-22. Laboratories, research.

28-2-23. Laboratories, support.

28-2-24. Libraries, museums, art galleries and other associated educational and instructional activities.

28-2-25. Non-profit counseling facilities and services.

28-2-26. Outpatient mental health and substance abuse centers.

28-2-27. Parks and playgrounds.

28-2-28. Post offices.

28-2-29. Retail stores and shops (as defined).

28-2-30. Wholesale business or merchandising brokers.

28-2-31. Custom manufacturing. (*Amended 10/19/04*)
(*Ord. of 1/12/04*)

28-3. Parking regulations.

28-3-1. *Requirements.* Off-street parking shall conform to Article 7 of this ordinance in addition to the following requirements:

28-3-2. *Surfacing.* All parking lots shall be surfaced with asphalt, concrete or other impermeable surfaces to protect against pot holes, erosion and dust, unless the town engineer allows an alternative surface treatment in order to control storm water runoff. All parking areas shall include landscaped islands of concrete curbing. In addition, all parking areas shall be bordered by a curb of concrete.

28-3-3. *Ingress and egress.* Provisions shall be made for safe and efficient ingress and egress to and from public streets and highways servicing the use without undue congestion to or interference with normal traffic flow.

28-3-4. *Service areas.* Adequate areas shall be provided for loading and unloading of delivery trucks and other vehicles; servicing of uses by refuse collection, fuel, fire and other service vehicles; automobile access ways; and pedestrian walkways. Service areas shall be screened from view from any abutting roadway and from within the parking area.

28-3-5. *Parking distance from building.* In no case shall parking be located within ten feet of any building.

28-3-6. *Joint use parking.* In the C2 district, the required off-street parking for uses on the same or adjoining lots may be provided in a single common facility subject to all the following:

- (a) That all required off-street spaces are provided for each use during periods of maximum combined use;
- (b) That the common parking areas are located within 300 feet of the principal use associated with such parking; and
- (c) That a written parking plan is submitted and approved by the zoning administrator and/or the planning commission.

(Ord. of 1/12/04)

28-4. Sign regulations.

See Article 8 (Sign Regulations).

(Ord. of 1/12/04)

28-5. Area regulations.

In the C2 district, the minimum lot area shall be 15,000 square feet and the minimum lot frontage shall be 50 feet.

(Ord. of 1/12/04)

28-6. Setback regulations.

Structures shall be located 50 feet or more from any street right-of-way, which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

(Ord. of 1/12/04)

28-7. Frontage regulations.

28-7-1. Each lot shall abut for a minimum of 50 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

28-7-2. The minimum lot width at the building line shall be 100 feet.

28-7-3. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that due to its geometric characteristics, results in the creation of an irregular lot.

28-7-4. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front line of such lots, for the purposes of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.
(Ord. of 1/12/04)

28-8. Yard regulations.

28-8-1. *Side:* Each side yard of a main structure shall be ten percent or more of the lot width at the building line.

28-8-2. *Rear:* Each main structure shall have a rear yard of 35 feet or more.
(Ord. of 1/12/04)

28-9. Height regulations.

28-9-1. Buildings may be erected up to 35 feet in height from grade subject to building code compliance. Any variance in height shall be subject to approval of the board of zoning appeals. Any variance will not be granted until due consideration is given to fire safety and fire flow capabilities of the community.

28-9-2. Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flagpoles, television antennae, radio aerials, active solar collectors and wind generators are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
(Ord. of 1/12/04)

28-10. Development requirements.

The general plan for a use in the commercial industrial district shall include evidence and facts showing that it has considered and made provisions for, and the development shall be executed in accordance with, the following conditions:

28-10-1. The development shall consist of a harmonious selection of uses and groupings 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 and efficient office area.

28-10-2. A landscaping planting area shall be provided along street frontage occupied by a C2 district use at least seven feet in depth and must be

located between the property line and a minimum of three feet within the inside of the curb.

28-10-3. A perimeter landscaped strip shall be provided adjoining the side and rear property lines. The landscaped strip shall be at least seven feet wide, except the landscape strip shall be at least 15 feet wide where the property abuts a residential district, and may be broken by driveways perpendicular to the property line and by necessary curb cuts. The perimeter landscaped strip shall contain a number of trees equal to at least one tree per 30 linear feet of landscaped area.

28-10-4. A landscaped open space strip a minimum of six feet wide shall be provided adjacent to buildings. Up to one-half of the square footage of this open space may be transferred to the perimeter landscaped strip in order to provide increased screening or buffering for adjacent streets or development properties.

28-10-5. Buffering and screening shall further comply with Article 6, Section 6-4 of this ordinance.
(Ord. of 1/12/04)

28-11. Requirements for permitted uses.

Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, detailed site plans indicating compliance with the substantive provisions of this ordinance (Article 9) and in sufficient detail to show the operations and processes of the use shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

(Ord. of 1/12/04)

ARTICLE 29.

CENTRAL BUSINESS DISTRICT CBD

Statement of Intent

The purpose of this district is to promote the harmonious use and development of the historic uptown, downtown and surrounding areas, which is the traditional commercial, governmental, residential, and cultural center of Rocky Mount. The central business district is characterized by an uptown professional office district and a downtown commercial district, which surrounds a residential core. The central business district is distinct due to the historic architecture that lines and is directly adjacent to the pedestrian way and the street. It is the intent of the town to maintain the unique nature of the district by promoting the use of existing buildings, and maintaining and extending the current building arrangement, architectural style, and scale.

Development should occur in such a manner to minimize traffic congestion, encourage a pedestrian friendly environment, and enhance the economic viability of the district.

Use Regulations

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

29-1. Use by right.

- 29-1-1. Banks and credit unions.
- 29-1-2. Bed and breakfast establishments.
- 29-1-3. Business schools.
- 29-1-4. Churches.
- 29-1-5. Cemeteries.
- 29-1-6. Indoor theaters and assembly halls.
- 29-1-7. General offices. *(Amended 2/5/04)*
- 29-1-8. Farmers' markets.

- 29-1-9. Funeral homes.
- 29-1-10. Gasoline service stations (with repairs within a completely enclosed building).
- 29-1-11. General hospitals.
- 29-1-12. Greenhouses and garden centers.
- 29-1-13. Group homes, as defined. (*Amended 11/13/07*)
- 29-1-14. Home occupations.
- 29-1-15. Laundromats.
- 29-1-16. Libraries.
- 29-1-17. Medical offices. (*Amended 2/5/04*)
- 29-1-18. Music instruction and dance.
- 29-1-19. Child day centers, as defined.
- 29-1-20. Nursing homes and assisted living facilities, as defined.
- 29-1-21. Outdoor craft/food sales.
- 29-1-22. Parking lots (located behind buildings or screened from the road).
- 29-1-23. Personal service establishments.
- 29-1-24. Public utilities.
- 29-1-25. Retail stores and shops.
- 29-1-26. Restaurant and catering establishments.
- 29-1-27. Residential uses are permitted above the first floor of a business use subject to the provisions of the Virginia Uniform Statewide Building Code and Fire Code.
- 29-1-28. Satellite dish antennas: Private noncommercial radio and television satellite dish antennas of not more than four feet in diameter are permitted.
- 29-1-29. Service, philanthropic, and social clubs.

29-1-30. Single-family homes.

29-1-31. Sports and fitness complexes.

29-1-32. Any use not specifically listed will be reviewed on an individual basis and if approved, permitted by granting of a special exception by town council.

29-1-33. Machinery sales and service.

29-1-34. Adult day care homes, as defined.

29-1-35. Adult day care centers, as defined.

29-1-36. Temporary family health care structures, as defined.

29-2. Use by special exception.

29-2-1. For the purposes of this ordinance, the town council reserves unto itself the right to grant or refuse special exceptions as provided by § 15.2-2286 (A)(1) of the Code of Virginia (1950), as amended.

