TOWN OF HAMILTON

ZONING ORDINANCE

January 2014

TOWN OF HAMILTON ZONING ORDINANCE

Approved amendments through January 13, 2014

ZONING ORDINANCE **1**

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ZONING ORDINANCE
TOWN OF HAMILTON, VIRGINIA

WHEREAS, by act of the General Assembly of Virginia as provided in Title 15.2, Code of Virginia, 1950, and amendments thereto, authorizing the governing body of every municipality to classify the territory under its jurisdiction into districts and to regulate, restrict, permit, prohibit and determine the use of lands, buildings, structures, and other premises for agricultural, business, industrial, residential, flood plain and other specific uses; the size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures; the areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in sizes of lots based on whether a public or community water supply or sewer system is available and used; the excavation or mining of soil or other natural resources; and to provide for amendments and changes therein; to require municipal planning commissions to perform certain duties with reference thereto; to permit the appointment and prescribe the powers and duties of municipal boards of zoning appeals; and to provide methods for enforcement of this ordinance and penalties for the violation thereof.

THEREFORE, BE IT ORDAINED, by the Town Council of Hamilton, Virginia, for the general purpose of promoting the health and safety and the general welfare of the public requiring it, that the following be adopted as the Zoning Ordinance of the Town of Hamilton, Virginia, together with the accompanying map or maps adopted herewith as an integral part of the Ordinance and to be known as the Zoning Map of the Town of Hamilton, Virginia.

ARTICLE 1
TITLE, APPLICATION, PURPOSE, INTERPRETATION

Section 1. Title

This ordinance shall be known as the Zoning Ordinance for the Town of Hamilton, Virginia.

Section 2. Application

This Ordinance shall apply to the incorporated territory of the Town of Hamilton, Virginia. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions hereof or provisions of Title 15.2 of the Code of Virginia 1950, as amended, which may affect the applicability of this Ordinance. Anything not specifically permitted by this ordinance is considered to be prohibited.

Section 3. Purpose

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan, to promote, in accordance with present and future needs, the health, safety, morals, order, convenience, prosperity, and general welfare of the citizens of Hamilton, Virginia, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of access and of traffic and circulation of people and goods, for the appropriate use and occupancy of

buildings, for healthful and convenient distribution of population, for protection against overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, or loss of life, health, or property from fire, flood, panic or other dangers, to encourage good civic design and arrangement, to facilitate the creation of a convenient, attractive and harmonious community, to protect against destruction of or encroachment upon historic resources, and to facilitate the provision of adequate public utilities, public services and other public facilities, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the type and density of use.

They have been made with reasonable consideration, among other things, for the existing use and character of property, the Comprehensive Plan, to the character of the district and its peculiar suitability for particular uses, to trends of growth or change, and with a view to conserving natural resources and the value of land and buildings and encouraging the most appropriate use of land throughout the incorporated territory of Hamilton, Virginia.

Section 4. Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

In any case of difference between the purpose statements and the use regulations, the use regulations shall control.

ARTICLE 2
DISTRICTS AND DISTRICT MAPS

Section 1. Establishment of Districts

In order to regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the Comprehensive Plan; to regulate and restrict the location, height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces and the density of population, the following zoning districts are hereby established:

R-1 Single-Family Residential District
R-2 Single-Family Residential District
R-3 Residential District
R-6 Residential District
C-1 Office and Limited Commercial District
C-2 Retail Sales and Service Commercial District
C-3 Rural Commercial Transition District
M-L Light Industrial District
T-1 Transitional District
PSP Public and Semi-Public District

The purpose statements which accompany each district are intended to describe in a general way the character of uses to be encouraged in the district, to assist with selection of appropriate districts for application to various conditions of land use, existing or planned, and to assist with interpretation of questions which may arise with respect to particular land uses in particular locations.

Section 2. Establishment of District Map

Such land and the district classification thereof, shall be as shown on the map or maps designated as the "Zoning Map of Hamilton, Virginia," dated, and signed by the Zoning Administrator, upon adoption. This Zoning Map or maps, and all notations, dimensions, references, and symbols shown thereon, pertaining to such districts shall be as much a part of this Ordinance as if fully described herein and shall be filed as part of this Ordinance of the Town of Hamilton. Said Map shall be available for public inspection in the Town Office. Such map shall be marked "Original Copy not to be altered or removed from the Town's office except on Court Subpoena" provided however, that said map may be removed during normal office hours by the Zoning Administrator for the purpose of incorporating duly adopted revisions.

This map, together with subsequent applicable amendments, shall be conclusive as to the current zoning status of land.

Section 3. Annual Revision of Zoning Map

No later than March 31 of the year following adoption of this Ordinance, prints of the Zoning Map, clearly showing the zoning district boundaries and zoning district names and designations for the incorporated area of Hamilton, shall be made available to the public. Subsequently, no later than 30 days following an action by the Hamilton Town Council that changes the zoning district status of a parcel or parcels of land within the corporate limits of the Town of Hamilton, the Zoning Administrator shall revise the Zoning Map to accurately reflect theses changes.

Section 4. Information Copies of Zoning District Map

Information copies of the Zoning Map shall be made available for inspection at the office of the Administrator and the document section of the Town's website. These maps shall be revised as described above, to show changes in zoning district boundaries as officially approved.

Drafting errors or drafting omissions may be corrected, but no changes in zoning district boundaries may be made except to show amendments properly adopted by the Town Council.

Section 5. Periodic Review

At least once every five years, the Planning Commission shall review the zoning regulations and the Zoning Map to determine whether it is advisable to amend the regulations or the map, or both, to bring them in accord with the objectives of the Comprehensive Plan, and to take advantage of new techniques or to encourage improved building practices which may have been developed and which may have application in the Town of Hamilton, to correct deficiencies or difficulties which may have developed in administration, or for such other reasons as the Commission may determine. The Commission shall submit reports on their findings together with appropriate recommendations to amend the zoning ordinance to the Town Council. In the preparation of these reports, the Commission shall consult with officials in the Town responsible for the administration of this Ordinance and such other persons as they believe may contribute to the review.

Section 6. Interpretation of District Boundaries

A district designation (Example: R-1, R-2, etc.) shown on the Zoning Map indicates that the regulations pertaining to the district designation extend throughout the whole area in the Town bounded by the district boundary lines within which such district designation is shown or indicated, except as otherwise provided by this section.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map accompanying and made a part of these regulations, the following rules apply:

1. In cases where a boundary line is given a position within a road, street or alley, or in a navigable or non-navigable stream, it shall be deemed to be in the center of the right-of-way of the road, street, alley, or stream, and if the actual location of such road, street, alley, or stream varies slightly from the location as shown on the Zoning Map, then the actual location shall control.

2. In cases where a boundary line is shown as being located a specific distance from a road or street line or other physical feature, this distance shall control.

3. Where the district boundaries are shown on the Zoning Map to approximately coincide with lot lines or Town limit line, the lot lines or Town limit line shall be construed to be the district boundary line unless otherwise indicated.

4. In cases where district boundaries as shown on the Zoning Map do not coincide or approximately coincide with road or street lines, alley lines or lot lines, and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the map.

5. If, because of error or omission in the Zoning Map, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, such property shall be classified R-1 Single-Family Residential District until changed by amendment.

Section 7. Interim Zoning of Annexation Areas

Pursuant to Section 15.2-2286 (A)2 of the Code of Virginia 1950, as amended, land annexed or brought into the Town via a boundary line adjustment shall be classified as follows:

County AR-1	goes to	Town T-1
County JLMA 1, 2 or 3	Goes to	Town R-2
County RC	goes to	Town T-1
Any Zoning Designation not Listed	goes to	Town T-1

Such designations are to provide for the reasonable and orderly interim regulation of use and development and may be amended upon application to the Town for a zoning map amendment.

ARTICLE 3
GENERAL PROVISIONS

Section 1. Conformance with Regulations Required

No building or land shall hereafter be used, and no building or part thereof shall be erected, reconstructed, converted, enlarged, moved, or structurally altered to an extent that a building permit is required, unless in conformity with the regulations as set forth in this Ordinance.

Section 2. Location of a Lot Required

Every building hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one primary structure on one lot unless otherwise provided in this Ordinance.

Section 3. Encroachment; Reduction of Lot Area

The minimum yards, height limits, parking space, open spaces, including lot area per family or dwelling unit, required by this Ordinance for each and every building existing at the time of the passage of these regulations or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area or lot dimensions be reduced below the requirements of these regulations.

Section 4. Accessory Buildings; Prior Construction and Use

No accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the primary structure and no accessory building shall be used for more than six months unless the primary structure on the lot is also being used or unless the primary structure is under construction. No accessory building, on a farm or otherwise, shall be used for dwelling except in accord with the specific provisions of this Ordinance.

Section 5. Use of Certain Facilities for Accessory Buildings or Dwellings Not Permitted

Travel trailers, campers, motor homes, other recreation vehicles, tents, camp cabins; portable and temporary buildings and the like shall not be used for permanent accessory buildings or full time dwellings in any district, whether or not connected to utilities, wells or septic systems, except as permitted by the terms of this Ordinance. The use of these vehicles and structures as temporary dwellings and accessory buildings shall not exceed 30 days in one calendar year. (Also see restrictions on these vehicles in Article 6, Parking and Loading Regulations.)

Section 6. Uses & Structures Not Permitted Are Prohibited

Uses & structures not specifically listed are prohibited unless otherwise indicated from the context of the list or other regulations of this ordinance.

Section 7. Construction Trailers and Temporary Structures

Trailers and/or other structures used on a temporary basis for storage or offices at a building site may be permitted upon approval of a trailer permit by the Zoning Administrator. Approval may be granted in increments of one year, and must be renewed annually . The fee shall be set by the Town Council and updated periodically. All temporary trailers and other temporary construction related structures are subject to the following provisions:

a) Construction and Sales Trailers: Temporary buildings, including but not limited to, construction and sales trailers, and storage of materials are permitted in conjunction with the construction of a building, buildings, subdivision, infrastructure, or development when limited to the duration of the construction. Temporary buildings may be erected after preliminary subdivision plat or site plan approval so long as zoning requirements are met for the lot on which the temporary buildings are placed. All trailers must obtain an annual zoning permit valid for a period of one year from the administrator and all appropriate permits from the county must be obtained. Upon reapplication for continuance of a zoning permit, the administrator shall perform an inspection of the progress of the project associated with the temporary building(s) for evidence of sufficient progress. If the administrator finds that the project has not made sufficient progress towards completion, the applicant shall be required to obtain a new zoning permit from the Hamilton Town Council. Such temporary construction trailers for new construction shall be allowed for as long as construction is taking place and shall be removed as a condition of final occupancy.

b) Portable Restrooms: One portable or temporary restroom facility is allowed on an approved construction site for the duration of the project. The placement of this type of structure is limited to the lot on which the actual construction was occurring and must be properly screened as to not impact the surrounding neighborhood.

c) Portable On Demand Storage: Portable on demand storage (PODS) units shall be allowed on-site for up to ~~30~~ 60 days, unless otherwise approved by the administrator. A property owner or tenant may rent and use a portable storage unit on residential property in accordance with provisions in this section when the following conditions are met:

    1. The unit is no larger than eight feet by eight feet by twenty feet.

    2. There are no more than one portable storage units for any address at any one time unless approved by the administrator.

    3. The portable storage unit is used only for the temporary storage of household goods and related items. The portable storage unit may not be used for construction debris or waste.

4. The portable storage is not placed on the property as an accessory structure.

5. The portable storage unit is placed on a driveway.

6. On duplex, townhouse , or multi-family properties, placement of the unit must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the unit does not obstruct emergency access or infringe on required landscaped areas.

7. The Zoning Administrator is notified at least three business days prior to placing the unit on the site.

d) Dumpsters: Roll-off dumpster on residential property and those properties currently under construction with all necessary permits are allowed on-site for up to 60 days, unless otherwise approved by the administrator. A property owner or tenant may rent and use a roll-off dumpster on the property in accordance with provisions of this section when the following conditions are met:

1. The Zoning Administrator is notified at least three business day prior to placing the unit on the site, and the Zoning Administrator shall approve an appropriate location for placement.

2. The unit has a maximum capacity of 30 cubic yards, or is no larger than eight feet by eight feet by twenty feet and shall not be located in the front setback unless approved by the administrator.

3. The dumpster is used only for disposal of acceptable waste and shall not become a nuisance, attract vermin or produce offensive odors.

4. On duplex, townhouse, or multi-family properties, placement of the unit must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the unit does not obstruct emergency access or infringe on required landscaped areas.

5. The dumpster is placed within the side or rear setback.

Section 8. Structure/Building(s) Built on More than One Lot

A single structure/building or group of structures/buildings constructed on a site consisting of more than one lot must conform to the required setbacks of each individual lot. In that instance where a proposed structure/building would be located on more than one lot, either a plat of vacation or boundary line adjustment plat shall be submitted for signature and recordation which converts the consolidation to a single lot in compliance with these zoning regulations prior to issuance of a zoning permit.

Section 9. Payment of Delinquent Taxes as a Requisite for any Application Decision Required by the Zoning Ordinance.

Full settlement of any delinquent or outstanding real estate taxes payable to the Town of Hamilton on property subject to an application and the correction of any other ordinance or building code violation is required prior to a decision on any application required by this zoning ordinance.

Section 10. Limitations on the Keeping of Animals

The keeping of commonly accepted pets shall be allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for any commercial purposes. The keeping of livestock, fowl and animals of a wild nature is not permitted, except for the keeping of rabbits, hamsters, mice, guinea pigs and other similar such animals, or birds or fowl for personal use or enjoyment, when such are not kept for sale or other commercial purpose and when such animals, birds or fowl are confined to the interior of the dwelling or other permitted accessory building. Animals allowed under this section are permitted as an accessory use on any lot located within a single family detached residential district.

Section 11. Prevention of Private Package Sewer Treatment Plants and Wells

Private and/or commercial package waste water/sewage treatments plants or facilities and wells will not be allowed on any lot.

Section 12. Outdoor Lighting Standards for Signs, Buildings and Other Man-Made Objects

Lighting that illuminates buildings, statues, signs or any other objects mounted on a pole, pedestal or platform to be utilized is allowed so long as the directed light shall be confined to the object intended to be illuminated to minimize glare, sky glow and light trespass.

Section 13. Home Occupations

A home occupation, profession, enterprise or similar activity which is conducted within a dwelling or an accessory building is allowed in all residential districts, subject to the following standards:

- The activity must be clearly secondary to the principal use as a residence.
- Not more than 25 percent of the floor area of the main building shall be devoted to such activity.
- No more than one non-resident employee shall be employed on the premises in the conduct of the activity.
- There shall be no signs, other than one non-illuminated sign not exceeding two square feet in area attached to the building, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any non-dwelling use.
- There shall be no group instruction or assembly, no housing of persons for compensation, no repair of vehicles and no product offered for sale or stored other than that which is incidental to a service rendered directly to persons on the premises.
- No mechanical equipment or machinery shall be used in the conduct of the activity that produces noise, smoke, odor, vibration or other effects discernable beyond the property lines.
- No commercial vehicles associated with the home occupation shall be allowed on the property.

ARTICLE 4
DISTRICT REGULATIONS

Section 1. R-1 Single-Family Residential District (1 Dwelling Unit per acre)

1.1 Purpose of the District

The purpose of this district is to provide for low-density single-family detached residential development together with those complimentary public and semi-public uses and accessory uses as may be necessary and are normally compatible with low-density residential surroundings. Substantial land in agricultural use and/or open space uses is included in this district, being interim uses until residential development occurs. This district, although primarily residential single-family detached, may include accessory dwelling units approved as a Special Use Permit by the Town Council. Certain other uses necessary to support a residential district or provide complimentary services such as recreational and utility uses may be permitted under a Special Use Permit approved by the Town Council or a Commission Permit approved by the Planning Commission–whichever is applicable.

Land developed under these district regulations may use the optional area and bulk regulations as contained in Article 4, Section 9 – "Cluster Development Regulations" of this Ordinance so as to achieve a more environmentally sensitive and efficient use of the land being developed.

1.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Detached single-family dwellings. Accessory dwelling units are permitted by a special use permit by the Town Council under Article 10.

2. Facilities and structures necessary for rendering public utility service, including poles, wires, transformers, telephone booths and the like for electrical power distribution or communication service, and underground pipelines or conduits for electrical, gas, sewer, or water service.

3. Accessory buildings and uses, including but not limited to, accessory private garages, farm buildings and structures, swimming pools, home occupations as defined, and in accordance with, this Ordinance, accessory off-street parking and loading spaces, and accessory signs as herein regulated.

4. Home Occupations including the following customary activities limited to medical, professional, vocational, business, trade or personal service excluding storefront retail sales

1.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following a recommendation by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Cemeteries.