29-2-2. Public billiard parlors and pool rooms, bowling alleys, dance halls, video game arcades and similar forms of public amusement and flea markets. After a recommendation from the planning commission and a public hearing, the governing body may establish such special requirements and regulations for the protection of adjacent property and set hours of operation, and may make requirements as it deems necessary in the public interest.

29-2-3. Communications service centers.

29-2-4. Outpatient mental health and substance abuse centers. *(Amended 2/5/04)*

29-2-5. Auction houses. *(Amended 5/24/04)*

29-2-6. Custom manufacturing. *(Amended 10/19/04)*

29-2-7. Family day homes, as defined.

29-3. Parking regulations.

29-3-1. Off-street parking shall conform to Article 7 of this ordinance. If the minimum number of parking spaces are unavailable, the zoning permit shall not be issued unless a request for special exception as provided by Article 5, Section 5-4 of this ordinance shall be made to the administrator. The request shall be referred to

the planning commission for review and recommendation based on requirements for similar uses, location of the proposed use, hours of operation of the proposed use, expected demand and traffic generated by the proposed use, existing on-site parking, availability of public parking, and appropriate traffic engineering and planning criteria and information. The final determination of the request shall be made by the town council.

29-3-2. A request for special exception shall include the documentation necessary for the planning commission and the town council to evaluate the objective criteria above.

29-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

29-5. Setback regulations.

29-5-1. *Business.* On in-fill lots, business structures shall be located at the front lot line maintaining the traditional downtown pattern of adjacency to the pedestrian way. New businesses are encouraged to build abutting adjacent structures. However, buildings requiring access to rear or side parking areas will be allowed a one travel lane width at a maximum width of 18 feet.

29-5-2. *Residential.* All residential units must observe a 30-foot setback from the front right-of-way line.

29-6. Frontage regulations.

29-6-1. Each lot shall abut for a minimum of 50 feet upon a dedicated and approved street located within the Town limits and maintained by the Town of Rocky Mount or the Virginia Department of Transportation.

29-6-2. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

29-6-3. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front line of such lots, for the purpose of front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

(Amended 4/14/03)

29-7. Yard regulations.

29-7-1. *Business.* No yards are required.

29-7-2. *Residential.*

29-7-2.1. *Side:* Each side yard of a main structure shall be at least six feet in width.

29-7-2.2. *Rear:* Each main structure shall have a rear yard of 25 feet.

29-8. Height regulations.

29-8-1. *Business.* Buildings may not exceed two stories in height with a maximum height of 45 feet from grade. Additionally, parapet walls may not project more than four feet above the roof.

29-8-2. *Residential.* Residential buildings may be erected up to 25 feet in height above the finished grade.

29-8-3. *Public or semi-public.* Public or semi-public building structures such as a school, church, hospital, or water tower may exceed height regulations if granted a special exception by the Rocky Mount town council.

29-9. Screening.

29-9-1. Any gaps between buildings except for approved travel lanes must be screened in such a manner as to promote a continuous frontage along the street.

29-9-2. Utilities located on roofs of buildings shall be screened or set back a distance of at least ten feet from the front or rear facade or at a point where they will not be readily visible from the street.

29-9-3. All dumpsters and utilities located at ground level must be screened from public view and may not impede traffic.

29-10. Special provisions for corner lots.

29-10-1. On a corner residential lot, a building, fence, wall, hedge or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator.

29-11. Site plan.

29-11-1. Site plans are required for each of the following developments or uses.

- (a) Commercial uses.
- (b) All special exceptions.

29-12. Landscape plan.

A landscape plan shall be submitted with a required site plan for any proposed commercial construction within the central business district. All landscape plans shall be of sufficient detail to allow the planning commission to judge the compatibility of the proposed plan with the character of the district. At a minimum, all landscape plans shall provide information on the general size, location, style, color, and names of the landscape materials to be used.

29-12-1. Landscaping or fencing is required for:

- (a) Screening of a parking lot along the street edge, screening of outbuildings not connected to a primary building, and screening of utility systems.
- (b) As enhancement to the general appearance of the primary building.
- (c) As general beautification of a vacant space such as an adjacent lot.

29-12-2. General requirements.

- (a) Landscaping should be on a scale commensurate with the dimensions of the property and buildings of the principal property as well as buildings on the adjacent parcels.
- (b) Landscaping should be of a size not to disturb sight lines or be a vehicular or pedestrian hazard.
- (c) Landscaping should be done with trees, and shrubs that are indigenous to southwest Virginia and tolerant of the urban environment.
- (d) When developing a landscape plan, professional landscapers, local or regional gardening organizations, and state and university extension services should be consulted for planning advice and guidance.

29-13. Buffers.

29-13-1. Businesses located next to existing residential units within the central business district must observe a minimum buffer of at least 25 feet.

29-13-2. For the purpose of Article 6, Section 6-4-4, the central business district will be treated as a residential-business district (RB).

29-14. Residential bulk regulations. *(Amended 12/10/07)*

29-14-1. The main building shall have a minimum finished floor area of 800 square feet.

29-14-2. The main building excluding porches, stoops, and decks shall be a minimum of 20 feet in width at each end of the structure.

29-15. Landscape guidelines.

Buildings in a traditional commercial district are set back an equal distance from the street creating a contiguous wall. Where this pattern is lost, vegetation can be used to restore the traditional building pattern. In areas where parking lots border the street edge, a vegetation border should be established to create a constant wall along the street. Vegetation should also be established at edges of empty lots where alternative solutions are not proposed.

Trees selected for the streetscape should be pollution tolerant, native to the area, and require low maintenance. Placement of trees should not obstruct pedestrian or vehicular traffic. Trees should be sited appropriately in front of stores so that blockage of display windows, doors, and signage is minimized.

ARTICLE 30.

GENERAL BUSINESS DISTRICT GB

Statement of Intent

This district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access and is characterized by heavy traffic, and noise and congestion of people and passenger vehicles. This district includes numerous commercial activities serving the needs of the community such as retail stores, business offices, restaurants and garages, located predominantly on primary arteries. Special conditions exist within this zone to permit the operation of business traditionally located within the central business district, and those traditionally found along arterial strip developments.

Use Regulations

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

30-1. Use by right.

- 30-1-1. Retail stores and shops.
- 30-1-2. Medical offices. *(Amended 2/5/04)*
- 30-1-3. General offices. *(Amended 2/5/04)*
- 30-1-4. Business schools.
- 30-1-5. Music instruction and dance.
- 30-1-6. Wholesale merchandising brokers, excluding wholesale storage. Storage shall be within a fully enclosed building.
- 30-1-7. Personal service establishments, as defined.
- 30-1-8. Nursing homes and assisted living facilities, as defined. .
- 30-1-9. General hospitals.
- 30-1-10. Funeral homes.

- 30-1-11. Hotels and motels.
- 30-1-12. Churches.
- 30-1-13. Libraries.
- 30-1-14. Clubs and lodges.
- 30-1-15. Parking lots.
- 30-1-16. Public utilities.
- 30-1-17. Car washes.
- 30-1-18. Gasoline service stations (with repairs within a completely enclosed building).
- 30-1-19. Cemeteries.
- 30-1-20. Banks and credit unions.
- 30-1-21. Reserved. *(Amended 2/5/04)*
- 30-1-22. Reserved. *(Amended 2/5/04)*
- 30-1-213. Satellite dish antennas. Private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line, except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.
- 30-1-224. Farmers' markets.
- 30-1-235. Auto truck sales and service (under cover) to require the following:
 - a. If the use is within 50 feet of a residential district, the use must be screened according to Article 30, Ssection 30-9-2 of this ordinance. The planning commission reserves unto itself the right to alter screening requirements where (a) natural land characteristics would achieve the same intent of Ssection 30-9-2 or (b) innovative landscape or architectural design is employed to achieve an equivalent buffering and screening effect.

- b. A paved lot for all parking areas (minimum prime and double seal asphalt treatment).
- c. No activity or display within a five-foot area of any property line.
- d. Fifteen thousand square feet minimum land area for the use.
- e. One hundred feet minimum road frontage for the use.
- f. Permanently affixed lighting, if the use is to be lighted.
- g. A permanent structure meeting the requirements of the statewide building code is required for use. (Trailers are not permitted as a sales office or for any type storage).
- h. If a new garage, workshop, or repair building is to be constructed for the use, no motor vehicle entrance to the building will be within 25 feet of an existing right of way.

30-1-246. Child care centers. Child day centers, as defined.

30-1-25. Adult day care centers, as defined.

30-1-267. Miniature golf courses and driving ranges.

30-1-278. Restaurants and catering establishments.

30-1-289. Indoor theaters and assembly halls.

30-1-2930. Outdoor craft/food sales.

30-1-301. Laundromats.

30-1-312. Residential uses are permitted above the first floor of a business use subject to provisions of the Virginia Uniform Statewide Building Code and Fire Code.

30-1-323. Building supply (with storage within a completely enclosed area).

30-1-334. Recycling collection centers.

30-1-345. Greenhouses and garden centers.

30-1-356. Sports and fitness complexes, as defined (as defined).

30-1-367. Mini-warehouses and self-service storage facilities.

30-1-378. Machinery sales and service.

30-2. Use by special exception.

For the purposes of this ordinance, the town council reserves unto itself the right to grant or refuse special exceptions as provided by § 15.2-2286(A)(3) of the Code of Virginia (1950), as amended.

30-2-1. Public billiard parlors and pool rooms, bowling alleys, dance halls, video game arcades and similar forms of public amusement and flea markets. In approving any such applications, after a recommendation from the planning commission and a public hearing, the governing body may establish such special requirements and regulations for the protection of adjacent property, set hours of operation, and make requirements as it may deem necessary in the public interest.

30-2-2. Veterinary hospitals and kennels.

30-2-3. Shelters.

30-2-4. Communications service centers.

30-2-5. Outpatient mental health and substance abuse centers.
(Amended 2/5/04)

30-2-6. Auction houses. (Amended 5/24/04)

30-2-7. Custom manufacturing (Amended 10/19/04)

30-3. Parking regulations.

Off-street parking shall conform to Article 7 of this ordinance.

30-4. Sign regulations.

See Article 8 (Sign Regulations). (Amended 6/10/02)

30-5. Area regulations.

None. However, area regulations may be imposed by the health official and zoning administrator if a private water and/or sewer system is utilized.

30-6. Setback regulations.

Structures shall be located 30 feet or more from street right-of-way on all dual lane divided highways. Structures shall be located 20 feet from other primary street right-of-way which is 50 feet or greater in width, or 45 feet from the center line of any street right-of-way less than 50 feet in width. However, no building to be constructed on an "in fill lot" (as defined) will be required to set back from the street a distance greater than the setback line presently observed by any adjoining building that is within 50 feet of the proposed structure's side lot line at the setback. In event of a planned road improvement (see Article 5, Section 5-56, of this ordinance) the planning commission shall establish a greater setback of sufficient distance to minimize disruption to any structure and/or its use.

30-7. Frontage and yard regulations.

30-7-1. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

30-7-2. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of front yard setback requirements shall be that of the pipe portion of the lot closest to and parallel to the street right-of-way.

30-7-3. The minimum side or rear yard adjoining or adjacent to a residential district shall comply with Article 6, Section 6-46-4.

30-7-4. On a corner lot, a fence, wall, hedge or other planting or structure that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6, Section 6-1-1.)

(Amended 4/14/03)

30-8. Height regulations.

30-8-1. Buildings may be erected up to 60 feet in height from grade subject to building code compliance. Any variance in height shall be subject to approval of the board of zoning appeals. Any variance will not be granted until due consideration is given to fire safety and fire flow capabilities of the community.

30-8-2. Church spires, belfries, cupolas, monuments, cooling towers, municipal

water towers, chimneys, flues, flagpoles, television antennas, radio aerials, active solar collectors and wind generators are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

30-9. Requirements for permitted uses.

30-9-1. Before a zoning permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, detailed site plans indicating compliance with the substantive provisions of this ordinance (Article Article 9) and in sufficient detail to show the operations and processes of the use shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

30-9-2. Buffering and screening shall be in conformance with Article 6, Ssection 6-46.

ARTICLE 31.

RESERVED.

ARTICLE 32.

RESERVED.

ARTICLE 33.

INDUSTRIAL, LIMITED DISTRICT M1

Statement of Intent

This district is established primarily as an area for wholesale activities, warehouses and industrial operations of a light nature that will not create serious problems or incompatibility with other land uses. Features of noise, smoke, dust and fumes should be minimal.

Use Regulations

In industrial district M1, any structure to be erected or land to be used shall be for one or more of the following uses:

33-1. Use by right.

33-1-1. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders.

33-1-2. Automobile painting, upholstery, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling.

33-1-3. Blacksmith shops, welding or machine shops, excluding punch presses exceeding 40 ton rated capacity and drop hammers.

33-1-4. Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soaps, toiletries and food products.

33-1-5. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fur, fiberglass, hair, horn, leather, paper, glass, plastic, precious or semi-precious metals or stones, shell, straw, textiles, tobacco, wood, yarn, and paint.

33-1-6. Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

33-1-7. Manufacture of musical instruments, toys, novelties and metal

stamps.

- 33-1-8. Coal and wood yards, lumber yards.
- 33-1-9. Building material sales yards, plumbing supplies storage.
- 33-1-10. Contractor's equipment storage yards or plants, or rental of equipment commonly used by contractors.
- 33-1-11. Boat building and repair.
- 33-1-12. Monumental stone works.
- 33-1-13. Wholesale business, sheet metal shops, storage warehouse mills.
- 33-1-14. Public utility generating booster or relay stations, transformers, substations, transmission lines and towers, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations.
- 33-1-15. Satellite dish antennas. Private noncommercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be at least three feet from any property line, except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.
- 33-1-16. Enclosed laboratories and facilities for manufacturing, and research and development.
- 33-1-17. Cabinet, furniture, upholstery shops if conducted within a completely enclosed building.
- 33-1-18. Lumber and building supply (with storage within a completely enclosed building).
- 33-1-19. Plumbing and electrical supply (with storage within a completely enclosed building).
- 33-1-20. Machinery sales and service (under cover).
- 33-1-21. Veterinary hospitals or kennels.
- 33-1-22. Communications service centers. *(Amended 3/12/01)*

33-1-23. Custom manufacturing. *(Amended 10/19/04)*

33-2. Use by special exception.

33-2-1. Retail outlet stores.

33-2-2. Airports.

33-2-3. Auction houses. *(Amended 5/24/04)*

33-3. Parking regulations.

Off-street parking shall conform to Article 7 of this ordinance.

33-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

33-5. Requirements for permitted uses.

33-5-1. Before a zoning permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, detailed site plans indicating compliance with the substantive provisions of this ordinance (Article 9) and in sufficient detail to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

33-5-2. Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, uniformly painted solid board fence, or an evergreen hedge six feet in height. 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.

33-5-3. Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

33-5-4. Buffering and screening shall be in conformance with Article 6, Section 6-4.

33-5-5. Sufficient area as determined by the zoning administrator shall be provided to adequately screen permitted uses from adjacent business and residential

districts and for off-street parking vehicles incidental to the industry, its employees and clients.

33-6. Area regulations.

None, except those as may be imposed by the administrator based on the recommendation of the health official if a private water or sewage treatment system is used.

33-7. Setback regulations.

Buildings shall be located 25 feet or more from any street right-of-way which is 50 feet or greater in width and 50 feet from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

33-8. Frontage and yard regulations.

33-8-1. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

33-8-2. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of the front yard setback requirement, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

33-8-3. The minimum side yard adjoining or adjacent to a residential or agricultural district shall comply with Article 6, Section 6-4-4. The side yard of corner lots shall be 20 feet or more.