2. Convalescent homes, rest homes, nursing homes, homes for the aged or retirement homes.

3. Hospital or clinics for humans.

4. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.

5. Private schools, colleges or universities.

6. Radio or television transmission or receiving tower not more than 75 feet in height measured from the ground level of the tower.

7. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.

8. Stable, private, or keeping of horses, ponies or other livestock for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 100 feet from any side or rear lot line and provided that no more than one such animal shall be kept for each acre of land on the premises.

9. Bed and Breakfast.

10. Churches and other places or worship, and their accessory uses associated therewith. Accessory uses may include daycare, “soup kitchens”, temporary shelters, special camps and other services provided by the congregation but which are considered by this ordinance to be secondary to the primary function of the church for religious services.

    When filing an application for a special use permit for a church the applicant must list each accessory use it intends to operate. Permits for churches may be approved without the entire proposed accessory uses. After the approval of the initial use permit for a church, subsequent applications must be made for any new accessory use or change in an existing accessory use.

    When considering a request for a special use permit for a church and any other accessory uses, the Planning Commission and Council may consider the following and impose those conditions necessary to mitigate impacts: traffic; parking; hours of operation; impact on adjacent neighborhood; types of special events; time limitations for accessory uses such as for shelters; number of students in church schools and daycare; number of inhabitants for shelters.

11. Accessory dwelling units.

12. General agriculture, farming and forestry, including tilling the soil, raising of crops, truck gardens, field crops, orchards or nurseries for growing or propagation and harvesting of plants, turf, trees and shrubs and in general uses commonly classified as general agriculture; provided that temporary open air stands not exceeding 200 square feet in area for seasonal sales of products raised on the premises, and the raising of large animals, such as cows, horses, sheep, or goats, on a farm of ten acres or more, or the raising for sale of birds, bees, fish, rabbits, or other small animals on a lot of two acres or more shall be permitted only as a special exception; and provided no retail or wholesale business office or store is permanently maintained on the premises, and not including commercial slaughtering or processing of animals or poultry. The raising of hogs is strictly prohibited.

1.4 Uses Permitted by Planning Commission Permit

The following uses require a Commission Permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia as amended.

1. Public or governmental building and uses, including governmental offices, libraries, schools, fire stations (volunteer or otherwise), parks, parkways and playgrounds, except those which have been approved as part of a subdivision or site plan.

2. Public utility or public service or transportation uses, treatment plants, water storage tanks, pumping stations or regular stations, utility storage yards, substations and major transmission lines.

3. Telecommunications service equipment and facilities on publicly owned property.

1.5 Permitted Signs

Subject to the general sign regulations of Article 7.

1.6 Lot Size Standards

1. Single-family Dwellings:
Minimum Lot Area: With or without both public water and sewer service - 40,000 square feet.
Minimum Lot Width: With or without both public water and sewer service - 200 feet
Minimum Lot Depth: With or without both public water and sewer service - 200 feet
Minimum Street Frontage: Twenty-five (25) feet.

2. Other uses: same as for single-family detached dwelling or as specified in the district regulations.

3. Lot width is measured at the front building setback line.

4. Building coverage shall be limited to a maximum of 35% of the lot area.

The above minimum requirements are subject to the modifications as contained in Article 4, Section 9 of this Ordinance for qualified cluster subdivisions.

1.7 Yard and Setback Standards

1. Single-family Dwelling:
Minimum Front yard: Twenty-five (25) feet.
Minimum Side yard: Ten (10) feet.
Minimum Rear yard: Thirty (30) feet.

a. The minimum front yard shall be measured from the front lot line to the front building setback line.

2. Other principal structures: same as single-family dwelling or as required in the district regulations.

3. Accessory structures attached to the main building shall be considered part of the main building and comply with front, side and rear yard requirements.

4. Detached accessory structures shall not be closer than five (5) feet to any property line, easement or right of way. Detached accessory structures greater in height than fifteen (15) feet shall meet the minimum yard restrictions of the main structure.

1.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are not permitted within fifteen (15) feet of the corner of a lot at intersecting streets.

1.9 Height Standards

Buildings may be erected up to thirty-five (35) feet in height except that:

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

2. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest. These items need to meet yard and setback standards of main dwelling.

3. No accessory structure that is within five (5) feet of any party lot line shall be more than fifteen (15) in height. All accessory structures shall be of less height than the main building on the lot.

1.10 Off-Street Parking and Loading Standards

Off-street parking and loading standards and space requirements for particular uses are contained in Article 6.

1.11 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 2. R-2 Single-Family Residential District (2 Dwelling Units per acre)

2.1 Purpose of the District

The purpose of this district is to provide for low-density single-family residential development together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. Areas designated with this district are presently developed or are proposed for development with the associated public utility system to support higher density residential development.

Accessory residential dwellings may be approved under a special use permit approved by the Town Council. Certain other uses necessary to support a residential district or provide complimentary services such as recreational and utility uses may be permitted under a Special Use or Commission Permit approved by the Town Council or Planning Commission.

Land developed under these district regulations may use the optional area and bulk regulations as contained in Article 4, Section 9 – "Cluster Development Regulations" of the Ordinance so as to achieve a more environmentally sensitive and efficient use of the land being developed.

2.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Detached single-family dwellings, as described in Section 1.2.1.

2. Public utility facilities as described in Section 1.2.2.

3. Accessory buildings and uses as described in Section 1.2.3.

4. Home Occupations as described in Section 1.2.4.

2.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Cemeteries.

2. Convalescent homes, rest homes, nursing homes, assisted living facilities or homes for the aged.

3. Family-care homes or foster homes.

4. Hospital or clinic for humans.

5. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.

6. Private schools, colleges, or universities.

7. Radio or television transmission or receiving tower not more than ~~50~~ **75** feet in height.

8. Recreational uses or facilities as described in Section 1.3.8.

9. Stables for the keeping of horses as described in Section 1.3.9.

10. Bed and Breakfast

11. Churches and other places of worship as described in Section 1.3.11.

12. Accessory dwelling units.

2.4 Uses Permitted by Planning Commission Permit

The following uses require a Planning Commission permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232(A) of the Code of Virginia, as amended.

1. Public or governmental buildings as described in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

2.5 Permitted Signs

Subject to the general sign regulations of Article 7.

2.6 Lot Size Standards

1. Single Family Dwelling:

a. Minimum Lot Area:

i.. With both public water service and public sewer service: 15,000 square feet.
ii. Without public sewer service or public water service: 40,000 square feet.

b. Minimum Lot Width:

i. With both public water service and public sewer service: 100 feet.
ii. Without public sewer service or public water service: 200 feet.
c. Minimum Lot Depth:

i. With both public water service and public sewer service: 150 feet.
ii. Without public sewer service or public water service: 200 feet.

d. Minimum Street Frontage: Twenty-five (25) feet.

2. Other uses same as for single-family dwelling or as specified in the district regulations.

3. Lot width is measured at the front building setback line.

4. Building coverage shall be limited to a maximum of thirty five (35) percent of the lot area.

The above minimum requirements are subject to the modifications as contained in Article 4, Section 9 of the Ordinance for qualified cluster subdivisions.

2.7 Yard and Setback Standards

1. Single-family Dwelling:

Minimum Front yard: Twenty (20) feet minimum, thirty feet maximum, except in developed areas where the front or side yard shall not be less than the smaller of the front yards of the two immediately adjacent buildings.

Minimum Side yard: Seven and ½ feet. For all single-family dwellings and their accessory structures, the side setback shall be seven and ½ feet (7.5), provided that one (1) side yard may be reduced to five (5) feet. The aggregate width of both side yards on any lot shall not be less than thirty (30) percent of the required width of the lot, provided that on interior lots no primary structure shall be located closer than twenty-five (25) feet from a rear lot line.

Minimum Rear yard: Twenty-five (25) feet.

2. Other principal structures: same as single-family dwelling or as required in the district regulations.
3. Accessory structures attached to the main building shall be considered part of the main building and comply with front, side, and rear yard requirements.

Detached accessory structures shall not be closer than five (5) feet to any property line, easement or right of way. Detached accessory structures greater in height than fifteen (15) feet shall meet the minimum yard standards for a principal structure.

2.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.
2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are not permitted within 15 feet of the corner of a lot at intersecting streets.

2.9 Non-Conforming Lot Provision

Where there are existing recorded lots within the Town of Hamilton, which do not meet the minimum lot area and/or width requirements, single-family dwellings may reduce the required yard standards set out in per Article 4, Section 2.7 (1) of the Hamilton Zoning Ordinance up to 50%, as long as a side yard shall be not less than five feet and the sum of the side yards shall be not less than 10 feet and as long as all other requirements, except lot size and lot width, are met.

2.10 Height Standards

The standards of Section 1.9 shall apply.

2.11 Off-Street Parking and Loading Standards

Off-street parking and loading standards and space requirements for particular uses are contained in Article 6.

2.12 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 3. R-3 Residential District (3 Dwelling Units per acre)

3.1 Purpose of the District

The purpose of this district is to provide for medium-density single-family detached residential development together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with medium-density residential surroundings. Areas designated with this district are presently developed or are proposed for

development with the proposed public utility system to support medium density residential development.

Accessory residential dwellings may be approved under a special use permit approved by the Town Council. Certain other uses necessary to support a residential district or provide complimentary services such as recreational and utility uses may be permitted under a Special Use or Commission Permit approved by the Town Council or the Planning Commission.
Land developed under the district regulations may use the optional area and bulk regulations as contained in Article 4, Section 9 – "Cluster Development Regulations" of the ordinance so as to achieve a more environmentally sensitive and efficient use of the land being developed.

3.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Detached single-family dwellings as described in Section 1.2.1.

2. Public utility facilities as described in Section 1.2.2.

3. Accessory buildings and uses as described in Section 1.2.3.

4. Home Occupations as described in Section 1.2.4.

3.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Cemeteries.

2. Convalescent homes, rest homes, nursing homes, assisted living facilities or homes for the aged.

3. Hospital or clinic for humans.

4. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.

5. Private schools, colleges, or universities.

6. Radio or television transmission or receiving tower not more than 75 feet in height measured from the ground level of the tower.

7. Recreational uses or facilities as described in Section 1.3.8.

8. Stables for the keeping of horses as described in Section 1.3.9.

9. Bed and Breakfast.

10. Churches and other places of worship as described in Section 1.3.11.

11. Accessory dwelling units.

3.4 Uses Permitted by Planning Commission Permit

The following uses require a commission permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia, as amended.

1. Public or governmental buildings as described in Section 1.4.1

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

3.5 Permitted Signs

Subject to the general sign regulations of Article 7.

3.6 Lot Size Standards

1. Single-family dwelling:

a. *Minimum Lot Area:*

i. With both public water service and public sewer service: 10,000 square feet.
ii. Without public sewer service or public water service: 40,000 square feet.

b. *Minimum Lot Width:*

i. With both public water service and public sewer service: Eighty (80) feet.
ii. Without public sewer service or public water service: Two- hundred (200) feet.

c. *Minimum Lot Depth:*

i. With both public water and sewer service: One hundred and twenty-five (125) feet.
ii. Without public sewer service or public water service: Two hundred (200) feet.

d. *Minimum Street Frontage:* Twenty-five (25) feet.

2. Building coverage shall be limited to a maximum of thirty five (35) percent of the lot area. Other uses same as for single-family dwelling or as specified in the district regulations. Lot width is measured at the front building setback line.

The above minimum requirements are subject to the modifications as contained in Article 4 Section 9 of this Ordinance for qualified cluster subdivisions.

3.7 Yard and Setback Standards

1. Single-Family Dwellings:

Minimum Front yard: Twenty five (25) feet
Minimum Side yard : Seven and a half (7.5) feet
Minimum Rear yard : Twenty (20) feet

The minimum front yard shall be measured from the front lot line to the front building setback line.

2. Other principal structures shall be the same as single-family dwelling or as required in the district regulations.

3. Accessory structures attached to the main building shall be considered part of the main building and comply with front, side and rear yard requirements. (For decks see Article 8 Section 1.6, No. 7 and 8).

Detached accessory structures shall not be closer than five (5) feet to any property line.
Detached accessory structures greater in height than fifteen (15) feet shall meet the minimum yard requirements for a principle structure.

3.8 Special Provisions for Corner Lots

Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

3.9 Height Standards

The standards of Section 1.9 shall apply.

3.10 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

3.11 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 4. R-6 Residential District (6 Dwelling Units per acre)

4.1 Purpose of the District

The purpose of this district is to provide for high-density residential development together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with high-density residential surroundings. Areas designated with the district are presently developed or are proposed for development with the proposed public utility system to support high-density residential development. The high density permitted by

this district will provide the diversity of housing types within the Town sufficient to provide housing for a broad segment of population.

Accessory residential dwellings may be approved under a Special Use approved by the Board of Zoning Appeals. Certain other uses necessary to support a residential district or provide complimentary services such as recreational and utility uses may be permitted under a Special Use or Commission Permit approved by the Town Council or Planning Commission.

4.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Detached single-family dwellings subject to the provisions of the R-3 Residential District. Accessory dwelling units are permitted as a Special Use Permit.

2. Duplex residential dwellings.

3. Single-family attached dwellings.

4. Public utility facilities as described in Section 1.2.2.

5. Accessory buildings and uses as described in Section 1.2.3.

4.3 Uses Permitted by Special Use Permit
The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.

2. Recreational uses or facilities as described in Section 1.3.8.

3. Churches and other places of worship as described in Section 1.3.11.

4.4 Uses Permitted by Planning Commission Permit

The following uses require a Planning Commission Permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia, as amended.

1. Public or governmental buildings as described in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

4.5 Permitted Signs

Subject to the general sign regulations of Article 7.

4.6 Lot Size Standards

1. Single Family Dwellings:

Subject to the provisions of the R-3 Residential District.

2. Duplex Dwellings:

Minimum Lot Area: With both public water and sewer service – 12,000 square feet.
Minimum Lot Width: With both public water and sewer service - 85 feet.
Minimum Lot Depth: With both public water and sewer service - 140 feet.
Minimum Street Frontage: 25 feet.

3. Single-family attached Dwellings:

Minimum Area Requirement: Three (3) acres.
Minimum Lot Area: With both public water and sewer service - 2,000 square feet.
Minimum Lot Width: With both public water and sewer service - 22 feet for interior lots and 30 feet for corner lots.
Minimum Lot Depth: With both public water and sewer service - 100 feet.
Minimum Street Frontage: 100 feet.
Minimum Gross Floor Area per Dwelling: 1,600 square feet with a minimum of 660 square feet per floor.

4. Building coverage shall be limited to a maximum of forty (40) percent of the lot area.

Other uses same as for single-family detached dwelling or as specified in the district regulations. Lot width is measured at the front building setback line.

4.7 Yard and Setback Standards

1. Single-family Dwelling: Regulated by the provisions of the R-3 Residential District.

2. Duplex Residential:

Minimum Front Yard: 35 feet
Minimum Side Yard: 15 feet
Minimum Rear Yard: 25 feet

3. Single-family Attached Residential:

Minimum Front yard: 15 feet
Minimum Side Yard : End and corner lots 15 feet
Minimum Rear Yard : 25 feet
Minimum Lot Coverage: 40 percent

4.8 Maximum Density of Development

1. Duplex Residential - 6 dwellings per acre.

2. Single-family Attached Residential - 6 dwelling units per acre.

4.9 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, sign, landscaping, shrubbery, evergreens and trees in excess of three feet in height are not permitted within fifteen (15) feet of the corner of a lot at intersecting streets.

4.10 Height Standards

The standards of Section 1.9 shall apply.

4.11 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

4.12 Landscaping, Screening and Open Space

Regulations and standards for landscaping and open space are contained in Article 9 and Single-family Attached design specified in 4.13 below.

4.13 Attached Single-Family Residential Development Criteria

1. The minimum parcel area for a single-family attached residential area shall be 3.0 acres. The site design shall be designed so as to preserve natural topography and vegetation and to minimize adverse impact of moving and parked vehicles within the development and its surroundings by means of town-scale grid and curved streets, clustered building groups, careful distribution of open space, interior screened parking, interrupted parking bays or courts, landscape screening, and other appropriate design features and considerations.

2. A maximum density of six units per gross acre, excluding flood plain and slopes exceeding 25 percent, shall be permitted subject to site plan approval as provided for by Article 5, Section 5.1.1c of the Land Development and Subdivision Control Ordinance.

3. The minimum lot area per dwelling unit shall be 2,000 square feet. The minimum lot width shall be 22 feet for interior lots and 30 feet for end and corner lots. Lots may be delineated by dashed lines and need not be sold separately in qualified attached single-family dwelling projects.

4. Every dwelling unit shall have a minimum gross floor area of 1,600 square feet with a minimum of 660 square feet per floor, exclusive of attic and exclusive of basements that are more than 50 percent underground.