33-8-4. On a corner lot, a fence, wall, hedge, or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6, Section 6-1-1.)

(Amended 4/14/03)

33-9. Height regulations.

Buildings may be erected up to 60 feet in height above the finished floor subject to building and fire code regulation. Chimneys, flues, active solar collectors, wind generators, cooling towers, their flagpoles, radio or communication towers or

their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls are permitted up to four feet above the height of the building on which the walls rest.

33-10. Coverage regulations.

Buildings or groups of buildings with their accessory buildings may cover up to 70 percent of the area of the tract. Any area not enclosed or covered by buildings, pavement or designed for parking shall be landscaped and maintained.

ARTICLE 34.

INDUSTRIAL, GENERAL DISTRICT M2

Statement of Intent

The primary purpose of this district is to establish an area where the principal use of land is for heavy industrial operations, which may create some nuisance, and which are not properly associated with, nor particularly compatible with, residential, institutional and neighborhood commercial service establishments.

The specific intent of this district is to: (a) encourage the construction of and continued use of the land for heavy commercial and industrial purposes; (b) discourage residential and neighborhood commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district; (c) to encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this ordinance.

Use Regulations

In industrial district M2, buildings to be erected or land to be used shall be for one or more of the following uses:

34-1. Use by right.

- 34-1-1. Any use permitted and in the same manner permitted in district M1.
- 34-1-2. Truck terminals, automobile assembly, tire recapping or battery manufacturing.
- 34-1-3. Sand, gravel and crushed stone operations.
- 34-1-4. Wood preserving operations.
- 34-1-5. Petroleum refining, including by-products and petroleum.
- 34-1-6. Asphalt mixing plant.
- 34-1-7. Brick manufacturing.
- 34-1-8. Boiler shops.

- 34-1-9. Feed manufacturing.
- 34-1-10. Public utilities.
- 34-1-11. Accessory uses, as defined.
- 34-1-12. Sawmills, as defined.
- 34-1-13. Fiber optics and wire manufacturing.
- 34-1-14. Dye manufacturing.
- 34-1-15. Spinning and textile mills.
- 34-1-16. Concrete mixing plants.
- 34-1-17. Steel fabricating.

34-1-18. Satellite dish antennas. Private non-commercial radio and television satellite dish antennas may be permitted to be constructed to a height not in excess of 20 feet only when installed at ground level, provided that such antenna shall be located behind the setback line of the main structure. All towers, antennas, guy anchorages or similar devices shall be a least three feet from any property line except on the side yard facing the side street the setback requirement shall be 25 feet. The installation of a ground or roof-mounted satellite dish antenna shall be permitted in accordance with the Virginia Uniform Statewide Building Code.

- 34-1-19. Custom manufacturing. *(Amended 10/19/04)*
- 34-1-20. Rail transfer facilities, as defined.

34-2. Uses by special exceptions.

- 34-2-1. Abattoirs.
- 34-2-2. Junkyards, automobile graveyards.
- 34-2-3. Meat, poultry and fish processing.
- 34-2-4. Paper and pulp manufacturing.
- 34-2-5. Acid, cement, lime, gypsum and fertilizer manufacturing.
- 34-2-6. Auction houses. *(Amended 5/24/04)*

34-3. Parking regulations.

Off-street parking shall conform to Article 7 of this ordinance.

34-4. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

34-5. Area regulations.

None. However, if a private water and/or sewer system is utilized, the health official and the zoning administrator may require minimum areas to assure proper operation of these private system(s).

34-6. Requirements for permitted uses.

34-6-1. Before a zoning permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, detailed site plans indicating compliance with the substantive provisions of the ordinance (Article 9) and in sufficient detail to show the operations and processing of the use shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendation.

34-6-2. Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence, or an evergreen hedge six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.

34-6-3. Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

34-6-4. Buffering and screening shall be utilized on all lots fronting or adjacent to a residential or commercial zone. That portion of the lot shall be enclosed by a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation may be exempt from this provision.

34-6-5. Buffering and screening shall be in conformance with Article 6, Section 6-4.

34-7. Setback regulations.

Buildings shall be located 25 feet or more from any street right-of-way which is 50 feet or greater in width, or 50 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line".

34-8. Frontage and yard regulations.

34-8-1. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

34-8-2. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of the front yard setback requirements, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way.

34-8-3. The minimum side yard adjoining or adjacent to a residential district shall comply with Article 6, Section 6-4-4. The side yard of corner lots shall be 20 feet or more.

34-8-4. On a corner lot, a fence, wall, hedge, or other planting that will materially obstruct vision so as to create a traffic hazard shall be prohibited by the zoning administrator. (See Article 6, Section 6-1-1.)

(Amended 4/14/03)

34-9. Coverage regulations.

Buildings or groups of buildings with their accessory buildings may cover up to 70 percent of the area of the tract. Any area not enclosed or covered by buildings, pavement or designed for parking shall be landscaped and maintained.

34-10. Height regulations.

Buildings may be erected up to 60 feet in height from the finished floor elevation, chimneys, flues, active solar collector wind generators, cooling towers, flagpoles, radio or communication towers, or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

ARTICLE 35.

RESERVED.

ARTICLE 36.

RESERVED.

ARTICLE 37.

PUBLIC/OPEN SPACE

Statement of Intent

A purpose of this district is to preserve specific areas from private development, as these areas have been identified as currently undeveloped, unlikely to be developed, or unsuitable for private development. This zone is not considered to be a main district within the zoning ordinance. These areas either have natural conditions of soil, slope, susceptibility to flooding or erosion, geological condition, vegetation or an interaction between the aforesaid which makes such lands unsuitable for urban development or which are of a public nature which is inappropriate for private development. In order to protect the natural environment in these sensitive areas, the permissible uses there are limited to public recreation-oriented activities.

This district is also intended to specify the location of public facilities of a recreational nature as well as to reserve areas for location of other public facilities. The zoning administrator and health official shall approve any proposed area requirements for any proposed use. Any public/open space activity shall be in compliance with § 15.2-2204 of the Code of Virginia (1950), as amended.

37-1. Use by right.

37-1-1. Schools.

37-1-2. Municipal/county/state/federal buildings.

37-1-3. Parks or playgrounds.

37-1-4. Recreational facilities.

37-1-5. Cemeteries.

37-1-6. Swimming pools.

37-1-7. Water storage and distribution, detention ponds, dry dams.

37-1-8. Public utilities such as poles, lines, distribution transformers, pipes, meters, and/or other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.

37-1-9. Bicycle and pedestrian paths and trails.

37-1-10. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

37-1-11. Public parking facilities.

37-1-12. Off-street parking as required by Article 7 of this ordinance.

37-2. Parking regulations.

Off street parking shall conform to Article 7 of this ordinance.

37-3. Sign regulations.

See Article 8 (Sign Regulations). *(Amended 6/10/02)*

37-4. Frontage regulations.

37-4-1. The creation of irregular or pipe stem lots shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Town of Rocky Mount Subdivision Ordinance that, due to its geometric characteristics, results in the creation of an irregular lot.

37-4-2. On existing pipe stem lots, no building or structure shall be permitted in the stem portion of the lot. In addition, the front lot line of such lots, for the purposes of the front yard setback requirement, shall be that line of the pipe portion of the lot closest to and parallel to the street right-of-way. *(Amended 4/14/03)*

ARTICLE 38.

FLOOD DISTRICTS

38-1. General provisions.

38-1-1. *Purpose.* The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

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

38-1-2. *Applicability.* These provisions shall apply to all lands within the jurisdiction of the Town of Rocky Mount and identified as being in the 100-year floodplain by the Federal Insurance Administration.

38-1-3. *Compliance and Liability.*

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

- c. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator of the Town of Rocky Mount.
- d. This ordinance shall not create liability on the part of the Town of Rocky Mount or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made under this ordinance.

38-1-4. *Abrogation and Greater Restrictions.* This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

38-1-5. *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason, the decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

38-2. Definitions.

38-2-1. *Base flood:* The flood having a one percent chance of being equaled or exceeded in any given year.

38-2-2. *Base flood elevation:* The Federal Emergency Management Agency designated 100-year water surface elevation.

38-2-3. *Basement:* Any area of the building having its floor sub-grade (below ground level) on all sides.

38-2-4. *Elevated building:* A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

38-2-5. *Encroachment:* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

38-2-6. *Existing manufactured home park:* A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

38-2-7. *Expansion to an existing manufactured home park:* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

38-2-8. *Flood or flooding:*

- a. A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; or, the unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) of this definition.

38-2-9. *Floodplain or flood-prone area:* Any land area susceptible to being inundated by water from any source.

38-2-10. *Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

38-2-11. *Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

38-2-12. *Historic structure:* Any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

38-2-13. *Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

38-2-14. *New Construction:* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

38-2-15. *New manufactured home park:* A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

38-2-16. *Recreational vehicle:* A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and, designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

38-2-17. *Shallow flooding area:* A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

38-2-18. *Special flood hazard area:* The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in

Article 38, Section 38-3-2 of this ordinance.

38-2-19. *Start of construction:* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

38-2-20. *Substantial damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

38-2-21. *Substantial improvement:* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

- a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- b. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

38-2-22. *Watercourse:* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

38-3. Establishment of floodplain districts.

38-3-1. *Description of districts.*

- a. 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 for The Town of Rocky Mount prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 16, 2008, as amended.

- b. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.
- c. The Special Floodplain District shall be those areas identified as either an AE Zone or A1-30 Zone on the maps accompanying the Flood Insurance Study for which 100-year flood elevations have been provided but for which no floodway has been delineated.
- d. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the 100-year floodplain boundary has been approximated.

38-3-2. Overlay concept.

- a. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- b. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- c. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

38-3-3. Official zoning map. The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at The Town of Rocky Mount offices.

38-3-4. District boundary changes. The delineation of any of the Floodplain Districts may be revised by The Town of Rocky Mount where natural or man-made

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

38-3-5. *Interpretation of district boundaries.* Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

38-4. District Provisions.

38-4-1. *Permit and application requirements.*

- a. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Zoning Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and The Town of Rocky Mount Subdivision Ordinance. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- b. All site plans and permit applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 1. The elevation of the Base Flood at the site.
 2. The elevation of the lowest floor (including basement).
 3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

38-4-2. *General Standards.* In all special flood hazard areas the following provisions shall apply:

- a. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of

the structure.

- b. 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.
- c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- d. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- e. 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.
- f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g. 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.
- h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- i. 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.
- j. 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.
- k. 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. Army 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.

- I. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

38-4-3. *Specific standards.* In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Article 38, Section 38-4-4(A), the following provisions shall apply:

- a. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation.
- b. 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 three feet above the base flood elevation. Buildings located in all A1-30, 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 hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
- c. Enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 1. 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). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
 2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 3. In the Coastal High District, follow the standards for elevation outlined in Article 38, Section 38-4-9; and
 4. Include, in Zones A, AO, AE, and A1-30, 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:

- a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
- b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;
- c. If a building has more than one enclosed area, each area must have openings to allow floodwater to automatically enter and exit;
- d. The bottom of all required openings shall be no higher than one foot above the adjacent grade;
- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
- f. 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.

d. 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 on which a manufactured home has incurred substantial damage as a result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 38, Section 38-4-2(A), Section 38-4-2(B), and Section 38-4-3(A).
2. All recreational vehicles placed on sites must either: be on the site for fewer than 180 consecutive days; be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or meet all the requirements for manufactured homes in Article 38, Section 38-4-3(D).

38-4-4. *Standards for Approximated Floodplain.* When base flood elevation

data or floodway data have not been provided, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of Article 38, Section 38-4. When such base flood elevation data is utilized, the Floodplain Administrator shall obtain:

- a. The elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,
- b. If the structure has been floodproofed in accordance with the requirements of Article 38, Section 38-4-3(B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been floodproofed.

38-4-5. *Standards for the Flood-fringe and approximated flood plain districts, FP.* In the flood-fringe and approximated floodplain districts the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

- a. New residential structures and substantial improvements of existing structures are permitted in accordance with the regulations of the underlying district provided the lowest floor including basement shall be elevated to or above the base flood level, as certified by a registered engineer or architect, unless an exception for allowance of basements or storm cellars is granted by the Federal Emergency Management Agency.
- b. New non-residential structures and substantial improvements for existing structures are permitted in accordance with underlying district regulations provided the lowest floor including basement shall be elevated to or above the base flood level; or be flood proof and certified to be by a registered engineer or architect to or above the base flood level provided the development does not cause any rise in flood elevation of the 100-year flood and/or any increase in water velocity.
- c. Development activities in Zones A1-30, AE, and AH, on the Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies with the Town of Rocky Mount for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

38-4-6. *Standards for the Floodway District, FP1.* The following provisions shall apply within the Floodway District:

- a. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.
- b. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer or applicant first applies with the Town of Rocky Mount for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
- c. If Article 38, Section 38-4-6(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 38, Section 4.
- d. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park. A replacement manufactured home may be placed on a lot in an existing manufactured home park provided the anchoring, elevation, and encroachment standards are met.
- e. *Permitted uses.* In the floodway district the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials and equipment:
 1. Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
 2. Public and private recreational uses and activities parks, day camps, picnic grounds, golf courses, hiking and horseback riding trails, wildlife and nature preserves, and game farms;
 3. Accessory residential uses such as yard areas, garden areas, and pervious and loading areas;
 4. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.
- f. *Uses permitted by special exceptions.* The following uses and activities may be permitted by special exception provided they are in compliance with the provisions of the underlying district and are not prohibited by this or any

other ordinance:

1. New residential structures and substantial improvements of existing structures provided the lowest floor including basement shall be elevated to or above the base flood level unless an exception for the allowance of basements or storm cellars is granted by the Federal Emergency Management Agency;
2. New non-residential structures and substantial improvement of existing structures provided the lowest floor including basement shall be elevated to or above the base floor level; or be flood proof to or above the base flood level provided the development does not cause any raise in flood elevation of the 100-year flood and/or any increase in water velocity;
3. Structures except for manufactured homes accessory to the uses and activities in section (a) above;
4. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses;
5. Extraction of sand, gravel, and other materials (where no increase in level of flooding or velocity is caused thereby);
6. Temporary uses such as circuses, carnivals, and similar activities;
7. Storage of materials and equipment provided they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning;
8. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances.

38-4-7. Standards for Subdivision Proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to

minimize flood damage;

- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- d. 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 lesser.

38-5. Variances.

38-5-1. In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in the Zoning Ordinance and consider the following additional factors:

- a. The showing of good and sufficient cause;
- b. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the 100-year flood elevation.
- c. The danger that materials may be swept on to other lands or downstream to the injury of others;
- d. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
- e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- f. The importance of the services provided by the proposed facility to the community;
- g. The requirement of the facility for a waterfront location;
- h. The availability of alternative locations not subject to flooding for the proposed use;
- i. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

- k. The safety of access by ordinary and emergency vehicles to the property in time of flood;
- l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- m. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- n. Such other factors which are relevant to the purposes of this ordinance.

38-5-2. 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.

38-5-3. 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.

38-5-4. Variance shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

38-5-5. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks of life and property and (b) will result in increased premium rates for flood insurance.

38-5-6. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

38-6. Existing Structures in Floodplain Areas

38-6-1. A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- a. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- b. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure or use located in any flood plain areas to an extent or amount of less than 50 percent of its market value shall conform to the VA USBC.
- c. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure or use, regardless of its location in a floodplain area to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE 39.

NONCONFORMING USES

39-1. General provisions.