5. Maximum building height shall comply with the requirements of Section 1.9.

6. The maximum lot coverage shall be 40 percent.

7. All single-attached dwellings except end units and corner lots shall occupy the full width of the lot.

8. A minimum of 6 dwellings is required for each development.

9. Rear access may be required for emergency vehicles as determined by the Fire Marshall.

10. A common green area may be provided in lieu of a part of the minimum lot area or to meet maximum project density requirements, subject to the following provisions:

a. When a common green area is provided, the minimum lot area may be reduced below 2,000 square feet where the Planning Commission determines that such reduction results in usable, common open space and the provision of active recreational facilities such as swimming pools, tot lots, multi-purpose courts or playing fields. In no event, however, shall the minimum lot area be reduced below 1,500 square feet or maximum density be increased above eight units per gross acre or lot coverage including dwelling and accessory buildings exceed 50 percent.

b. The common green area may be utilized only for lawns, trees, planting area, ornamental pools, similar landscaping uses, and swimming pools. No part of the common green area may be utilized for automobile driveways or parking areas, for sidewalks or paved play areas, or for other similar paved areas.

c. In connection with single-family attached developments, provisions satisfactory to the Planning Commission shall be met by the developer to assure that non-public common green areas for use and enjoyment of occupants, shall be properly maintained without expense to the Town of Hamilton in accordance with the applicable provisions of local, county and state regulations that pertain to the responsibilities of homeowner associations as established under these regulations.

11. No motor vehicle shall be parked on any lot upon which a single-family attached dwelling has been or is to be erected unless a garage is provided as part of the unit. No single-family attached dwelling shall have a garage or carport attached to its exterior facade. No garage shall be converted to a living area.

12. Single-family attached dwellings abutting each other shall have complementary but not identical facades.

13. There shall be at least three, but no more than eight, townhouse dwellings continuously connected, provided that the average number of units continuously connected shall not exceed eight. There shall be an open space of at least 30 feet between any two such groups of continuously connected buildings.

14. No more than two abutting townhouse dwellings shall have the same front yard setbacks. Building setback variations as required shall be at least two feet. No more than two abutting townhouses shall have a common roofline.

15. Soundproof and fireproof walls shall be provided between adjoining dwellings at least up to and including the underside of the roof.

16. Service area and rear yards visible from a street shall be appropriately screened as referenced in Article 9.

17. Each lot containing a townhouse shall provide a private rear yard at least 200 square feet in area and at least 25 feet in depth.

18. Each dwelling shall be self-contained as to heating, air conditioning and utilities.

19. The developer shall provide front yard areas and common areas with lawn and appropriate shrubbery planting except on areas designated for walks and driveways. The lawn and shrubbery planting shall be subject to Article 9 of this document.

20. Common refuse bins shall be completely screened from view by means of a fence or wall, and an appropriately designed gate that can be latched open and closed.

21. Each development site shall have a publicly dedicated or approved private street throughout the development so as to adjoin all private parking lots and access courts. Townhouse lots that abut a private street and/or parking lot or access court shall meet the following criteria:

a. Private streets, parking lots and access courts shall be constructed in conformance with the applicable sections of the Land Development and Subdivision Control Ordinance.

b. A homeowner's association under the applicable local, county and state regulations shall be formed to ensure maintenance of private streets, parking lots and access courts.

c. No more than 25 lots shall abut a parking lot or access court. For the purpose of this regulation, an access court is a series of parking spaces served directly by a private access way which has only one access connection to a public or private street and which is connected to no more than one other access court so that the two together have two access connections to public or private streets and together serve no more than 50 lots.

d. All private streets, parking lots and access courts shall provide permanent pedestrian and vehicular access between the lots created and a public street, i.e., curb, gutter and sidewalks.

e. Parking lots and access courts shall be landscaped according to Article 9 of this Ordinance.

f. Private streets, parking lots and access courts shall be clearly identified as private. A single sign, not to exceed two square feet in area, shall be posted at the entrance of each such street or parking court, displaying only the words "Private Drive" and the addresses of any residences utilizing the private street or parking court.

g. All private streets shall be at least 30 feet in width, shall be of a paved surface and constructed in accordance with then applicable Virginia Department of Transportation pavement design standards and in accordance with the Land Development and Subdivision Ordinance. All private streets abutting dwellings shall also provide a sidewalk between the private street and such dwellings. All private cul-de-sacs shall conform to the recommendations of the Fire Marshall. The construction, ownership and maintenance responsibilities of private streets shall not be the obligation of the Commonwealth of Virginia or the Town of Hamilton.

22. Accessory structures shall not exceed 10 feet in height and shall be located only to the rear of the main structure and shall be no closer than one foot from the side or rear property line or 10 feet from the outside line of end and corner lots, unless it constitutes a part of a fence or wall.

Section 5. C-1 Office and Limited Commercial District

5.1 Purpose of the District

The purpose of this district is to provide for a transition between business and/or industrial development and residential development. Uses permitted in this district shall be limited in nature to offices and professional service uses and be of such intensity that there is effected a rational separation between intense land use activity and low/medium density residential development. Areas designated with this district are presently developed or are proposed for development with the proposed public utility system to support this limited business development.

5.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Offices and office buildings, businesses, professional, or administrative, provided that no retailing, wholesaling or servicing shall be permitted on the premises nor shall the storage or display of merchandise be serviced or offered for sale elsewhere, and, except as herein provided, there shall be no machinery or equipment other than machinery or equipment customarily found in offices.

2. Banks, financial services, savings and loan or small loan office, without drive-in services.

3. Clinics, medical or dental.

4. Data processing center.

5. Employment agency.

6. Funeral home or undertaking establishments, provided all hearses, or other special vehicles are parked or stored inside a completely enclosed building and no crematory services are offered and/or conducted on site.

7. Studio for an artist, designer, writer, photographer, sculptor, or musician, provided that no heavy machinery or industrial equipment is used in conjunction with this use.

8. Bed and breakfast facility.

9. Accessory uses, including but not limited to the following:

a. Coin operated and vending machines for food, ice, soft drinks and sundries inside a building and for the use of the occupant thereof.

b. Lunchroom or snack bar for the use of employees.

c. Storage of office supplies or merchandise normally carried in stock or used in connection with the permitted use provide that such storage does not exceed ~~25~~ **10** percent of the total floor area of the building.

5.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10:

1. Business or technical school.

2. Single Family Residential.

3. Nursery schools, kindergartens, child care centers, day nurseries or day care centers.

4. Churches and other places of worship as described in Section 1.3.11.

5. Commercial buildings in excess of 5,000 square feet.

5.4 Uses Permitted by Planning Commission Permit

The following uses require a Commission Permit approved in accord with Article 8 of this Ordinance and Section 15.2-2232 of the Code of Virginia 1950 as amended.

1. Public or government buildings and uses, as described in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

5.5 Permitted Signs

Subject to the general sign regulations of Article 7.

5.6 Lot Size Standards

1. For permitted uses the minimum lot size shall be 20,000 square feet with minimum lot width of 100 feet and a minimum lot depth of 150 feet, unless an existing building is converted to such use in which case the existing lot will be considered adequate if required parking can be provided.

2. Building coverage shall be limited to a maximum of 40 percent of lot area.

3. Building, parking and driveway shall be limited to a maximum of 80% of lot area.

4. Lot width is measured at the minimum front yard building restriction line.

5. Minimum street frontage is 50 feet.

5.7 Yard and Setback Standards

1. Office or other building:

Minimum Front Yard: Thirty-five (35) feet
Minimum Side Yard: Fifteen (15) feet
Minimum Rear Yard: Forty (40) feet

5.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are prohibited within 15 feet from the corner of a lot at intersecting streets.

5.9 Special Regulations for Offices and Other new commercial buildings

1. Site Plan Required. Site plan approval is required. An office park or office buildings or other commercial buildings shall be designed to promote harmonious relationships with surrounding adjacent and nearby properties, developed and undeveloped, and to this end may employ such design techniques as may be appropriate to a particular case, including location of permitted uses, orientation, spacing and setback of

buildings, maintenance of natural vegetation, location of access points, size and location of signs, open spaces, and parking areas, grading, landscaping and servicing.

2. Access. The principal means of access for an office park containing more than 2,500 square feet of floor area shall be from arterial and collector thoroughfares. In no case shall the principal means of access for such building be from a minor residential street. Access points shall be designed to minimize traffic hazard and congestion in accord with accepted principles of traffic engineering and established Town policies.

3. Parking. Off-street parking for individual uses shall be provided in accord with the provisions of Article 6. No parking shall be permitted within a required front yard.

4. Loading. Off-street loading space for individual uses shall be provided in accord with the provisions of Article 6. Loading operations shall be conducted within a building and screened from general public view from fronting streets or shall be conducted at the side or rear of buildings.

5. Landscaping. Any part of the lot or project area not used for buildings or other structures, parking, loading and access ways, shall be landscaped with appropriate planting or with pedestrian walks in accordance with an approved landscaping plan.

6. Refuse. Refuse containers or refuse storage shall be located in a paved area or on a concrete pad and hidden from general public view, either from within or outside the premises by means of fences, walls, or landscape planting.

7. Equipment. Equipment shall be located in a paved area or on a concrete pad and hidden from general public view, either from within or outside the premises by means of fences, walls, or landscape planting.

8. Drainage. Provision shall be made for proper storm water drainage. Water from parking and loading areas shall not be permitted to drain onto adjacent property except into a natural watercourse or a drainage easement, as long as the natural watercourse or drainage easement is found to be able to sufficiently handle the increased runoff by the Town Engineer. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

5.10 Height Standards

Buildings may be erected up to thirty (30) feet in height except that:

a. The height limit for office buildings, banks and clinics is thirty (30) feet except that any building or part of a building which is located within 200 feet of an R-1, R-2 or R-3 District shall not exceed twenty-five (25) feet in height.

b. A public or semi-public building such as a school, church, or library, may be erected to a height of forty-five 45 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty (30) feet.

c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flagpoles of any height, and television or radio antennas up to sixty-five (65) feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

d. No accessory structure that is within ten (10) feet of any adjoining owner lot line shall be more than 15 feet. Accessory structures over fifteen (15) feet in height shall meet primary setbacks of the district. All accessory structures shall be of less height than the main buildings on the lot.

5.11 Off-Street Parking and Loading Standards

Off-street parking and loading standards and space requirements for particular uses are contained in Article 6.

5.12 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 6. C-2 Retail Sales and Service Commercial District

6.1 Purpose of the District

The purpose of this district is to provide for local retail businesses and service uses necessary to serve the residents of the Town and outlying community. A range of business and service uses included will serve a broad segment of the existing and planned community. Areas designated with this district are presently developed or are proposed for development with the proposed public utility system to support this business development.

6.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. All uses permitted in the C-1 District

2. Bakeries, provided that the majority of products produced on the premises are sold at retail on the premises.

3. Banks and other financial institutions, with or without drive thru services through services.

4. Barber shops or beauty parlors, or other personal services businesses.

5. Bed and breakfast facility.

6. Bicycle sales and repair shops.

7. Clinics, medical or dental.

8. Employment agency, data processing center.

9. Funeral home or undertaking establishment provided no crematory services are offered and/or conducted on site.

10. Nurseries for growing plants, trees and shrubs, including such accessory items as normally associated with retail nurseries.

11. Offices, general business or professional.

12. Public parking lots, parking spaces and parking areas.

13. Pet shop or dog beauty parlor, provided that any work rooms, cages, pens or kennels be maintained within a completely enclosed, soundproof building and that such shop or parlor be operated in such a way as to produce no objectionable noise or odors outside its walls.

14. Printing, publishing, and engraving establishments, photographic processing or blueprinting with floor area not exceeding 2,500 square feet.

15. Restaurants without drive-through service, not adjacent to a residential use.

16. Shoe repairing shops.

17. Stores or shops for the conduct of retail business, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

18. Studios or shops for artists, photographers, writers, teachers, jewelers, weavers or other crafts, sculptors or musicians, provided that no heavy machinery or industrial equipment is used in conjunction with this use.

19. Temporary stands or outdoor areas for sale of local produce, Christmas trees, wreaths, holly, and the like.

20. Accessory buildings and uses, including accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations.

21. Single family residential in existing structures.

6.3 <u>Uses Permitted by Special Use Permit</u>

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Automobile service station, so long as bulk storage of inflammable and/or combustible liquids is underground, but not including temporary storage of wrecked or inoperable vehicles or storage or rental of trailers, campers, vans or similar equipment unless they can be fully screened from public view and provided that there is no parking of vehicles in setback areas.

2. Hospital or clinic for small animals, dogs, cats, birds and the like, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels, be maintained within a completely enclosed, soundproof building, and such hospital or clinic be operated in such a way as to produce no objectionable noise or odors outside its walls.

3. Hotel, motel, motor lodge, or tourist home.

4. Institutions, educational or philanthropic, including museums and art galleries.

5. Nursery schools, kindergartens, child care centers, day nurseries, or day care centers.

6. Private club, lodge, meeting or assembly hall, or fraternal organization or sorority, health club or fitness center.

7. Radio, television or other communication tower not more than 65 feet in height measured from the ground level of the tower.

8. Recreational uses or facilities for a private membership, such as clubs and lodges, game courts, swimming pools, archery range, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.

9. Business or technical Schools.

10. Billiard parlors or pool rooms, bowling alleys, theaters, electronic game center, miniature golf, or similar recreational establishments, indoor or outdoor.

11. Auto sales, auto service and repair, provided that any outdoor storage of vehicles or equipment can be fully screened from public view and no vehicles shall be parked in setback areas.

12. Plumbing and electrical supply service and sales.

13. Feed and seed sales.

14. Lawn mower, yard and garden equipment, rental, sales and service however no storage of wrecked or inoperable machinery or equipment allowed unless it can be

fully screened from public view and no equipment or machinery shall be stored in setback areas.

15. Rental of household items, tools and appliances, provided that any outdoor storage of vehicles or equipment can be fully screened from public view and no equipment or machinery shall be stored in setback areas.

16. Catering.

17. Commercial buildings in excess of 5,000 square feet.

18. Restaurants, adjacent to a residential use, with or without drive through service.

6.4 Uses Permitted by Planning Commission Permit

The following uses require a Planning Commission permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia 1950, as amended.

1. Public or governmental buildings and uses, as described in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

6.5 Permitted Signs

Subject to the general sign regulations of Article 7.

6.6 Lot Size Standards

1. For permitted uses the minimum lot size shall be 20,000 square feet with a minimum lot width of 100 feet and minimum lot depth of 150 feet, unless an existing building is to be converted to such use in which case the existing lot will be considered adequate if required parking can be provided.

2. Building lot coverage shall be limited to a maximum of forty (40) percent of lot area.

3. Building coverage shall be limited to a maximum of 80% of lot area.

4. Lot width is measured at the minimum front yard building restriction line.

5. Minimum street frontage is 50 feet.

6.7 Yard and Setback Standards

All structures:
Minimum Front yard: Fifteen (15) feet.
Minimum Side yard: Ten (10) feet.

Minimum Rear yard: Twenty-five (25) feet.

See Article 7 for exceptions for signs and certain other structures.

6.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are prohibited within fifteen (15) feet from the corner of a lot at intersecting streets.

6.9 Special Regulations for Business and Commercial Buildings

1. Similar Uses Permitted. Other retail and service uses which, in the opinion of the Administrator, are of the same general character as those permitted uses listed above shall be permitted provided that these and the above specified stores, shops or businesses shall be retail and service establishments primarily selling merchandise and rendering a personal service and shall be permitted only in accord with the development standards of this Ordinance.

2. Site Plan. Where approval of a site plan is required, the plan shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end shall provide effective screening alongside and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation in accord with the requirements of this Ordinance.

3. Refuse. Refuse containers or refuse storage shall be located in a paved area or on a concrete pad and hidden from general public view, either from within or outside the premises, by means of fences, walls, or landscape planting.

4. Equipment. Equipment shall be located in a paved area or on a concrete pad in an area hidden from within or outside the premises, by means of fences, walls, or landscape planning.

5. Drainage. Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement as long as the natural watercourse or drainage easement is found to be able to sufficiently handle the increased runoff by the Town Engineer. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

6.10 Height Standards

Buildings may be erected up to thirty-five (35) feet in height except that:

a. Any business building or part of such building that is located within 200 feet of any Residential District shall not exceed thirty (30) feet in height.

b. A public or semi-public building such as a school, church, or library, may be erected to a height of forty-five (45) feet provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.

c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flagpoles of any height, and television antennas up to fifty (50) feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

6.11 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6. There shall be no parking in setback areas.

6.12 Landscaping, Screening and Open Spaces

Regulations for landscaping, screening and open space are contained in Article 9.