Within the districts established by this ordinance or by amendments which may later be adopted, there exists or may exist lots, structures, uses of land and structure, and characteristics of use, which were lawful before this ordinance was passed or amended, but which would not conform to regulations and restrictions under the terms of this ordinance or future amendments thereto, shall be considered nonconforming. It is the intent of this ordinance to abide by the letter and spirit of the provisions of § 15.2-2307 of the Code of Virginia (1950), as amended. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as provided herein.

39-2. Continuation.

39-2-1. Where, at the effective date of adoption or amendment of this ordinance, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or property may be continued as herein provided.

39-2-2. If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the existing use may be continued.

39-2-3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two years after the effective date of adoption or amendment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

39-2-4. Whenever a nonconforming structure, lot, or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

39-2-5. Temporary seasonal nonconforming uses that have been in operation for a period of two years or more prior to the effective date of adoption or amendment of this ordinance are excluded.

39-3. Permits.

If (i) the town has issued a zoning permit and thereafter the local building official has issued a building permit, the building or structure was thereafter

constructed in accordance with the building permit, and upon completion of construction, the local building official issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the town for such building or structure for a period in excess of 15 years, the building or structure may be considered nonconforming, but shall not be considered illegal, and shall not be removed solely due to such nonconformity.

39-4. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any of 12 consecutive months on ordinary repairs or on repair or replacement of non-load bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the current replacement value of the structure, provided that the cubic content of the structure as existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official. In determining the question of whether repairs will exceed 50 percent of the current replacement value of the structure, the procedure shall be as follows:

- (A) The zoning administrator shall inspect the structure, if so permitted. The zoning administrator shall determine, if possible, with aid from the local building official whether or not the repairs will exceed 50 percent of the current replacement value of the structure.
- (B) If the zoning administrator is not able to make such determination without further information from the owner of the structure, the administrator shall obtain from the owner a scope of work and estimated cost of repair, prepared by a general contractor, and a copy of any contract for the repairs between the owner and general contractor. The zoning administrator shall compare the cost of repair with the assessed value of the structure, to determine whether or not the repairs will exceed 50 percent of the current replacement value of the structure.
- (C) If the zoning administrator is unable to make the determination as to whether or not the repairs will exceed 50 percent of the current replacement value of the structure, the administrator shall use the best available information to make this determination.
- (D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of repairs and maintenance.

If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is

declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the regulations of the district in which it is located, except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.

39-5. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

39-6. Expansion or enlargement.

39-6-1. Any extension or enlargement of a nonconforming structure shall conform with the provisions of this ordinance, except that the front setback requirement shall be no greater than the average of the existing structure setbacks of adjoining lots fronting on the same street.

39-6-2. A nonconforming activity may be extended throughout any structure which was arranged or designed for such activity at the time of enactment of this ordinance, but no such use should be extended to occupy any land outside such structures.

39-6-3. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming uses of land. No additional uses of a nature which would be prohibited generally in the district involved shall be permitted.

39-7. Nonconforming lots.

Any lot of record at the time of the adoption of this ordinance or which is less in area, frontage, or width than the minimum required by this ordinance may be used in accordance with the following provisions: *(These provisions shall be looked at by the zoning administrator progressively starting with (A) to determine the appropriate course of action.)*

- (A) An accessory structure may be built or expanded provided all setbacks, side, and rear yard requirements are met.
- (B) The lot of record may be used if it contains at least 80 percent of the required frontage, lot width, and area and the remaining setbacks, side and rear yard requirements can be met, except that the front setback

requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.

- (C) If the lot of record cannot meet (A) or (B) above, a lot shall be combined or re-subdivided with an adjoining lot of similar ownership to create a legally conforming lot.
- (D) A lot of record without road frontage shall contain at least 80 percent of the required lot width and area, the remaining setbacks, side and rear yard requirements shall be met, and there shall be a legally recorded access easement.
- (E) If the lot of record cannot meet (A), (B), (C), or (D) above, a lot may be combined or re-subdivided with an adjoining lot of different ownership to create a legally conforming lot given a reasonable offer.
- (F) If the lot of record cannot meet (A), (B), (C), (D), or (E) above, a lot may be used when the requirements of the board of zoning appeals after a public hearing regarding setbacks, side and rear yards, and legal access are met, except that the front setback requirement shall be no greater than the average of the adjoining lots' street existing structure setbacks fronting on the same street.

39-8. Restoration or replacement.

39-8-1. If a nonconforming activity is destroyed or damaged to the extent that the cost of restoration of its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity, it shall be restored only if such use complies with the requirements of this ordinance, except that the front setback requirement shall be no greater than the average of the existing structure setbacks of adjoining lots fronting on the same street.

39-8-2. If a nonconforming structure is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance, except that the front setback requirement shall be no greater than the average of the existing structure setbacks of the adjoining lots fronting on the same street.

39-8-3. Where a conforming structure devoted to a nonconforming activity is damaged less than 50 percent of the cost of reconstructing the entire activity, or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 months and completed within 18 months from the date of damage. In determining the question of whether an activity or

structure has been damaged to over 50 or 75 percent of the value of the activity or structure, the procedure shall be as follows:

- (A) The zoning administrator shall inspect the structure, if so permitted. The zoning administrator shall determine, if possible, with aid from the local building official whether or not the repairs will exceed 50 or 75 percent of the current replacement value of the structure.
- (B) If the zoning administrator is not able to make such determination without further information from the owner of the structure, the administrator will request from the owner a scope of work and estimated cost of repair, prepared by a general contractor, and a copy of any contract for the repairs between the owner and the general contractor. The zoning administrator shall compare the cost of repair with the assessed value of the structure, to determine if the structure has been destroyed by more than 50 or 75 percent of the value of the structure.
- (C) If the zoning administrator is unable to make the determination as to whether a structure has been damaged to over 50 or 75 percent of its value, the administrator shall use the best available information to make this determination.
- (D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

39-8-4. Notwithstanding any of the above provisions to the contrary, if (i) the town has issued a zoning permit and the local building official has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local building official issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the town for such building or structure for a period in excess of 15 years, the building or structure may be determined to be nonconforming, but shall not be determined illegal and shall not be removed solely due to such nonconformity.

39-8-5. Notwithstanding any of the above provisions to the contrary, an owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God shall be permitted to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building is damaged greater than 75 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in

compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of this ordinance. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this section.

39-9. Movement.

No nonconforming use and/or structure shall be moved in part to any portion of the land or parcel other than that occupied by such use and/or structure at the effective date of adoption or amendment of this ordinance unless said move results in decreasing the degree of non-conformity or results in conformity with the requirements for the district.

39-10. Changes in use.

39-10-1. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the board of zoning appeals, after a public hearing, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use, in permitting such safeguards in accord with the provisions of this ordinance.

39-10-2. When any nonconforming use, or structure and use in combination, is superseded by a permitted use and/or structure, the use shall thereafter conform to the regulations for the district, and no nonconforming use and/or structure shall thereafter be resumed.

39-10-3. If any such nonconforming use of land and/or structure is discontinued in use for any reason for a period of more than two years (except when government action impedes access to the premises) any subsequent use of such land and/or structure shall conform to the regulations specified by this ordinance for the district

in which such land is located.

39-11. Special exception provisions not nonconforming uses.

Any use which is approved as a special exception under the terms of this ordinance (Article 5, Section 5-4) shall not be deemed a nonconforming use in such district so long as the excepted use and occupancy is not changed, except as provided in Article 39, Section 39-12 of this ordinance.

39-12. Use regulations for junkyard and automobile graveyards.

Automobile graveyards and junkyards in existence at the time of adoption of this ordinance may not be enlarged and shall be screened from public view by means of visual screening as provided in Article 6, Section 6-4 of this ordinance.

ARTICLE 40.

WIRELESS TELECOMMUNICATION FACILITIES

Statement of Intent

The purpose of this ordinance is to establish guidelines for the siting of wireless telecommunication facilities. The goals of this ordinance are to: (1) protect residential areas from potential adverse impacts of wireless telecommunication facilities; (2) encourage the location of wireless telecommunication facilities in non-residential areas; (3) minimize the total number of wireless telecommunication facilities throughout the community; (4) strongly encourage the joint use of new and existing wireless telecommunication facilities as a primary option rather than the construction of additional single use facilities; (5) encourage users of wireless telecommunication facilities to locate in areas where the adverse affect on the community is minimized; (6) encourage users of wireless telecommunication facilities to configure them in ways that minimize the adverse visual impact of wireless telecommunication facilities through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of wireless telecommunications to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of wireless telecommunication facilities; (9) avoid potential damage to adjacent properties from facility failure through engineering and careful siting of structures; and (10) build wireless telecommunication facilities at the lowest height possible that will still allow for co-location opportunities.

40-1. Applicability.

40-1-1. All new wireless telecommunication facilities shall be subject to these regulations.

40-1-2. Exceptions: amateur radio antennas; direct-to-home satellite dishes that are less than one meter in diameter; antennas designed to receive television broadcast signals; and antennas designed to receive and transmit two-way radio communication.

40-2. Definitions.

40-2-1. *Alternative tower structure*: Man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of wireless telecommunication facilities.

40-2-2. *Antenna*: A telecommunication device that transmits or receives

electromagnetic signals.

40-2-3. *Wireless telecommunication facility*: Any structure used for the purpose of supporting antennas, microwave dishes or other electromagnetic transmission devices, including, but not limited to, self-supporting lattice towers, guy wires, pole towers, radio and television transmission towers, alternative tower structures, buildings, roof tops, etc. For the purpose of this ordinance, new wireless telecommunication facilities shall be defined as a commercial activity and shall not be permitted in residential districts, unless co-locating on an existing tower.

40-2-4. *Master plan*: A plan, which is the result of an engineering study, indicating strategic positioning and location of present and future telecommunication facilities. A master plan shall be prepared, signed and sealed by appropriate licensed professionals.

40-3. Use regulations.

40-3-1. Wireless telecommunication facilities are permitted by special use permit in all zoning districts as follows:

- (A) Towers and monopoles.

Zoning District	Tower Height Allowed (in feet)
RB	65
C1	120
C2	120
GB	120
CBD	120
M1	199
M2	199

(Amended 1/12/04)

(B) Alternative tower structure.

Zoning District	Additional Tower Height (in feet) Allowed to an Existing Structure
R1	10
R2	10
R3	10
RPUD	10
RA	10
RB	10
C1	20
C2	20
GB	20
CBD	20
M1	30
M2	30
POS	20

(Amended 1/12/04) (Amended 5/24/04)

40-3-2. In addition to the regulations of this section, wireless telecommunication facilities must meet the zoning regulations of the zoning district in which they are located. If there is a conflict, the more restrictive regulation applies.

40-3-3. Antennas may be located on any commercial structure.

40-3-4. Antennas may be located on an existing tower or pole.

40-3-5. Antennas may be located on any structure owned by the Town of Rocky Mount. Any applicant wishing to construct a new tower or install an antenna on town property shall enter into an agreement with the town allowing the town to secure ownership of said tower upon completion. The applicant and any businesses that wish to co-locate on a town-owned tower may be permitted with a monthly rental agreement paid to the town. Rent shall be determined by town council after due

public notice.

40-3-6. Antennas and towers may be considered either principle or accessory uses when considering area requirements on a given parcel of land. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, and other such requirements, the dimensions of the entire lot shall control, even though antennas or towers may be located on parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

40-3-7. Each applicant for an antenna and/or tower shall provide to the community development department, at the expense of the applicant, an inventory of its existing facilities that are either within the jurisdiction of the governing authority or within five miles of the border thereof, including specific information about the location, height, and design of each tower. The community development department may share such information with other applicants applying for approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority; provided, however, that the community development department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

40-3-7.1. *Applicant responsibility.* Any applicant for telecommunication facility structures to be located on property owned by the Town of Rocky Mount assumes responsibility for such structures and indemnifies and saves harmless the Town of Rocky Mount from any and all damages, judgments, costs, or expenses which the town may incur by reason of the removal of or the causing to be removed of any monopole or tower as provided for in Article 40, Section 40-4-2.

40-4. Special regulations.

40-4-1. Owners of towers may provide the town co-location opportunities as a community benefit to improve radio communication for town departments and emergency services.

40-4-2. Any antenna or tower that is not operated for a continuous period of 90 days shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such removal requirement. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. The buildings may remain with the owner's approval. If there are two or more users of a single tower, then this provision shall not become effective until all users cease

using the tower. If the tower is not removed per this section, the town may require the landowner to have it removed.

40-4-3. Any costs associated with review by a licensed engineer of any required information shall be billed to the applicant.

40-5. Design/construction requirements.

40-5-1. An antenna may not exceed the height restrictions of the zoning district in which it is located nor may it add more than 20 feet to the height of any structure or tower.

40-5-2. An omni-directional or whip antenna shall not exceed 20 feet in height or be greater than seven inches in diameter and shall be of a color which matches the exterior of the building or structure on which it is placed.

40-5-3. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration, be painted a neutral color so as to reduce visual obtrusiveness. Dish antennas will be of a neutral, non-reflective color with no logos.

40-5-4. At a facility site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and the built environment.

40-5-5. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

40-5-6. Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the governing body may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

40-5-7. No advertising of any type may be placed on the tower or accompanying facility unless as part of retrofitting an existing sign structure.

40-5-8. All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal and state governments with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and

antennas into compliance with such revised standards as required. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

40-5-9. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state and local building codes and regulations. In the event of any changes to said codes and regulations, owners of telecommunication facilities located within the Town of Rocky Mount shall obtain recertification to ensure the structural integrity of the facilities.

40-5-10. Owners shall provide the town with an engineering report certifying that the proposed tower is compatible for co-location with a minimum of three similar users including the primary user.

40-5-11. The following setback requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the governing authority may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

40-5-11.1. Towers must be set back a distance equal to 200 percent of the height of the tower from any off-site residential structure and in no case less than 400 feet.

40-5-11.2. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.

40-5-11.3. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

40-5-12. The following requirements shall govern the landscaping surrounding telecommunication facilities served thereby:

40-5-12.1. Tower facilities shall be landscaped with a buffer of plant materials effectively screening the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip of at least four feet wide outside the perimeter of the compound.

40-5-12.2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

40-5-12.3. Existing mature tree growth and natural landforms on the site

shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

40-6. Design/construction requirements for using alternative mounting structures.

40-6-1. The principle use of the structure to be used for the placement of the antenna shall be for a use not associated with the wireless telecommunication facility.

40-6-2. In addition to the height limitations of the underlying zoning district, antennas mounted on alternative mounting structures shall conform to the following requirements:

40-6-2.1. All panel antennas shall be no more than five feet from any surface of the existing structure.

40-6-2.2. All whip antennas shall be no more than ten feet above the mounting surface of the existing structure.

40-6-2.3. All parabolic dish antennas shall be no more than five feet from the surface of the existing structure.

40-6-2.4. Building mounted antennas shall be designed and attached in such a way that is architecturally compatible with the building to which they are attached.

40-6-2.5. Equipment enclosures shall be camouflaged or screened from view by landscaping, walls, fences, inside of buildings or other means as approved by the department of community development.

40-7. Application submission requirements.

40-7-1. Each applicant shall submit a master plan, a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this ordinance. Additionally, applicants shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed tower. The photograph with the simulated image shall include the foreground, the mid-ground and the background of the site.

40-7-2. An engineering report certifying that the proposed tower is compatible for co-location with a minimum of three similar users including the primary user, must be submitted by the applicant.

40-7-3. Copies of the applicant's co-location policy.

40-7-4. Copies of propagation maps demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary.

40-7-5. A determination of need by the Federal Aviation Administration.