Section 7. M-L Light Industrial District

7.1 Purpose of the District

The purpose of this district is to provide service and product activities that involve manufacturing, assembling and distribution of products or service activities that are by their nature an intensive use of the land through which traffic is generated by employment and/or the provision of service. The location of these districts is such that they require direct access to major highways and or collector road networks and are segregated from the residential areas of the community by transitional uses, open space, parks and applicable buffer treatment. Areas designated with this district are presently developed or are proposed for development with the proposed public utility system to support such industrial uses.

7.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Agriculture and forestry as permitted in the R-1 Residential District.

2. Single Family Dwellings for resident watchmen and caretakers employed on the premises.

3. Retail and service establishments as follows:

a. Banks and saving and loan offices.

b. Business and office supply establishments.

c. Clinics, medical or dental.

d. Employment service agency.

e. Hospital or clinic for small animals, dogs, cats, birds and the like, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels, be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as not to produce objectionable noise or odors outside its walls.

f. Office and office buildings, studios and the like, business, professional or administrative.

g. Security service office or station.

h. Temporary stands or outdoor areas or temporary truck parking, for sale of produce, Christmas trees, wreaths, holly and the like.

i. Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distribution use.

4. Automotive, motorcycle, off-road vehicle, bus or truck sales, service or repair.

5. Blacksmith shop.

6. Building material (cement, lime in bags or container, sand, gravel, stone, lumber, hardware, structural or reinforcing steel, pipe and the like), storage and sales, open or enclosed, but not manufacture or steel fabricating or junk storage.

7. Coal, flour or grain elevator; coal or wood yard.

8. Farm implements and tractor sales, service and repair.

9. Feed and seed sales and storage, blending or packaging.

10. Flour storage, blending and packaging, but not milling.

11. Heating, ventilation, air conditioning and refrigeration, supply, manufacturing and sales.

12. Lumber yards.

13. Meat products, manufacture but not slaughtering of animals and poultry or smoking and curing of meat.

14. Monuments and architectural stone.

15. Nursery or landscaping service.

16. Plumbing and electrical supplies, manufacture, sales or storage.

17. Rug and carpet cleaning and storage with incidental sales of rugs and carpets.

18. Sign fabricating and painting.

19. Taxidermists.

20. Tobacco products, cigars and cigarettes.

21. Welding and soldering shops, machine shops.

22. Wholesale merchandising or storage warehouse or distribution center but not a truck or freight terminal.

23. Millwork or cabinetry, furniture manufacture.

24. Upholstery.

25. Toy manufacturer.

26. Musical instruments manufacturer.

27. Accessory buildings and uses, including but not limited to the following:

a. Any accessory use permitted in the R-1 Residential District.

b. Dwellings accessory to a farm of 10 acres or more.

c. Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barber shops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs and sundries.

d. Storage of supplies, merchandise, equipment or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

7.3 Uses Permitted by Special Use Permit

The following uses may be permitted by Special Use Permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Residential use of property for business only.

2. Automobile service station.

3. Restaurant without drive-through or a cafeteria.

4. Radio, television or other communication tower more than 65 feet in height measured from the ground level of the tower.

5. Trade, technical or business school.

6. Commercial buildings in excess of 6,000 square feet.

7.4 Uses Permitted by Planning Commission Permit

The following uses require a Planning Commission Permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia 1950, as amended.

1. Public or governmental buildings and uses, as discussed in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

7.5 Permitted Signs

Subject to the general sign regulations of Article 7.

7.6 Lot Size Standards

Minimum lot size is 3 acres or greater as may be required by the applicable building and fire code regulations.

1. Building, parking and driveway coverage shall be limited to a maximum of 80 % of the lot area.

7.7 Yard and Setback Standards

All structures:
Minimum Front Yard: Twenty (20) feet.
Minimum Side Yard: Ten (10) feet.
Minimum Rear Yard: Twenty (20) feet.

See Article 7 for exceptions for signs and certain other structures.

No structure shall be located closer than 50 feet to the boundary of a residential district.

7.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are not permitted within 15 feet from the corner of a lot at intersecting streets.

7.9 Special Regulations for Commercial and Industrial Buildings

1. Site Plan. Where approval of a site plan is required, the plan shall be designed to promote harmonious relationships with surrounding adjacent and nearby residential properties, developed and undeveloped, and to this end may provide protective screening alongside and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation in accord with the requirements of this Ordinance.

2. Refuse. Refuse containers or refuse storage shall be located in an all-weather surface area and hidden from general public view from outside the premises by means of fences, walls, or landscape planting.

3. Equipment. Equipment shall be located in an area hidden from the general public view either within or outside the premises by means of fences, walls, or landscape planting.

4. Drainage. Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

5. Fencing. All fencing shall have a uniform and durable character and shall be properly maintained, and in conformance with Article 9, Section 7. Fences.

6. Hours of Operation. Businesses adjoining residential properties are limited to hours of operation from 7 a.m. – 9 p.m. Exceptions are only granted per special use permits. See Article 10.

7.10 Height Standards

Buildings may be erected up to two and one half stories and 35 feet in height except that:

a. Cupolas, monuments, water towers, chimneys, flues, and flagpoles of any height, any television and other communication towers up to 50 feet are exempt from height

regulations. Parapet walls may be up four feet above the height of the building on which the walls rest.

7.11 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

7.12 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 8. T-1 Transitional District

8.1 Purpose of the District

The purpose of this district is to provide for the reasonable and orderly interim regulations of use and development of land within areas annexed into the town or land that was designated as an agricultural district.

8.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Agriculture, forestry, and fisheries, provided however, that no such use shall be permitted which, because of the nature, location, or manner of operation is noxious, offensive, or dangerous because of noise, odor, fumes, gas, glare, vibration, smoke, emission or particulate matter or effluent, or for other reasons.

2. Detached, single-family dwellings.

3. Schools for not over 15 pupils.

4. Circuses, carnivals, or similar temporary activities when organized or sponsored by nonprofit organizations.

5. Noncommercial fairgrounds.

6. Wayside stands for display and sale of products procured on the premises.

7. Home occupations.

8. Bed and Breakfast home stay establishments.

9. Church, parish house, convent or monastery.

8.3 Uses Permitted by Special Use Permit or Commission Permit

The following uses may be permitted by special use permit approved by the Town Council following a recommendation by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Commercial stable.
2. Kennel.
3. Veterinary service, animal hospital.
4. Guest farms or ranches.
5. Cemetery.
6. Wayside bus shelters.
7. Structures for exhibits and/or demonstrations operated by non-profit organizations.
8. Manufactured home for use as a tenant house for an agricultural, forestal or fisheries operation.
9. Manufactured home for use during the construction of a permanent dwelling.
10. Private airport, heliport, flight strip.
11. Day camp, boarding camp.
12. Private club or lodge.
13. Recreational structures or uses related to outdoors recreation, commercial or noncommercial.
14. Rest home, nursing home, convalescent home, orphanage, or similar institution.
15. Community centers.
16. Volunteer fire and/or rescue squad structures or uses.
17. Green house or nursery, commercial, wholesale or retail.
18. Hospitals.
19. Country inns.
20. Farm machinery sales and service subject to the following criteria:

a. The establishment shall be located on a paved, state maintained road not more than 1,000 feet from a primary state road.

b. The structures and parking areas and/or the perimeter of the property shall be a landscaped screen sufficient to protect adjacent residential properties and no structures or parking shall be located in setback areas.

c. Buildings shall be setback a minimum of 75 feet from all property lines.

d. Parking, driveways (other than the entrance) and storage yards shall be setback a minimum of 75 feet from the property line along the state road entrance frontage, and a minimum of 50 feet from all other property lines.

e. Sites for such establishments shall not be less than 5 nor more than 10 acres.

f. Accessory retail sales shall be strictly limited to farm and garden equipment, parts and related tools and accessories. In no case shall the floor area devoted to the display and sale of such related tools and accessories be more than 15 percent of the floor area of the building site. No other non-farm equipment sales shall be permitted, including, but not limited to lumber, hardware, building materials, or the like.

g. The Town will encourage the structures to be designed and sited so as to emulate a typical traditional complex of buildings on a farmstead.

8.4 Permitted Signs

Subject to the general sign regulations of Article 7.

8.5 Lot Size Standards

Minimum Lot Area: Three (3) acres.
Minimum Lot Width: 200 feet.
Length/width Ratio: For lots hereafter created length shall not exceed 3.5 times width.

Building coverage shall be limited to a maximum of thirty-five (35) percent of the lot Area.

Other uses same as for single-family dwelling or as specified in the district regulations.

Lot width is measured at the front building line.

8.6 Yard and Setback Standards

Minimum Front yard: Twenty-five (25) feet.
Minimum Side yard: Ten (10) feet.
Minimum Rear yard: Twenty-five (25) feet.

Other principal structures are the same as single-family dwellings or as required in the district regulations.

Accessory structures attached to the main building shall be considered part of the main building and comply with front, side and rear yard requirements.

Detached accessory structures shall not be closer than five (5) feet to any property line except accessory structures greater than one story in height shall meet the minimum yard standards of a principal structure. All accessing structure shall be less height than the main structure.

8.7 Height Standards

Buildings may be erected up to thirty (30) feet in height except that:

a. There are no restrictions for buildings used exclusively for agriculture purposes.

b. A public or semi-public building such as a school, church 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 thirty-five(35) feet.

c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flagpoles of any height, and antennas up to fifty (50) feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

8.8 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

8.9 Landscaping, Screening and Open Space

Regulations for landscaping, screening and open space are contained in Article 9.

Section 9. Averaging Lot Area and Cluster Subdivisions

9.1 Clustering Permitted

Clustering of detached single-family lots and provision of public or private common open space in a subdivision is permitted in the R-1, R-2 and R-3 residential districts by the terms of this Ordinance. Maximum lot area in a cluster subdivision and dimensions for any lot are specified herein. Use of a design that incorporates common open space shall be at the option of the owner or his agent. This design alternative is intended to encourage permanent reservation of open space and an efficient and improved use of the land to provide good building sites by taking advantage of topography and minimizing grading or destruction of natural vegetation. Plans shall not be approved where the clear purpose of the design is to subvert the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the subdivision.

9.2 Procedures - Site Plan Required

A site plan complying with the requirements of Article 13 and the rules of the Planning Commission adopted thereunder shall accompany an application for a permitted cluster subdivision under this Section. Procedures for review and decision shall be those specified for administrative site plan review under Article 12. In addition, the proposed development shall follow all applicable procedures, standards, and requirements governing the subdivision of land.

9.3 Minimum Project Area
The minimum area of the subdivision shall be sufficient to accommodate at least two lots of minimum area and include a minimum usable area of open space in a singular parcel of one-half acre.

9.4 Re-subdivision

No re-subdivision or sale by any means shall be permitted in a subdivision approved under this section, which re-subdivision or sale would in any way create a violation of this Ordinance.

9.5 Flood Plain and Water Areas

No more than 30 percent of the required minimum area of any lot shall be located in a flood plain area and no part of the area of any lot shall be covered by any body of water except that no more than 30 percent of the required minimum area of any lot may be covered by the waters of a lake, pond, or canal planned and approved as a part of and wholly within the subdivision.

9.6 Reduction of Lot Area, Lot Width and Yard Areas Permitted

1. Lot Clustering

For cluster subdivisions any reduction in lot area below the minimum lot area shall be fully offset through the provision of an equivalent amount of public or private open space. Where proposed building site outlines are shown on an application for cluster subdivision the minimum lot area, lot width, lot depth, and yard dimensions shall be as follows provided that public water and sewer service are utilized in the R-1, R-2 and R-3 Residential Districts:

a. R-1 Residential District

Base Minimum Lot Area: 40,000 square feet
Cluster Minimum Lot Area: 20,000 square feet
Base Minimum Lot Width: 100 feet
Minimum Lot Depth: 200 feet
Base Minimum Front Yard: 25 feet
Minimum Side Yard: 10 feet
Minimum Rear Yard: 30 feet

b. R-2 Residential District

Base Minimum Lot Area: 15,000 square feet
Cluster Minimum Lot Area: 10,000 square feet.
Base Minimum Lot Width: 75 feet
Minimum Lot Depth: 100 feet
Base Minimum Front Yard: 25 feet
Minimum Side Yard: 7.5 feet
Minimum Rear Yard:-30 feet

c. R-3 Residential District

Base Minimum Lot Area: 10,000 square feet
Cluster Minimum Lot Area: 7,000 square feet
Base Minimum Lot Width: 60 feet
Minimum Lot Depth: 90 feet
Base Minimum Front Yard: 25 feet
Minimum Side Yard: **7.**5 feet
Minimum Rear Yard: 30 feet

9.7 Compatibility with Developed Properties

An average lot area or cluster subdivision shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties and to this end may employ such design techniques as may be appropriate to a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to project boundary lines, location of open spaces and maintenance of vegetation.

9.8 Public Facilities and Open Spaces

Land or easements for public facilities or open space shall be dedicated, conveyed or granted in accordance with the requirements of this Article and laws and ordinances governing the subdivision of land.

9.9 Maintenance of Common Ownership Properties

Provision shall be made for the designation, ownership, and maintenance of common ownership properties in accordance with the requirements of Article 9, Section 6.

9.10 Preservation of Landscape Amenities

The preservation of waterways, natural vegetation, and particularly mature trees, on steep slopes and in stream valleys, should be recognized as a primary design consideration in review and approval of an application under this section. Failure to exercise due care in maintenance of landscape amenities in accordance with approved plans shall be considered a violation of this Ordinance.

Section 10. C-3 Rural-Commercial Transition District

10.1 Purpose of the District

The purpose of this district is to provide a mix of local retail businesses and service uses necessary to serve the residents of the Town and outlying community. The district is also established in other areas to allow for residential and commercial uses where existing settlement patterns provide a unique opportunity for a variety of permitted and special exception uses. Uses in the C-3 District shall be compatible with existing village and neighborhood scale and character and allow local, neighborhood related commercial uses to be developed. Areas designated with this district are presently developed or are proposed for development with the proposed public utility system to support this business development.

10.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Agriculture, horticulture, forestry or fishery.
2. Art gallery.
3. Business service establishment.
4. Community center.
5. Convenience food store, without gas pumps.
6. Farm markets.
7. Farm machinery sales and service.
8. Commercial nursery.
9. Personal service establishment.
10. Post office, drop off and pick up.
11. Public utility service center, without outdoor storage.
12. Restaurant, carry out only.
13. Retail sales establishment.
14. Studio space – artist, crafts person, writer, etc.
15. Bank or financial institution without drive-thrus
16. Theatre, indoor.
17. Home service establishment.

18. Office, administrative, business, and professional.

19. Office, medical and dental.

20. Park.

21. Veterinary service.

22. Wayside stand.

23. Facilities for lessons in dance, gymnastics, judo, and sports training.

24. Animal hospital.

25. Church, synagogue, and temple.

26. Farm supplies.

27. Printing service.

28. Food store.

29. Library

30. Contractor's service establishment, linked to landscape contractors and lawn maintenance services.

10.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Any one permitted use in excess of 6,000 square feet in gross floor area.

2. Any one permitted use which exceeds 50% of the gross floor area of the Rural-Commercial Transition district in which it is located.

3. Auction facility, livestock.

4. Automobile service station.

5. Funeral home or mortuary.

6. Restaurant.

7. Private club or lodge.

8. Motor vehicle sales and accessory service.

9. Hotel/Motel.

10. Motor vehicle service and repair, accessory to an approved use.

11. Mill, feed and grain.

12. Recreation establishment, outdoor.

13. Fire and/or rescue station.

14. Mass transit facilities and stations.

15. Adult daycare center.

16. Child care center.

17. Recreation establishment, indoor.

18. Auction house.

19. School, private, accessory to a church.

10.4 Uses Permitted by Planning Commission Permit

The following uses require a Planning Commission permit approved in accord with Article 10 of this Ordinance and Section 15.2-2232 of the Code of Virginia 1950, as amended.

1. Public or governmental buildings and uses, as described in Section 1.4.1.

2. Public utility or public service facilities as described in Section 1.4.2.

3. Telecommunications service equipment and facilities on publicly owned property.

10.5 Permitted Signs

Subject to the general sign regulations of Article 7.

10.6 Lot Size Standards

For permitted uses the minimum lot size shall be 10,000 square feet with a minimum lot width of 100 feet and minimum lot depth of 100 feet, unless an existing building is to be converted to such use in which case the existing lot will be considered adequate if required parking can be provided.

Building lot coverage shall be limited to a maximum of 70 percent of lot area.

Building coverage shall be limited to a maximum of 80 percent of lot area.

Lot width is measured at the minimum front yard building restriction line.

Minimum street frontage is 50 feet.

10.7 Yard and Setback Standards

All structures:

Minimum Front Yard: None.
Minimum Side Yard: No requirement, except fifteen (15) feet for a non-residential use abutting a lot used for residential purposes, or a lesser distance to continue the setback of an existing building.
Minimum Rear Yard: No requirement, except thirty (30) feet for a non-residential use abutting a lot used for residential purposes, or a lesser distance to continue the setback of an existing building.

See Article 7 for exceptions for signs and certain other structures.

10.8 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are prohibited within fifteen (15) feet from the corner of a lot at intersecting streets.

10.9 Special Regulations for Business and Commercial Buildings

1. Similar Uses Permitted. Other retail and service uses which, in the opinion of the Administrator, are of the same general character as those permitted uses listed above shall be permitted provided that these and the above specified stores, shops or businesses shall be retail land service establishments primarily selling merchandise and rendering a personal service and shall be permitted only in accord with the development standards of this Ordinance.

2. Site Plan. Where approval of a site plan is required, the plan shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end shall provide effective screening alongside and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation in accord with the requirements of this Ordinance.

3. Refuse. Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls, or landscape planting.

4. Equipment. Equipment shall be located in an area hidden from within or outside the premises, by means of fences, walls, or landscape planting and no equipment or machinery shall be located in setback areas.

5. Drainage. Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

6. Hours of Operation. Businesses adjoining residential properties are limited to hours of operation from 7:00 a.m. – 9:00 p.m. Exceptions are only granted per Special Use Permits. See Article 10.

10.10 Height Standards

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

a. Any business building or part of such building that is located within 200 feet of any Residential District shall not exceed thirty (30) feet in height.

b. A public or semi-public building such as a school, church, or library, may be erected to a height of sixty (60) feet provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.

c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flagpoles of any heights, and television antennas up to fifty (50) feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

10.11 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

10.12 Landscaping, Screening and Open Spaces
Regulations for landscaping, screening and open space are contained in Article 9.

Section 11. PSP Public and Semi-Public District

11.1 Purpose of the District

The purpose of this district is to provide for major public, semi-public, and institutional uses, to facilitate future growth of such uses within the district in accordance with the objectives, policies, and proposals of the Comprehensive Plan, including the

encouragement of convenient and safe nearby residential neighborhoods, and to provide evidence on the Zoning map of the nature of land use planned for this district.

11.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Accessory buildings and uses, including dwellings accessory to a permitted use.

2. Cemeteries.

3. Child care center, daycare center, or nursery school.

4. Churches.

5. Community buildings.

6. Family care homes, foster homes, or group homes.

7. Urgent Care Facilities or other medical clinics.

8. Institutional uses.

9. Off-street parking for permitted uses.

10. Open space.

11. Parks and playgrounds.

12. Public or governmental buildings.

13. Rescue squad or volunteer fire company.

14. Senior citizen center, nursing homes or assisted living centers.

15. Utilities related to and necessary for service within the Town, including poles, wires, transformers, telephone booths, and the like for electrical power distribution or communication service, and underground pipelines or conduits for local electrical, gas, sewer, or water service, but not those facilities listed as requiring a special use permit.

16. Yard sale or other special sale or event conducted on the premises of and for the benefit of a permitted use in the district.

11.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 10.

1. Schools.

2. Museums.

3. Single Family Dwellings.

4. Treatment plants, water storage tanks, major transmission lines or pipelines, pumping or regulator stations, communications towers, storage yards and substations, and cable television facilities and accessory buildings.

11.4 Permitted Signs

Subject to the general sign regulations of Article 7.

11.5 Lot Size Standards

For permitted uses the minimum lot size shall be 5,000 square feet with a minimum lot width of fifty (50) feet and minimum lot depth of one hundred (100) feet, unless an existing building is to be converted to such use in which case the existing lot will be considered adequate if required parking can be provided. Any property owned by the Town of Hamilton shall be exempt from this section.

Building lot coverage shall be limited to a maximum of 50 percent of lot area.

Building, parking and driveway coverage shall be limited to a maximum of 80 percent of lot area.

Lot width is measured at the minimum front yard building restriction line.

11.6 Yard and Setback Standards

All structures:
Minimum Front Yard: None.
Minimum Side Yard: No requirement, except fifteen (15) feet for a non-residential use abutting a lot used for residential purposes, or a lesser distance to continue the setback of an existing building.
Minimum Rear Yard: No requirement, except thirty (30) feet for a non-residential use abutting a lot used for residential purposes, or a lesser distance to continue the setback of an existing building.

11.7 Special Provisions for Corner Lots

1. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.

2. Where a front yard is provided, fences, signs, landscaping, shrubbery, evergreens and trees in excess of three feet in height are prohibited within fifteen (15) feet from the corner of a lot at intersecting streets.

11.8 Height Standards

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

a. A public or semi-public building such as a school, church, or library, may be erected to a height of forty-five (45) feet provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.

b. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flagpoles of any heights, and television antennas up to fifty (50) feet in height, are exempt from height regulations. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

11.9 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 6.

11.10 Landscaping, Screening and Open Spaces

Regulations for landscaping, screening and open space are contained in Article 9.

ARTICLE 5
NON-CONFORMITIES

Section 1. Purpose

The purpose of this section is to regulate and limit the development and continued existence of uses, structures, and lots legally established prior to the effective date of this Ordinance which do not conform to the requirements of this Ordinance. Many nonconformities may continue, but the provisions of this subsection are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status in order to preserve the integrity and the desired character of the Town and to protect the public health and safety.

Section 2. Non-conforming Uses & Structures May Be Continued

Except as otherwise provided herein, the lawful use of land or structures existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof. Except as provided in this Article, such non-conforming use may not be enlarged, extended, reconstructed, moved or structurally altered except in compliance with the provisions of this Ordinance. Any increase of a non-conforming structure shall not be permitted, unless in conformance with this Article.

If no structural alterations are made, any nonconforming use of a structure, or structure and land, may, as a special exception, be changed to another, less intensive nonconforming use provided that the town council, after recommendation by the planning commission, 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. The Planning Commission may recommend and the Town Council may require appropriate conditions and safeguards in accord with the provisions of this ordinance when permitting such change.

Whenever a nonconforming structure, lot, or activity has been changed to a less intensive nonconforming use, such existing use may only be changed to a use of the same or less restricted category or to a less non-conforming activity as identified in the zoning district within which it is located.

Section 3. Extension of Use Within Existing Structure

The non-conforming use of a structure may be hereafter extended throughout those parts of a building that are lawfully and manifestly arranged or designed for such use at the time of the enactment of this Ordinance, but no increase in the structure that houses the non-conforming use shall be permitted.

Section 4. Structures Non-conforming in Yard, Setback, Height or Bulk Standards

A structure non-conforming only as to buffer, yard, setback, height or bulk standards may be altered or extended, provided such alteration or extension does not increase the degree of the non-conformity However, the expansion of a legally established nonconforming structure into the required front, side or rear yard shall be permitted provided the expansion does not encroach into the required yard any greater than the existing encroachment.

Section 5. Discontinuance of Non-conforming Use

No structure or portion thereof used in whole or in part for a non-conforming use in any district which remains idle or unused, or for which the use is discontinued, for a period of more than two years, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such structure or land is located.

Section 6. Destruction of a Non-conforming Use

Should a nonconforming structure, portion of the nonconforming structure, or nonconforming portion of a structure be damaged or destroyed by any means other than a natural disaster or other act of God, the structure or portion thereof may be re-constructed or restored provided its degree of nonconformity is not increased beyond that which existed just prior to such damage, except to comply with the Virginia Uniform Statewide Building Code. If such structure is damaged greater than 50% 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, provided that all necessary permits are obtained and all work is done in compliance with the provisions of the Uniform Statewide Building Code, and provided that such repair, reconstruction, or replacement be accomplished within two years of the date of the natural disaster or other act of God.

Section 7. Intermittent Use

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use, and the existence of a non-conforming use on a part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.

Section 8. Existence of a Non-conforming Use

When evidence available to the Administrator is deemed to be inconclusive, whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board.

Section 9. Non-conforming Lots - Eminent Domain

A lot of record or structure that, solely as a result of an eminent domain proceeding, no longer conforms to the requirements of these regulations and restrictions as to area, frontage,

and dimensions of lots or yards, shall not be deemed a non-conforming lot or structure for the purpose of this Ordinance.

Section 10. Non-conforming Signs

Where any existing sign as of the date of these regulations does not comply with the provisions of this Ordinance, such sign and any supporting structures may be maintained in their then structural condition but shall not be replaced, reconstructed, moved, structurally altered, or relit except in compliance with the provisions of this Ordinance and may continue in use unless subject to removal under other provisions of this Ordinance. Removal, replacement, reconstruction, moving, change of permitted use or structural alteration for any cause whatsoever shall be considered as loss of non-conforming status. Change of ownership shall not affect non-conforming status and occasional replacement of minor broken parts is permitted as normal maintenance. Supporting structures for non-conforming signs may continue in use for a conforming sign if said supporting structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances. No permits for additional signs shall be issued for any premises on which there are any non-conforming signs.

Section 11. Non-conforming Dwellings in Commercial and Industrial Districts

A dwelling non-conforming as to use in a commercial or industrial district shall be considered as a conforming use in application of the height, area, and bulk requirements of this Ordinance.

Section 12. Vested Rights of Manufactured Housing

Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

Section 13. Expansion of a non-conforming Use and/or Structure

A nonconforming structure to be extended or enlarged shall conform with the provisions of this Ordinance, except as provided for herein. No nonconforming use and/or structure shall be enlarged, increased or extended to occupy a greater area of land than twenty-five percent (25%) more than was occupied on the date of adoption or amendment of this

ordinance unless such enlargement does not result in an increase in nonconformity or results in a change to a use permitted in the district.

Section 14. Legal, Non-Conforming Structure Maintenance /Rebuild

Existing legal nonconforming structures, other than signs, may be restored or replaced when such structures become unsafe or unsound. Relocation on the same lot may be approved by the zoning administrator, provided the new location is not in greater nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

ARTICLE 6
PARKING AND LOADING REGULATIONS

Section 1. Off-Street Parking Requirements

1.1 Specific Requirements by Use
Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, or use is commenced in any manner, accessory off-street parking spaces shall be provided **in** accordance with this article:

1. Single family or duplex dwellings: Two spaces per dwelling unit**,** new construction only.

2. Townhouses: 2.5 spaces per dwelling.

3. Multi-family dwellings, three or more dwelling units: Apartments for the elderly, 1.5 space per dwelling; all other units 2.5 spaces per dwelling unit.

4. Church, temple, synagogue, or similar place of assembly: One space per four seats or bench seating (seats in main auditorium only). Parking spaces for accessory uses associated with this primary use shall be calculated based on the requirements of this section and shall be in addition to the primary parking requirement.

5. College or high school: One space per four seats or bench seating spaces (seats in main auditorium, gymnasium or field house only, whichever is larger) or one for each five students, whichever is greater.

6. Elementary school, junior high or nursery school: One space per ten seats in main assembly room or 3.5 per classroom, whichever is greater.

7. Private club: One space per five members or one for each 400 square feet of floor area, whichever is greater.

8. Public library, museum, art gallery, or community center: Ten spaces per use plus one additional space for each 300 square feet of floor area in excess of 1,000 square feet.

9. Sanitarium, convalescent home, home for the aged, or similar institution: One space per three patient beds.

10. Motel, motor hotel, motor lodge, hotel or tourist court: Five spaces plus 1.1 per sleeping room or suite.

11. Rooming, boarding, or lodging house, bed and breakfast establishment: 1.5 spaces per sleeping room.

12. Hospital: Two spaces per patient bed.

13. Hospital, veterinary: One space per 400 square feet of floor area; four spaces minimum.

14. Office or office building (other than medical), post office, studio: One space per 300 square feet of floor area.

15. Medical offices or clinic: One space per 200 square feet of floor area..

16. Funeral Home: One space per 50 square feet of floor area excluding storage and work area; thirty spaces minimum.

17. Restaurant or other establishment for consumption of food or beverages inside a building on the premises: One space per 100 square feet of floor area; three spaces minimum.

18. Retail store or personal service establishment and banks: One space per 300 square feet of floor area; retail food stores over 4,000 square feet: One space per 250 square feet of floor area.

19. Shopping Center: Five spaces per 1,000 square feet gross leasable area.

20. Automobile Service Station: Three spaces for each service bay; if there are no service bays, one space per employee. The required parking area associated with this use cannot be utilized for outdoor storage of automobiles for sale, lease or long-term repair.

21. Furniture or appliance store, machinery, equipment, and automobile and boat sales and service: One space per 400 square feet of floor area; two spaces minimum; automobile sales and service, ten minimum. The required parking area associated with this use cannot be utilized for outdoor storage of merchandise or any other retail good for sale or lease.

22. Auditorium, theater, gymnasium, stadium, arena, or convention hall: One space per four seats or seating spaces.

23. Food storage locker: One space per 200 square feet customer service area.

24. Outdoor sales area, open air market or flea market: Four spaces for each rented stall, table, or sales space.

25. Self-service storage, mini-warehouses: One space per employee plus one for every five storage areas.

26. Amusement place, dance hall, skating rink, swimming pool, or exhibition hall, without fixed seats: One space per 100 square feet of floor area. Does not apply to accessory uses.

27. General service or repair establishment: One space per 300 square feet of floor area or one space per employee, whichever is greater.

28. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse, or similar establishment: One space per 1000 square feet of gross floor area or 1.1 space per employee, whichever is greater. For office uses incidental to such a use, one space per 300 square feet of floor area used as office space.

29. Firehouse, public or volunteer. One space per five members, or one for every 400 square feet of floor space, whichever is greater.

1.2 Interpretation of Specific Requirements:

1. The parking requirements above are in addition to waiting spaces or stacking spaces necessary for the operation of drive-in or drive-through facilities. "Drive-thru" uses shall be required to provide stacking space equivalent to a minimum of one hundred fifty (150) feet. Drive through aisles shall not interfere or disrupt the flow of traffic on the overall site.

2. The parking requirements above are in addition to space for storage of automobiles, trucks, mobile homes, campers, recreation vehicles, or other similar vehicles being serviced, used, or offered for sale in connection with a particular use.

3. The parking requirements in this Article do not limit special requirements that may be imposed by approval of a special use permit or special exception.

4. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

5. Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.

6. The parking space requirements for a use not specifically listed shall be the same as for a listed use of similar characteristics, as determined by the administrator.

7. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

8. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Article for an increase in parking spaces, such additional spaces shall be provided in accordance with this article.

1.3 Spaces for the Handicapped:
Handicapped parking spaces for nonresidential developments shall be provided at a rate of 1 handicapped space per every 25 regular spaces required. For parking lots with five or less spaces, a five-foot wheelchair access aisle shall be provided adjacent to a regular space; however, it need not be designated by signage. Handicap spaces in parking lots with six or more spaces must meet the signage requirements as set forth in the Virginia Statewide Building Code.

1.4 Joint Use and Off-Site Facilities:

1. Except as otherwise provided in this Ordinance, all parking spaces required herein shall be located on the same lot with the building or use served. Where an increase in the number of spaces is required or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from any nonresidential building served. For the purpose of this requirement, land used for employee parking but located immediately across a street or alley from the building or use served shall be considered as located on the same lot.

2. A single parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required spaces assigned to one use may not be credited to any other use.

3. The same space may be credited to two or more uses to the extent that the uses operate at different times. For example, if a church parking lot is generally occupied at only 50 percent of capacity on days other than Sunday, another use could make use of 50 percent of the church parking spaces on those other days. The council shall approve, based on the information submitted by the applicant, any proposal for shared parking.

4. The owner of a site utilizing an off-street parking area to satisfy on-site parking requirements shall deliver evidence satisfactory to the Town Attorney of the owner's right to use the off-site parking area by license, deed, easement, or by long-term lease. Such evidence shall be recorded at the owner's expense in the land records of Loudoun County, Virginia. Where a parking right is created under this section it shall not be subject to disinvestment, change or modification–except with the prior approval of the Town Council.

1.5 Design Standards:

1. Minimum Space Area. For the purpose of these regulations, an off-street parking space is an area not in a street or alley and having an area of not less than 162 square feet (9 feet in width and 18 feet in length minimum), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. Handicap spaces shall be 12 feet

in width and 18 feet in length minimum. Required space length may be reduced by two feet for perimeter spaces or spaces which abut sidewalks if landscaped buffer strips or sidewalks are increased in width by two feet to accommodate vehicle overhang.

2. Maneuvering Space. The minimum aisle space for 90 degree parking shall be 22 feet in width. The minimum aisle space for 60 degree parking shall be 22 feet in width. The minimum aisle space for 45 degree parking shall be 20 feet in width. The minimum aisle space for 30 degree parking shall be 17 feet in width. The aisle width of any parking area that the degree of angular parking varies from the specifications above, the aisle width shall be calculated by using a ratio of the above set forth specification, however, in no case shall the aisle width be less than 16 feet. The Fire Marshal may impose reasonable additional requirements for fire lanes, loading zones and travel ways in a particular case.

3. Surfacing. All off-street parking and loading areas, except those serving single family detached dwellings, including circulation aisles and entrances, shall be designed to provide protection against potholes, erosion, dust, and stormwater runoff. Storm water management will be required for an increase in runoff. A credit for stormwater management will be given for utilizing best management practices such as rain gardens and/or alternative pervious surface materials. Surface materials may include gravel, compacted stone, concrete, asphalt, brick, paving, and grasscrete. Alternative surface materials may be approved by the Zoning Administrator and Town Engineer, based on the total number of parking spaces and vehicle trips per day.

4. Curbs and Delineation. Fixed and permanent wheel bumpers or curbs of concrete or some comparable material at least four inches high shall be installed for each parking area at least four feet within the prescribed limits of the parking area. Where the parking is so designed that the vehicle overhang does not protrude outside the prescribed limits of the area, such curbs may be placed at the outside limits of the area. Parking spaces shall be delineated and periodically restored to maintain a clear identification of separate parking stalls.

5. Entrances and Exits. Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the Virginia Department of Transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall not be located within 50 feet of a street intersection or be greater than 50 feet in width. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

6. Drainage and Maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and shall be designed to provide protection against potholes, erosion, dust, and stormwater runoff in accordance with an approved plan or in accordance with

applicable Town specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee.

7. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. Lighting facilities shall be arranged and installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of ten (10) feet in a residential district or twenty (20) feet in a Commercial District.

8. Design in General. All parking lots shall be arranged for functional efficiency and convenience and in general shall be designed to present a pleasing appearance so as to reduce adverse impact on surrounding public or private property.

9. Landscaping. Parking lot landscaping and screening shall be provided in accordance with the requirements of Article 7.

1.6 Fee-in Lieu of Required Parking

1. Any applicant required to provide off-street parking due to a change of use, expansion of an existing use or new construction in a commercial district may request a waiver of all or a portion of the parking requirement by making a payment to the town parking fund in accordance with the fee schedule established by the council.

2. An off-street parking waiver granted pursuant to this section shall run with the land, and any further change in use requiring additional parking shall require satisfaction of any additional parking requirements.

3. No refund of such payment pursuant to subsection 1 shall be made in the event of a subsequent change to a use requiring less parking.

4. Payment required by subsection 1.6.1 shall be made to the town in one lump sum prior to the issuance of a zoning permit. Payment shall not guarantee the availability of parking for the development. Funds from such payment shall be deposited by the town in a special parking/pedestrian improvement fund and shall be used exclusively to acquire and develop off-street parking facilities for the commercial districts.

1.7 Parking Exemption

Exemptions from the provisions of off-street parking and loading spaces, may be met under the following conditions:

1. Buildings containing non-residential uses, which are located at least 300 hundred feet from a municipal parking lot of adequate capacity as determined by the administrator.

2. By-right commercial uses located in existing structures within the C-2 zoning district when no expansion or modification to the existing structure is being proposed.

3. Applicants allotted parking exemptions described in 1.7.1 and 1.7.2 shall be required to pay a parking exemption fee in accordance with the fee schedule established by the council. Nothing in the section shall require an applicant to pay the parking exemption fee if the required parking regulations are otherwise met.

4. Payment required by subsection 1.7.3 shall be made to the town in one lump sum prior to the issuance of a zoning permit. Payment shall not guarantee the availability of parking for the development. Funds derived from such payment shall be deposited by the town in a special parking/pedestrian improvement fund and shall be used exclusively to acquire and develop and maintain off-street parking & pedestrian facilities for the commercial districts.

Section 2. Off-Street Loading Requirements

2.1 Specific Requirements By Use

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, or structurally altered to the extent of increasing the current floor area by 50 percent or more, a accessory off-street loading spaces shall be provided as required below or as required in subsequent sections of this Article.

Use Category	Floor Area in Square Feet	Loading Spaces Required
Retail store, department store, restaurant, wholesale house, warehouse, general service, manufacturing, or industrial establishment.	2000-10000 10000-20000 20000-40000 40000-60000 Each 50000 over 60000	One Two Three Four + One

2.2 Interpretation of Specific Requirements

1. The loading space requirements apply to all districts but do not limit the special requirements that may be imposed in the district regulations.

2. The loading space requirements in this Article do not limit special requirements that may be imposed in connection with uses permitted by approval of a conditional use or special exception.

2.3 Mixed Uses in One Building

Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the Administrator may make reasonable requirements for the location of required loading spaces.

2.4 Design Standards

1. *Minimum Size*. For the purpose of these regulations a loading space is a space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.

2. *Entrances and Exits*. Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

ARTICLE 7
SIGN REGULATIONS

Section 1. General Sign Regulations

1.1 Statement of Purpose

The provisions of this ordinance are made to establish reasonable and impartial regulations for all exterior signs and to further the objectives of the comprehensive plan of Hamilton; to protect the general public health, safety, convenience, and welfare; to reduce traffic hazards caused by unregulated signs which may distract, confuse, and impair the visibility of motorists and pedestrians; to ensure the effectiveness of public streets, highways, and other public improvements; to facilitate the creation of an attractive and harmonious community; to protect property values; and to further economic development. To these ends, these regulations are intended to promote signs that are:

1. Compatible with the landscape/streetscape and architecture of surrounding buildings;

2. Legible and appropriate to the activity to which they pertain;

3. Not distracting to motorists;

4. Constructed and maintained in a structurally sound and attractive condition.

5. Compatible with any surrounding residential structures; and

6. Adhere to the provisions of Dark Sky Standards set out in this ordinance.

1.2 Protection of First Amendment Rights

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

1.3 Applicability

Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks, and property. These regulations shall apply to all signs erected within the Town of Hamilton following the effective date of this ordinance.

1.4 Sign Permit Required

No sign or sign structure, except as provided in Section 1.7 (exempt signs) shall be erected, displayed, altered, relocated, or replaced until a sign permit has been issued. For the purposes of this ordinance, all signs are considered accessory uses of real property and shall be located on the premises of the principal use to which they pertain.

1.5 Definitions

Administrator: The designated government official whose responsibility it is to administer the provisions of this ordinance. For purposes of this ordinance the Zoning Administrator for the Town of Hamilton shall be the administrator.

Awning: Any non-rigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to an exterior wall.

Awning Sign: A sign placed directly on the surface of an awning.

Banner: A sign that is mounted on or attached to a non-rigid surface and made of materials such as cloth, fabric, or paper.

Billboard: See off-premise sign.

Bulletin Board Sign: A particular type of changeable copy sign that displays copy in a casement made of glass or Plexiglas.

Canopy: An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

Canopy Sign: A sign attached to a canopy.

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

Copy: The characters, letters, or illustrations displayed on a sign face.

Directional Sign: A sign that provides on-site directional assistance for the convenience of the public such as location of exits, entrances, and parking lots and is less than 4 square feet in size.

Directory Sign: A sign that displays the names and/or addresses of the establishments or uses of a building or a group of buildings and is less than 4 square feet in size.

Externally Illuminated Sign: A sign whose illumination is derived entirely from an external artificial source.
Freestanding Sign: The general term for any on-site sign that is supported from the ground and not attached to a building.

Frontage, Building: The length of a building that faces a street, parking area, or private drive.

Frontage, Lot: The length of that part of a zoning lot that fronts a public street.

Illegal Sign: A sign that was constructed in violation of regulations that existed at the time it was built.

Internally Illuminated Sign: A sign whose illumination is derived in whole or in part from an internal artificial source.

Marquee: A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from natural elements.

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

Master Sign Plan: A plan which shows signs for multiple businesses on a single lot and shopping centers.

Non-conforming Sign: A sign that met all legal requirements when constructed but that is not in compliance with this ordinance. An illegal sign is not a non-conforming sign.

Off-Premise Sign: A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at locations other than the premises where the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious, or other noncommercial message shall also be considered an off-premises sign. Signs erected by a governmental or quasi-governmental body are excluded from this definition.

Portable Sign: A sign that is not permanently affixed to a building, structure, or the ground or designed to be permanently affixed to a building, structure, or the ground.

Projecting Sign: A sign which is supported by an exterior wall of a building and which is displayed perpendicular to the face of the building.

Real Estate Signs: A sign advertising residential and non-residential properties for sale or rent.

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

Sight Distance Triangle: The land adjoining a street intersection that is kept clear of obstructions between three and seven feet above ground to protect the visibility and safety of motorists and pedestrians. The protected sight distance area at the intersection of two streets is the triangle formed by the street right-of-way lines and a line connecting said street lines 35 feet from their intersection. Where collector or arterial streets meet, the street right-of-way lines shall connect 45 feet from their intersection.

Sign: Any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or similar character which is: used to announce, direct attention to, identify, advertise or otherwise make anything known; and is visible from the public right-of-way or from adjoining property.

Temporary Sign: A sign that is displayed only for a specified limited period of time.

Wall Sign: A sign attached to a wall of a building and parallel to the wall, which displays only one advertising surface.

1.6 Prohibited Signs

The following are expressly prohibited unless specifically stated otherwise in this ordinance.

1. Animated and Moving Signs. Including, but not limited to, pennants, banners, streamers, propellers, discs, and searchlights.

2. Flashing Signs. Any signs that include lights that flash, blink, or turn on and off intermittently, not including that portion of a sign that displays time and temperature.

3. Glaring Signs. Signs with light sources or reflectivity of such brightness that constitute a hazard or nuisance as determined by the Administrator.

4. Inflatable Signs and Objects. Including, but not limited to, balloons.

5. Off-Premises Signs, including Billboards. Any sign which is not located on the premises that it identifies or advertises.

6. Posters and Handbills. Any signs affixed to trees, natural vegetation, rocks, utility poles or stakes.

7. Roof Signs. Any signs which are erected on a roof or which extend in height above the roofline of the building on which the sign is erected.

8. Simulated Traffic Signs and Obstructions. Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, obstruct the sight distance triangle at any street intersection, or extend into the public right-of-way.

9. Signs that obstruct or block any door, fire escape, stairway, or any opening intended for light, air or access to any building. Signs attached temporarily to the interior of a building window or glass door shall be allowed, but shall not cover more than thirty (30) percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall not be posted for more than thirty (30) days.

10. Vehicular Signs. Temporary or permanent signs resting on or attached to vehicles shall be allowed as the signage is limited to four (4) square feet in area and shall not otherwise be used as a means to circumvent the provisions of this article.

1.7 Exempt Signs

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

1. *Address or Identification Signs.* Signs indicating the address and/or names of occupants of premises, not exceeding two square feet in area. This includes nameplates on commercial structures, which would not be included in the overall sign area calculations, and internal directory signs for multiple businesses on a single zoning lot.

2. *Advertisements or Official Notices.* Notices posted by any public or court officer or any trustees under deeds of trust, or other similar instruments.

3. *Artwork.* Works of art that do not include any commercial messages or references.

4. *Bulletin Boards.* Public school or library bulletin boards, or bulletin boards of other public or semi-public buildings not exceeding twelve (12) square feet in area.

5. *Directional Signs.* Signs giving on-site directional assistance for the convenience of the public, not exceeding two square feet in area, or located closer than five feet to any property line. Directional signs may not be lit and may not exceed four (4) square feet in area.

6. *Flags, Emblems and Insignia.* For any governmental agency or religious, charitable, public or non-profit organization; provided, however, that no single flag shall exceed fifteen (15) square feet in area, and no single-zoning lot shall display more than three such flags. Commercially zoned properties are allowed one flag no more than three feet by five feet.

7. *Handicapped Parking Space Sign.*

8. *Security and Warning Signs.* Signs posted on private property warning the public against trespassing, or similar message, provided that any such sign does not exceed two square feet.

9. *Signs in Residential Districts.* In residential districts one non-illuminated sign not exceeding a total area of four square feet nor four feet in height. This includes real estate signs.

10. *Private Drive Signs.* On-premise private drive signs limited to one per drive entrance, not exceeding two square feet in area, with language limited to the words “private drive” and the address of any residences utilizing the private roadway.

11. *Public Signs.* Signs including, but not limited to, traffic, utility and other regulatory signs erected by government agencies.

12. *Changeable Copy Signs.* Signs where the copy is not permanent and may be manually altered, excluding approved institutional bulletin boards, theater signs, chalkboard signs for restaurant or retail uses and fuel price signs as permitted by this ordinance. No changeable copy sign shall be located within the public right-of-way, nor shall it be larger than six (6) square feet in size.

13. *Portable Signs*. Any sign that is not permanently affixed to a building, structure, or the ground, which is less than six (6) square feet in area, located on the lot in which the sign is advertising and not located, in whole or in part, within the public right-of-way.

1.8 Temporary Signs

The following signs shall require the issuance of a temporary sign permit by the Zoning Administrator prior to their display. The permit shall cite the length of time the sign may be displayed. If any temporary sign is located within the public right-of-way, the administrator may remove it at his/her discretion and charge the costs of removal to the individual or enterprise responsible.

1. *Special Sales Events Signs*. Signs announcing such events as grand openings, new management, and going-out-of-business sales. Such signs shall be attached to an existing principal structure or sign pole, shall not exceed 20 square feet in area and may be displayed on a given property for up to two periods, not to exceed 30 total days within a 12 month period. Such signs shall be removed within five days following the end of the event.

2. *Temporary and Seasonal Produce Stand Signs*. The total area of all such signs shall not exceed 20 square feet, nor shall any sign exceed six feet in height. Temporary signs shall be permitted for a period not to exceed 12 months.

3. *Construction Signs*. Signs are not to exceed one per contractor/ builder/ architect/ bank/ realtor, limited to a maximum of two (2) signs. The maximum height of any sign shall not exceed six feet. The maximum area of any sign shall not exceed twenty square feet. Such signs shall be removed prior to the-issuance of the first occupancy permit.

4. *Temporary residential subdivision and model home identification signs*. One sign may be erected for not more than two years at each principal entrance to the development. Such signs shall not exceed six feet in height or sixteen square feet in area. In addition, one model home sign of not more than four square feet may be maintained at each model home.

5. *Temporary signs announcing a civic, philanthropic, educational or religious event*. Such signs shall not exceed sixteen square feet in area or six feet in height. The location of the sign shall be determined by the Zoning Administrator. Such signs shall not be erected more than fourteen (14) days prior to the event, and shall be removed within five (5) days after the event. The fee may be waived for non-profit organizations.

6. *Political Signs*. There are no governing regulations associated with the placement of political signs on private property, although permission of the property owner is required and signs must be in compliance with zoning and right of way restrictions applicable to temporary non-political signs.

1.9 Non-Conforming Signs

Any sign which was lawfully in existence at the time of the effective date of the Ordinance which does not conform to the provisions herein, shall be deemed a non-conforming sign and may remain except as qualified herein. No non-conforming sign shall be relocated, enlarged, extended, or altered in any manner; except a sign face may be changed so long as the new face is equal to or reduced in height, sign area, and/or projection.
Removal of Non-Conforming Signs: Non-conforming signs may remain, provided they are kept in good repair, except for the following:

1. A non-conforming sign that is damaged, or destroyed by acts of god or negligence of others not including the owner of the sign, may be repaired so long as it is returned to its original state and the non-conformity is not increased.

2. A non-conforming 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 appraised value.

1.10 Abandoned Signs

The owner or lessee shall remove a sign, including its supporting structure or brackets, if the premises upon which the sign is located when the business that it advertises is no longer on the premises. Such sign, if not removed within thirty (30) days from the termination of occupancy by such business shall be considered to be in violation of this Chapter, and shall be removed at the owner's expense.

1.11 Signs Permitted by Zoning District

1. *General Sign Regulations for All Districts*

Minimum Setback: five (5) feet from all public rights-of-way, unless further restricted by provisions of this article. However, any wall mounted sign attached to a legally non-conforming structure that is closer than five (5) feet from the property line shall be permitted by approval of the administrator.

Determination of Sign Area. In measuring the area of signs permitted under these regulations, the entire face of the sign (one side only) and any wall work incidental to its decoration shall be included. Where both sides of a sign contain lettering or other allowable display, one side only shall be used to compute the allowable size of the sign. Where the sign consists of individual raised letters or a sign face of irregular shape, the sign area shall include the area of the smallest rectangle that can encompass the letters or sign face.

Determination of Sign Height. When measuring the height of a sign any pole or structure supporting the sign shall be included in the calculation of height. The height of a sign erected shall be no greater than six feet from the grade level and no portion of the sign

should be greater than six feet. All foundations, bases, planters, roofing or similar parts associated with the sign will be utilized to compute sign height.

2. *General Regulations for Signs in Residential Districts*.

Subject to the general sign regulations of Section 3, and ordinances regulating structural and safety features, accessory non-illuminated signs (as approved by the administrator) are permitted as follows.

a. Address signs. (no permit required)

b. Security and Warning Signs. (no permit required)

c. Temporary and Seasonal Produce Stand Signs. (permit required.)

d. For single family, townhouse, and multi-family developments, one ground mounted sign, limited in area to 24 square feet and not to exceed six feet in height for identification of a subdivision. For single-family developments, one sign per primary entrance, not to exceed two signs, is allowed. (permit required)

e. A sign or bulletin board limited in area to 20 square feet, and six feet in height for identification of permitted public, semi-public, or recreational uses. (no permit required)

f. For churches or synagogues, one sign including a non-illuminated message board, with a maximum of 16 square feet, and a maximum height of 6 feet. Churches with multiple frontages may erect one sign on each frontage, not to exceed two signs total (maximum 48 square feet). (permit required)

g. Temporary Construction signs not to exceed 24 square feet and a maximum height of 6 feet. (permit required)

h. Temporary Subdivision signs not to exceed 24 square feet and a maximum height of 6 feet. (permit required)

i. One non-illuminated sign per residential lot, not to exceed four square feet, or four feet in height. This includes real estate signs, but not home occupations signs. (no permit required).

j. One home occupation signs shall be permitted to be attached to the primary structure upon approval of both a zoning location permit for the home occupation and a sign permit. No home occupation sign may be larger than four (4) square feet in size, nor shall it be illuminated in any manner.

3. *General Regulations for Commercial and Industrial Districts.*

a. <u>Types of signs permitted:</u> Wall, freestanding, projecting, awning, canopy, or marquee.

b. Number of signs permitted for individual business on a single zoning lot: Two (2) signs per business; no two signs may be of the same sign type. Individual businesses on a single zoning lot with frontage on more than one public right-of-way may have one additional sign which meets all requirements of this section, not to exceed three. (Except for shopping centers, or multiple business see Section 4).

c. Signs facing residential districts: Any sign erected within 100 feet of a residential zoning district may be illuminated as long as it is fully shielded and downward directed and is limited to sixteen (16) square feet in area.

d. Minimum setback of free-standing signs: Free-standing signs shall be located no closer than ten (10) feet to the edge of any public right-of-way, service drive, or entrance.

e. Maximum Height of Monument Signs: Maximum height of monument style signs shall be six (6) feet.

f. Minimum frontage required for Free-standing signs: Free-standing signs shall be permitted only on zoning lots with 100 feet or more of street frontage.

g. Spacing of Free-standing signs: No monument sign shall be erected within 100 feet of another freestanding sign.

h. Installation of Wall signs: All wall signs shall be installed flat against the wall of a building and shall not extend from the wall more than 12 inches.

i. Installation of Projecting Signs: Projecting signs shall not project from the exterior wall of a building more than four feet. Projecting signs shall be no less than eight (8) feet from the sidewalk grade.

j. Maximum size of signs:

(1) *Wall or Marquee Sign*: One square foot per linear foot of building frontage on which the sign or signs are to be attached, up to a maximum aggregate of 60 square feet.

(2) *Monument Sign*: One square foot per five linear feet of lot frontage on which the sign is to be located, up to a maximum size of 24 square feet.

(3) *Awning or Canopy Sign*: One square foot per linear foot of the awning or canopy, up to 8 square feet. No awning or canopy sign shall extend above the top of the awning or canopy.

(4) *Projecting sign*: One square foot per linear foot of building frontage on which the sign is to be attached, up to twelve square feet.

k. Sign Illumination:

Signs may be externally or internally illuminated, as permitted by this article, provided that any external illumination is fully shielded and directed at the sign and not in a manner that might cause a traffic hazard. When a permit is required, the applicant shall be required to show both the location and method of illumination of the sign along with any lumen information required by the administrator. No light from any illuminated sign shall cause direct glare onto any adjacent property, right-of-way, or building other than the building to which the sign applies to.

4. *Signs for Multiple Businesses on a Single-Lot.*

Multiple businesses located on a single zoning lot:

a. Types of signs permitted. Wall, freestanding, projecting, awning, canopy or marquee.

b. Maximum number of signs permitted per zoning lot. One free-standing sign per lot frontage. For developments with frontage on more than one right-of-way, one free-standing sign per right-of-way not to exceed two is permitted. One other sign (wall, projecting, awning, or canopy) per individual establishment.

c. Master Sign Plan: Multiple businesses on a single zoning lot, i.e. shopping centers, office parks, industrial parks and other similar uses must submit a master sign plan to ensure that all signs are harmonious with regard to color, size, lettering, and composition. The master sign plan shall be submitted in conjunction with a site plan or subdivision application for approval by the Town Council upon recommendation by the Planning Commission.

Minimum regulations shall be as follows:

i. Signs facing residential districts. Any sign erected within 100 feet of a residential zoning district shall be non-illuminated and limited to sixteen square feet in area.

ii. Minimum setback of Monument Style signs. Monument style signs shall be located no closer than ten feet to any public right-of-way, service drive, or entrance.

iii. Maximum Height of Freestanding signs. Maximum height of monument style signs shall be 6 feet.

iv. Minimum frontage required for freestanding signs. Freestanding signs shall be permitted only on zoning lots with 100 feet or more street frontage.

v. Spacing of monument signs: No monument sign shall be erected within 100 feet of another freestanding sign.

vi. Installation of Wall signs: All wall signs shall be installed flat against the wall of a building and shall not extend from the wall more than 12 inches.

vii. Installation of Projecting Signs: Projecting signs shall not project from the exterior wall of a building more than four feet. Projecting signs shall be no less than eight (8) feet from the sidewalk grade.

viii. Internal Directional and Directory Signs: These signs must be included as part of the master sign plan however, internal directional and directory signs will not be included in the calculation of overall sign area for multiple businesses on a single zoning lot.

d. Maximum Size of signs.

i. *Wall or marquee signs*: One square foot of sign per one linear foot of unit frontage with a maximum square footage not to exceed 30 square feet per individual business.

ii. *Monument signs*: One square foot per five linear feet of lot frontage on which the sign is to be located, up to a maximum size of twenty-four (24) square feet. Monument signs shall include only the name of the overall project, they shall not include a directory of the occupants.

iii. *Awning or canopy signs*: One square foot per linear foot of the awning or canopy, up to eight (8) square feet. No awning or canopy sign shall extend above the top of the awning or canopy.

iv. *Projecting sign*: One square foot per linear foot of building frontage on which the sign is to be attached, up to twelve square feet.

e. Sign Illumination:

Signs may be externally or internally illuminated, as permitted by this article, provided that any external illumination is fully shielded and directed at the sign and not in a manner that might cause a traffic hazard. When a permit is required, the applicant shall be required to show both the location and method of illumination of the sign along with any lumen information required by the administrator. No light from any illuminated sign shall cause direct glare onto any adjacent property, right-of-way, or building other than the building to which the sign applies to.

5. *Signs for Commercial or Industrial adjacent to a Residential Lot*

a. Types of signs permitted. Wall, freestanding, projecting, awning, canopy or marquee.

b. Maximum number of signs permitted per lot. Two (2) signs per business; no two signs may be of the same sign type. Individual businesses on a single zoning lot with frontage on more than one public right-of-way may have one additional sign which meets all requirements of this section, not to exceed three.

c. Signs facing residential districts. Any sign erected on a property adjacent to a residential zoning district may be externally illuminated as long as it is fully shielded and downward directed and is limited to sixteen (16) square feet in area.

d. Minimum Setback of Freestanding signs. Freestanding signs shall be located no closer than five (5) feet from the edge of any public right-of-way, service drive or entrance.

e. Minimum frontage required for freestanding or monument signs. Freestanding or monument signs shall be permitted only on lots with 100 feet or more street frontage.

f. Spacing of Freestanding or Monument Signs: No freestanding or monument sign shall be erected within 100 feet of another freestanding sign.

g. Installation of Wall signs: All wall signs shall be installed flat against the wall of a building and shall not extend from the wall more than 12 inches.

h. Installation of Projecting Signs: Projecting signs shall not project from the exterior wall of a building more than four feet. Projecting signs shall be no less than eight (8) feet from the sidewalk grade.

i. Maximum Size of signs.

1. *Wall or marquee signs*: One half (1/2) square foot of sign per one linear foot of unit frontage with a maximum square footage not to exceed 30 square feet per individual business.

2. *Monument signs*: One square foot per five linear feet of lot frontage on which the sign is to be located, up to a maximum size of twenty-four (24) square feet. Monument signs shall include only the name of the overall project, they shall not include a directory of the occupants.

3. *Awning or canopy signs*: One square foot per linear foot of the awning or canopy, up to eight (8) square feet. No awning or canopy sign shall extend above the top of the awning or canopy.

4. *Projecting sign*: One half (1/2) square foot per linear foot of building frontage on which the sign is to be attached, up to eight (8) square feet.

j. Sign Illumination:

Signs may be externally or internally illuminated, as permitted by this article, provided that any external illumination is fully shielded and directed at the sign and not in a manner that might cause a traffic hazard. When a permit is required, the applicant shall be required to show both the location and method of illumination of the sign along with any lumen information required by the administrator. No light from any illuminated sign shall cause

direct glare onto any adjacent property, right-of-way, or building other than the building to which the sign applies to.

1.12 Administration

1. *Application for a Permit*

A permit shall be received from the Town of Hamilton before erecting, placing, rebuilding, reconstructing, or moving any sign. The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his authorized agent, or a contractor licensed by the Town of Hamilton. Each application shall be made in writing on forms furnished by the Planning Department and signed by the applicant.

2. *Fees*
Each application for a sign permit or for approval of a master sign plan shall be accompanied by the applicable fees, which shall be established by the Town Council from time to time by ordinance.

3. *Plans, Specifications, and other Data*

a. The application for a sign permit shall be accompanied by the following information:

i. The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector.

ii. The location, by street address, of the proposed sign structure.

b. In addition, drawings or plans with the following information shall also be submitted:

i. Type of sign(s) and general description of structural design and construction of materials to be used.

ii. The dimensions of the sign(s).

iii. For free-standing signs, the position of the sign(s) in relation to adjacent lot lines, buildings, sidewalks, streets, intersections and service drives.

iv. For all other signs, the position relative to the structure on which it shall be placed, frontage of the building or individual unit.

v. Purpose of the proposed sign(s).

vi. Drawings of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.

vii. Any other information requested by the Zoning Administrator in order to carry out the purpose and intent of these regulations.

4. *Construction and Maintenance Standards*

a. Building Code Compliance. All signs shall be constructed in compliance with the Virginia Uniform Statewide Building Code.

b. Condition of Signs. All signs and components shall be maintained in good repair and in a safe, clean and attractive condition.

c. Repair or Removal of Nuisance Signs. Any sign that is declared to be an immediate or imminent hazard to life or property may be caused to be immediately removed or repaired. All costs associated with the removal or repair shall be charged to the owner of the premises.

d. Removal of Obsolete Signs. Any sign that is obsolete because of discontinuance of the advertised activity, or any other reason that would cause the sign to be obsolete shall be removed within 30 days at the direction of the administrator or other Town agent. All costs associated with the removal shall be charged to the owner of the premises.

5. *Action*

Within thirty days of the submission of a complete application for a sign permit, the Zoning Administrator shall either:

a. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance; or

b. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this ordinance. In case of a rejection, the Zoning Administrator shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent. Appeals to the administrator's decision must be filed with the Board of Zoning Appeals within 30 days of the decision. (Article 11 of this ordinance).

6. *Recording of Sign Permits*

The Zoning Administrator shall maintain a record of all sign permits issued. All sign permits shall be numbered in the order of their issuance.

7. *Inspections*

A final inspection shall be completed after installation of approved signs. Any discrepancies between the approved sign and the sign as constructed shall be identified and may result in the halt of construction or sign removal, if so ordered by the Zoning Administrator.

8. *Expiration of Sign Permits, Signs not Constructed*

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

1.13 Temporary Sign Permit Applications

All signs requiring the issuance of a temporary sign permit, as established in Article 7, Section 1.8, shall submit all information requested by the Zoning Administrator prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of said permit for good cause (not to exceed two extensions). Temporary signs remaining after the expiration of the permit shall be considered an obsolete sign.

1.14 Removal of Illegal Signs

The Zoning Administrator may remove or order the removal of any illegal sign at the expense of the property owner by any lawful means.

ARTICLE 8
SUPPLEMENTARY REGULATIONS

Section 1. Supplementary Bulk, Area and Height Regulations

1.1 Yards and Open Space Generally

1. Every part of a required setback shall be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required setback.

2. More than one primary structure may be located upon a lot or tract in the following instances:

a. Institutional buildings.

b. Public or semi-public buildings.

c. Multiple-family dwellings or condominiums under approved site plans.

d. Convalescent or nursing homes and homes for the aged.

e. Commercial and industrial buildings under approved site plans.

The provisions of this exception shall not be construed to allow the location or erection of any building or portion of a building within the required setback of the district it is located within.

3. Where a lot is of such unusual configuration that none of the provisions of this Ordinance regarding yards and open spaces apply precisely, the Administrator may use discretion to apply an interpretation which most nearly meets the requirements of this Ordinance; and where by reason of difficult or unusual topography an improved building site may be achieved by a minor modification of yard space requirements (up to 1.5 feet) such modification may be approved by the Administrator.

1.2 Front Setback

1. Where an easement or right-of-way has been established by an officially adopted detailed plan on file with the Administrator for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side setback shall be measured from such line shown on the official plan to the nearest line of the building.

2. On through lots the required front setback shall be provided on each street.

3. Bus shelters, when permitted by district regulations, may be located in a required front setback.

4. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front setback not more than six feet.

In any residential district, when the front setbacks of the dwellings located on both sides of a lot exceed the minimum front setback as prescribed in this ordinance, the new dwelling may be set back at least the same distance as one of the said dwellings. In the event there is only one adjacent lot with an existing dwelling, and that dwelling exceeds the minimum front setback, the new dwelling shall set back at least the average of the existing dwelling setback and the required setback in that district. Where there are two adjacent dwellings, only one of which exceeds the minimum front setback, the minimum setback requirement of this ordinance shall apply to the new dwelling.

1.3 Side Setbacks

1. Open, unenclosed porches, platforms, or paved terraces, not covered by roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the side setback not more than six feet.

2. For the purpose of the side setback regulations, a group of office, business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.

1.4 Rear Setbacks

Open or lattice-enclosed fire escapes, outside stairways, platforms, terraces and balconies and the ordinary projections of chimneys and flues may project into the required rear setback for a distance of not more than five feet.

1.5 Accessory Buildings and Structures

1. Except as herein provided, no accessory structure shall be located within the front setback of a lot or parcel.

2. Filling station pumps and pump islands, with or without a canopy may occupy the required setbacks; provided, however, that they are not less than 15 feet from street lines.

3. Accessory swimming pools, open and unenclosed, may occupy a required rear or side setback, provided they are not located closer than six feet to a rear lot line or 10 feet to an interior side lot line. A walk space at least four feet wide shall be provided between pool walls and protective fences or barrier walls.

4. Merchandise for sale, which is displayed outdoors, including, but not limited to decks, pavilions, furniture, antiques, swing sets, and items for sale or demonstration purposes are permitted by Special-Use Permit only and only within a commercial district.

5. Accessory buildings which are not a part of the main building although they may be connected by an open breezeway, may be constructed in a side or rear setback, provided such accessory building(s) does not occupy more than thirty (30) percent of the area of the required side or rear setback and provided it is not located closer than five (5) feet to any lot line. Accessory structures greater in height than fifteen (15) feet shall meet the minimum side and rear setback requirements for a primary structure.

6. Satellite dish antennas or receiving stations and similar devices are deemed to be accessory structures and shall not be located in front or side setbacks in a residential or commercial district and in a residential district shall be limited to two per dwelling unit, shall not exceed 10 feet in diameter, and shall not exceed the height permitted in the zoning district for an accessory structure. In a residential district no such dish structure greater than two feet in diameter shall be mounted on the roof of a building so as to be visible from the street on which a building fronts.

7. When attached to a single family attached dwelling, a deck which has no part of its floor higher than the first floor of the dwelling may extend up to ten (10) feet into a required rear or side setbacks, provided that the deck is not located closer to the rear lot line than one-half the distance measured from the rear lot line to the closest point of the dwelling. No deck shall be any closer than (4) feet from any lot lines. Steps from the deck to grade may extend up to three (3) feet additionally into the required setback and not be calculated against the minimum requirements.

8. Decks are not permitted in front setbacks.

9. A Temporary family health care unit (Unit) shall be allowed accessory to a single-family dwelling located on a residential lot, provided that:

   A. Only one Unit shall be permitted per lot;

   B. No more than one person shall occupy the Unit;

   C. The Unit shall not exceed 300 gross square feet in area;

   D. The Unit shall comply with the setback requirements for primary structures in the district;

   E. The Unit shall primarily be assembled at a location other than the lot on which it is to be located;

   F. The Unit shall not be placed on a permanent foundation;

G. A physician licensed in Virginia has certified in writing that the person who occupies or intends to occupy the Unit is mentally or physically impaired because he/she requires assistance with two or more activities of daily living during more than half the year;

H. The caregiver for the mentally or physically impaired occupant of the Unit lives in the primary residence on the lot, and is an adult related by blood, marriage, or adoption or is the legally appointed guardian of the occupant of the Unit;

I. The Unit shall be removed within thirty (30) days of the impaired person no longer meeting the certification requirements or no longer residing within the Unit;

J. The Unit shall not be used for, or converted to, another use;

K. No signage advertising or promoting the existence of the Unit shall appear on the Unit or anywhere on the property;

L. The Unit shall 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.

M. A zoning permit shall be obtained prior to placement of such Unit on the lot. In conjunction with the request for the zoning permit and annually thereafter, the following shall be submitted to the satisfaction of the Zoning Administrator:

a. documentation of the need for care for the mentally or physically impaired person to include a letter of certification written by a licensed physician;
b. documentation of the relationship of the mentally or physically impaired person and caregiver;
c. permission for the Zoning Administrator or her representative to inspect, at reasonably convenient times, the Unit and the single family dwelling on the lot to determine compliance with this section.
d. any additional information deemed necessary by the Zoning Administrator to assure compliance with this section.

1.6 Major Recreational Equipment, Parking and Storage

The parking or storage of major recreational equipment including, but not limited to, travel trailers, utility trailers, pickup campers or coaches, buses, motorized dwellings, tent trailers, boats and boat trailers, amphibious houseboats, or similar equipment normally used for recreational purposes shall be permitted as an accessory use in all residential districts, subject, however, to the following regulations and requirements:

1. Such major recreational equipment shall not exceed 24 feet in length, eight feet in width, and 10 feet in height, exclusive of masts, antennas, vent-stacks, windshields, or other accessories.

2. Such major recreational equipment shall not be used for living, sleeping, housekeeping or business purposes, nor shall such major recreational equipment be connected to any utility service, except for temporary periods solely for replenishing supplies or for the servicing or repair of equipment.

3. Such major recreational equipment shall not be parked or stored within the setback requirements for accessory buildings in the residential district in which the lot is located.

4. Site plans for residential developments that provide common parking areas, such as townhouse or apartment developments, shall show special provisions made for storage and screening for major recreational equipment. This equipment may not be stored in such developments unless in a designated storage area.

5. Such major recreational equipment shall not be parked or stored in the front yard in any residential district.

6. No street parking is allowed and any violation of this section ~~will~~ shall be handled by the Loudoun County Sheriff Department.

7. No recreational vehicles allowed under this section shall be advertised for sale to the public in any residential district.

1.7 Commercial Vehicle Parking

The parking of any commercial vehicle, as defined by this ordinance, in any residential district or on any street within the Town of Hamilton is prohibited.

1.8 Inoperable Vehicles

It shall be unlawful for any person, firm, or corporation to keep any inoperable motor vehicle, trailer, or semi-trailer on any street, lot, or parcel of land, other than land zoned commercial or industrial, except within a fully enclosed building or structure or otherwise shielded from view by wall, hedge or other permanent structure. If the vehicle is undergoing restoration, proof of reasonable progress will be taken into consideration.

1.9 Junk in Yards

No junk will be allowed in any district. See Article 16 for definition of junk.

1.10 Satellite Dishes

1. In residential and non-residential zoning districts, satellite dishes shall be allowed as follows: Satellite dishes with a diameter of one meter (39.37 inches) or less shall be permitted by right. However, in no event shall the satellite dish be located in the front setback.

2. In non-residential zoning districts, satellite dishes shall be allowed as follows: Satellite dishes with a diameter of more than one meter (39.37 inches) shall be permitted by right. In no event shall a satellite dish be located in the front setback.

(a) If located at ground level, a satellite dish shall be located only in a rear setback. The bottom of a satellite dish shall be no higher than two feet above the adjacent natural grade, and the top of a satellite dish shall be no higher than 12 feet above the adjacent natural grade. The satellite dish shall be set back at least five feet from any side property line and five feet from any rear property line, and on corner lots shall not project beyond the required side setback on the street side of the corner lot. Satellite dishes shall be screened from view from adjacent properties by new or existing plant material, obscuring fence or buildings on all sides except the side, oriented to the line of reception.

(b) If located on top of a flat-roofed building, the satellite dish shall be set back from the edge of the roof a distance equal to at least two times the height of the satellite dish. The top of the satellite dish shall be no higher than 12 feet above the roof. The satellite dish shall be screened on all sides except the side oriented to the line of reception by an element of the building or by a separate, permanently installed screen harmonizing with the building in material, color, size and shape. Screening shall be approved by the administrator.

(c) No lettering or advertising messages shall be painted on or attached to any satellite dish greater than one meter (39.37 inches) in diameter.

Section 2. Temporary Uses

2.1 Purpose and Intent

There are certain uses that may be permissible on a temporary basis subject to the controls, limitations and regulations of this section. The following sections provide the procedures and criteria used by the Zoning Administrator in reviewing temporary use applications.

2.2 Permitted Temporary Uses

1. Residential districts
a. Yard Sales

2. Non-Residential Districts
a. Yard Sales
b. Christmas tree sale
c. Carnival, circuit, festival, fair, dog show, horse show, fireworks show, tent revival or similar meetings
d. Outdoor retail sales event
e. Farmers market
f. Other similar temporary use

2.3 General Standards for Permitting Temporary Uses (other than yard sales)

1. Adjacent uses shall be suitably protected from any adverse effects of the use, including noise and glare.

2. The use shall not create hazardous conditions for vehicular or pedestrian traffic, or result in traffic in excess of the capacity of streets serving the use.

3. Adequate refuse management, security, emergency services, and similar necessary facilities and services shall be available for the temporary use, and all necessary sanitary facilities shall be approved by the appropriate health agency.

4. The site is suitable for the proposed use, considering flood hazard, drainage, soils and other conditions that may constitute a danger to life, health or property.

5. The use shall not have a substantial adverse impact on the natural environment, including trees, ground cover and vegetation.

6. A temporary use permit for such activities shall be issued for not more than thirty days, in any six-month period unless limited further in this section.

2.4 Yard Sales

1. Off-street Parking. Adequate provision must be made for off-street parking and safe ingress and egress.

2. Location. Such use shall be located on a lot having frontage on a major or minor arterial or a service drive for such roads or a limited access highway.

3. Hours of Operation. The hours of operation shall be limited to daylight hours.

4. Signs. One temporary sign may be permitted in accordance with this Zoning Ordinance. Signs for yard sales shall not be attached to trees or utility poles and shall be removed within 24 hours of end of sale.

2.5 Christmas Tree Sales

1. Off-street Parking. Adequate provision must be made for off-street parking and safe ingress.

2. Location. Such use shall be located on a lot having frontage on a major or minor arterial or a service drive for such roads or a limited access highway.

3. Hours of Operation. The hours of operation shall be limited to daylight hours, provided, however, night operations up to 9:00 p.m. may be permitted for Christmas tree sales in non-residential districts with a lighting plan approved by the Zoning Administrator.

4. Signs. One temporary sign may be permitted in accordance with this Zoning Ordinance.

2.6 Carnival, Circus, Festival, Fair, Dog Show, Horse Show, Outdoor Retail Sales Event, Fireworks Show, Tent Revival or Similar Meetings.

1. Duration. A temporary use permit for such activities shall be issued for not more than five consecutive days, in any six (6) month period.

2. Location. No such activity shall be located closer than 300 feet to a residential use.

3. Off-street parking, safe ingress and egress must be provided and approved by the Zoning Administrator.

4. Hours of Operation. Such activities are permitted only between the hours of 8:00 a.m. and 10:00 p.m., Monday through Saturday and 8:00 a.m. and 8:00 p.m. on Sundays. The Zoning Administrator may require that no activity, including set-up or knock-down of an activity shall be permitted between 10:00 p.m. and 8:00 a.m. Monday through Saturday or before 9:00 a.m. or after 9:00 p.m. on Sunday.

5. Illumination. Night operations shall be permitted only if there is a lighting plan approved by the Zoning Administrator that provides for safe lighting without excessive glare into residential areas or onto public streets.

6. Signs. One temporary on-site sign, advertising the activity and two on-site direction signs for ingress and egress may be permitted in accordance with this Zoning Ordinance.

Section 3. A Grading Plan Shall be Submitted for Any of the Following:

1. Disturbing a site area of 5,000 square feet or greater.

2. A depth of grading or re-grading of eighteen (18) inches or more.

3. The grading or re-grading of a site that is adjacent to a natural drainage area, whether or not defined as a floodplain, or impacts in any manner on the drainage area to serve its natural function of transporting storm drainage to a natural unobstructed outfall.

4. Redirection of natural drainage.

5. Prior to the clearing of vegetation from any site, the Zoning Administrator shall visit the site to determine if storm water management will be affected, and what erosion/siltation control measures should be applied. A site-grading plan shall be submitted and reviewed pursuant to Article 10, Section 3.

Section 4.

Special Regulations for Residential Day Care or Home Child Care, Nursery Schools, Kindergartens, Child Care Centers, Day Nurseries or Day Care Centers, Private Schools, Technical or Business Schools, Colleges or Universities.

4.1 Residential Daycare or Home Child Care:

1. Maximum enrollment shall not exceed five (5) at any one time, exclusive of provider's own children.

2. No such use shall be permitted unless it is determined by Loudoun County Department of Environmental Health that the location and design does not pose any hazard to the health, safety and welfare of the children.

3. Landscape treatment and screening requirements of Article 9 shall not apply except that recreation areas shall be screened and fenced as required by the Zoning Administrator.

4. All applications shall contain the following:

   a. The dimensions, boundary lines and area of the lot or parcel.

   b. The location, dimensions and height of any building, structure, or addition, whether existing or proposed.

   c. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.

   d. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.

5. All such uses shall be subject to applicable County and State regulations specifically Sec. 63.2-100 of the Code of Virginia, as amended.

4.2 Nursery Schools, Kindergartens, Child Care Centers, Day Nurseries, or Day Care Centers.

1. Maximum enrollment of 100 students daily.

2. Compliance with the minimum lot size requirements per the zoning district in which located.

3. A minimum area of 100 sq. ft. per child shall be provided for usable outdoor recreation for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed and subject to the following limitations.

a. That the usable outdoor recreation area not be covered by buildings or be part of required parking spaces.

b. Only that area which is developable and practically usable for active outdoor recreation purposes.

c. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards and may only be located in rear and/or side yards.

4. For each child enrolled, indoor recreation space shall be provided at the rate of 75 sq. ft. for active children and 50 sq. ft. for infants.

5. All uses described in this section and located to have direct access to an existing or planned public street shall be required to perform a Traffic Impact Analysis to ensure the existence of the transportation infrastructure can accommodate the proposal.

6. All such uses shall be located so as to permit the pick-up and discharge of all persons on the site.

7. No such use shall be permitted unless it is determined by the Loudoun County Department of Environmental Health that the location and design does not pose any hazard to the health, safety and welfare of the children.

8. A landscape and screening plan shall comply with Article 9.

9. All uses under this Section are subject to Article 10, Special Use Permits and Commission Permits.

4.3 <u>Private Schools, Technical or Business Schools, Colleges or Universities</u>

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:

a. 200 square feet of usable outdoor recreation shall be provided for each child in grades K-3 that may use the space at any one time, and

b. 430 square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.

2. Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed and subject to the following limitations:

a. That the usable outdoor recreation area not be covered by buildings or be part of required off-street parking spaces.

b. That area shall be outside the limits of the required front yard.

c. Only that area which is developable and practically usable for active outdoor recreation purposes.

d. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards and may only be located in the rear and/or side yards.

3. The minimum lot area for a private school, college or university shall be based upon enrollment and shall be a determination of the Town Council.

4. All other regulations relative to bulk shall be subject to Article 8.

5. All uses under this Section are subject to Article 10, Special Use Permits and Planning Commission Permits.

6. For each person enrolled, indoor recreation space shall be provided at the rate of 75 sq. ft. and such other requirements as determined by the Loudoun County Department of Environmental Health and the State of Virginia.

7. All uses described in this section and located to have direct access to an existing or planned public street shall be required to perform a Traffic Impact Analysis to ensure the existence of the transportation infrastructure can accommodate the proposal.

8. All such uses shall be located so as to permit the pick-up and discharge of all persons on the site.

9. No such use shall be permitted unless it is determined by the Loudoun County Department of Environmental Health that the location and design does not pose any hazard to the health, safety and welfare of the children.

10. In addition to the requirements of Article 10, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan shall contain the below information in addition to that required by Article 10:

a. The dimensions, boundary lines, and area of the lot or parcel.

b. The location, dimensions. and height of any building, structure, or addition, whether existing or proposed.

c. The distance from all property lines to the existing or proposed building, structure, or addition, shown to the nearest foot.

d. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.

Section 5. Performance Standards.

5.1 General Provisions

1. Applicability

a. No approved special use permit hereafter established, altered, modified or enlarged shall be operated or designed so as to conflict with the applicable performance standards established by this Section except as qualified below.

b. Any existing use that complies with the applicable performance standards of this Section on the effective date of this Section shall continue to so comply. If, at such time, the operations of any lawful existing use violate any of the applicable performance standards of this Section, such operations shall not be varied or changed in such a way as to increase the degree of such violation.

c. Any use which is a lawful non-conforming use and which, on the effective date of this Section, complies with the applicable performance standards of this Section, shall continue to comply. If, at such time, the operations of such lawful non-conforming use violate the specified standards, such operations shall not be varied or changed in such a way as to increase the degree of such violation.

5.2 Air Pollution Standard

Any activity, operation or device which causes or tends to cause the release of air contaminants into the atmosphere shall comply with the rules and regulations of the state and other applicable local regulations.

5.3 Fire and Explosion Hazard Standard

All operations, activities and use shall be conducted so as to comply with the Fire Prevention Code.

5.4 Liquid and Solid Waste Standard

Any activity, operation or device which causes or tends to cause the discharge or other release of liquid or solid waste into public sanitary sewers, storm drains or public waters shall comply with applicable laws, rules and regulations governing such discharge, release including but not limited to the Federal Water Pollution Control Act; the Virginia Water Control Law; and the applicable Loudoun County regulations that pertain to sewers and sewage disposal, pollution of state waters, maintenance and cleanliness of storm drainage facilities, garbage, trash and refuse and erosion and sediment control.

5.5 Noise Standard

No use, operation or activity shall cause or create noise in excess of the sound levels generally described as acceptable.

Noise Standards**:** It shall be unlawful for any person to operate or permit to be operated any noise source in such a manner as to create a sound level which exceeds the limits set forth in the following tables, except for extraction and minimal special exception operations otherwise regulated herein. In addition, before 7 a.m. and after 9 p.m., Monday through Saturday and before 8 a.m. and after 9 p.m. on Sunday, the permissible sound levels, at residential district boundaries where they adjoin nonresidential districts, shall be reduced by 5 dBA in the table for impact noises.

1. Methods of Measurement.

a. Noise levels shall be measured with a sound level meter and shall meet or exceed performance standards for a "Type Two" meter, as specified by the American National Standards Institute.

b. Noise levels shall be recorded as A-weighted sound pressure level. The level so read shall be postscripted dBA.

2. Maximum Sound Levels (dBA). Measurements of noise levels shall be taken at the property boundary of the noise source. Where differing zoning districts abut, the more restrictive limits shall apply.

a. Maximum dBA, Continuous Noise.

Residential 55
Commercial 60
Industrial 70

Continuous noise shall be measured using the slow meter response of the sound level meter.

b. Maximum dBA, Impact Noise.

Residential 60
Commercial 70
Industrial 80

Impact noise shall be measured using the faster meter response of the sound level meter. Impact noises are intermittent sounds of a single pressure peak or a single burst (multiple pressure peaks) for a duration usually less than one second. Examples of impact noise sources are a punch press, drop forge hammer, or explosive blasting.

5.6 Glare Standard

1. Required Performance Level:
All uses, operations and activities shall be conducted so as to comply with the performance standards governing glare prescribed below.

2. Method of Measurement:
Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

3. General Requirements:
Uses subject to Group I and Group II standards shall not produce glare so as to cause illumination in R districts in excess of 0.5 candles. Flickering or bright sources of illumination shall be controlled so as not to be a nuisance in R districts.

4. Group I and Group II Standards:
Uses subject to Group I and Group II standards shall limit the use of light sources and illumination surfaces which are located in or are within 500 feet of and visible within any R district so as to comply with the light intensities indicated in Table III below.

Table III
Maximum Intensity of Light Sources

Source	Group I	Group II
Bare incandescent bulbs	15 watts	40 watts
Illuminated buildings	15’ candles	30’ candles
Back lighted or luminous background signs	150’ lamberts	250 lamberts
Outdoor illuminated signs and poster panels	25’ candles	50’ candles

Table IV
Required Performance Standards
(Group I or Group II)

Topic	Zoning Districts			