40-7-6. The department of community development shall grant written approval within 30 days of the receipt of the plan, if it is determined that the application meets the requirements of this ordinance. However, when the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 30 days. The notice shall specify the modifications, terms and conditions that will permit approval of the application. If no action is taken by the department of community development within the time specified above, the application shall be deemed approved and the person authorized to proceed with the proposed activity.

40-7-7. Upon approval of the application, the applicant shall have 90 days to begin construction or all permits issued shall become null and void.

40-8. Factors to be considered prior to approval.

40-8-1. The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this ordinance are better served thereby:

- a. Height of the proposed tower or pole.
- b. Proximity of the tower or pole to residential structures and residential district boundaries.
- c. Nature of the uses on adjacent and nearby properties.
- d. Surrounding topography.
- e. Surrounding tree coverage and foliage.
- f. Design of the tower or pole, with particular reference to design

characteristics that have effect of reducing or eliminating visual obtrusiveness.

- g. Proposed ingress and egress.
- h. Co-location policy.
- i. Language of the lease agreement.
- j. Consistency with the comprehensive plan and the purposes to be served by zoning.
- k. Availability of suitable existing towers and other structures as discussed below.

40-8-2. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- c. Existing towers or structures are not of sufficient structural strength to support the applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions for sharing required by the owner in order to share an existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

40-9. Appeal.

40-9-1. Any person adversely affected by any final action or failure to act by a state or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis.

40-9-2. Any person adversely affected by an act or failure to act by a state or local government or any instrumentality thereof regarding the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions may petition the Commission for relief.

ARTICLE 41.

WIND ENERGY FACILITIES

Statement of Intent

The purpose of this article is to establish guidelines for the siting of wind energy facilities. The goals of this article are to: (1) protect residential areas from potential adverse impacts of wind energy facilities; (2) encourage the location of wind energy facilities in non-residential areas; (3) encourage users of wind energy facilities to locate in areas where the adverse effect on the community is minimized; (4) encourage users of wind energy facilities to configure them in a way that minimizes the adverse visual impact of wind energy facilities through careful design, siting, landscape screening, and innovative camouflaging techniques; (5) consider the public health and safety of wind energy facilities; (6) avoid potential damage to adjacent properties from facility failure through engineering and careful siting of structures; and (7) build wind energy facilities at the lowest height possible that will still allow for viable alternative energy production.

41-1. Applicability.

41-1-1. All new wind energy facilities shall be subject to these regulations.

41-1-2. Exceptions: all existing wind energy facilities at the date of passage of this amendment shall be determined to be non-conforming under this ordinance and the nonconformities regulations of this ordinance shall apply.

(Ord. of 1/12/09)

41-2. Definitions.

41-2-1. *Anemometer*: Measures the wind speed and transmits wind speed data.

41-2-2. *Wind energy facility*: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

41-2-3. *Wind energy facility, large system*: A wind energy conversion system consisting of one or more wind turbines, a tower(s), and associated control or conversion electronics, which has a rated capacity of not more than 999 kW.

41-2-4. *Wind energy facility, small system:* A single system design to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for onsite consumption. A small wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW.

41-2-5. *Wind energy facility, utility scale:* A wind energy system consisting of more than one wind turbine, a tower(s), and associated control or conversion electronics, which has a rated capacity of 1 MW or greater.

41-2-6. *Wind farm:* See "Wind energy facility, utility scale."

41-2-7. *Wind power:* Power generated in the form of electricity by converting the rotation of turbine blades into electrical current by means of an electrical generator.

41-2-8. *Wind pump:* A type of windmill used for pumping water from a well or draining land.

41-2-9. *Wind turbine:* A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

41-2-10. *Wind turbine height:* The distance measured from grade to the highest point of turbine rotor or top of the turbine blade when it reaches its highest elevation.

41-2-11. *Windmill:* A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.
(Ord. of 1/12/09)

41-3. Use regulations.

41-3-1. Wind energy facilities are permitted by special/conditional use permit in all zoning districts as follows, with minimum setback requirements as follows:

41-3-2. Setbacks:

- (a) The following dimensional requirements shall apply to the installation of wind turbines and/or wind energy facilities:

Wind Energy Facility Type	Minimum Lot Size (in acres)	Minimum Setback Requirements ¹				
		Occupied Buildings (Subject Property) ²	Occupied Buildings (Adjacent Property) ^{2,3}	Property Lines ²	Public/Private Right of Way ²	Maximum Height from grade (in feet)
Small System	1	0.0	1.0	1.0	1.5	120
Large System	5	0.5	1.5	1.0	1.5	250
Utility Scale	2525	1.51.5	2.0	1.51.5	1.5	500

1. Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of an occupied building.
2. Calculated by multiplying the required setback number by the wind turbine height.
3. This setback proposes to reduce noise and shadow flicker impacts to any existing occupied buildings on adjacent properties.

(b) As part of the Special/Conditional Use Permit or Zoning Permit approval process, the property owner(s) may waive the setback requirements for Occupied Buildings on the Subject Property and adjacent property by signing a waiver that sets forth the applicable setback provisions and proposed changes. The written waiver shall describe how the proposed wind turbine and/or wind energy facility is not in compliance, and state that consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance. Any such waiver shall be signed by all affected property owners and be recorded. The waiver shall advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

41-4. Design/construction requirements.

41-4-1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI).

41-4-2. All electrical and mechanical components of the wind energy facility

shall conform to relevant and applicable local, state, national codes.

41-4-3. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.

41-4-4. The visual appearance of wind energy facilities shall at a minimum:

- (a) Maintain a galvanized finish and be non-obtrusive color such as white, off-white or gray;
- (b) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

41-5. Application submission requirements.

41-5-1. The application shall demonstrate that the proposed Wind Energy Facility will comply with this Ordinance and shall contain at a minimum the following:

- (a) A narrative describing the proposed Wind Energy Facility, including an overview of the project;
- (b) The approximate generating capacity of the Wind Energy Facility;
- (c) The specific number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;
- (d) Identification and location of the properties on which the proposed Wind Energy Facility will be located;
- (e) A site plan sealed by a professional engineer, showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties within the geographical boundaries of any applicable setback;
- (f) Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics;
- (g) An Environmental Impact Study (EIS) for Utility Scale Wind Energy Facilities, which shall include review and comments from

applicable state and federal agencies, including, but not limited to, Virginia Department of Environmental Quality, Virginia Department of Mines, Minerals, and Energy, US Army Corps of Engineers and the US Fish and Wildlife Service;

- (h) Other relevant studies, reports, certifications and approvals as may be reasonable requested by the Town of Rocky Mount to ensure compliance with this Ordinance;
- (i) Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, and the anticipated manner in which the wind power project will be decommissioned and the site restored; and,
- (j) Signature of the property owner(s) and the facility owner/operator of the Wind Energy Facility

41-6. Factors to be considered prior to approval.

41-6-1. The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this ordinance are better served thereby:

- (a) Height of the wind energy facility;
- (b) Proximity of the wind energy facility to residential structures and residential district boundaries;
- (c) Nature of the uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the wind energy facility, with particular reference to design characteristics that have effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress;
- (h) Consistency with the comprehensive plan and the purposes to be served by zoning;

- (i) Noise;
- (j) Shadow flicker; and
- (k) Traffic and pedestrian safety.

41-7. Decommissioning or Abandonment.

41-7-1. The wind energy facility owner, and/or operator and/or property owner shall have three months to complete decommissioning of the Facility if no electricity is generated for a continuous period of 18 months.

41-7-2. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.

41-7-3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

41-7-4. A performance surety, in a form approved by the Town Attorney, shall be submitted by the applicant prior to the issuance of a building permit in order to insure removal of the wind energy facility when it is no longer to be used for wind generation.

41-8. Appeal.

41-8-1. Any person adversely affected by any final action or failure to act by a state or local government or any instrumentality thereof that is inconsistent with this article may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction.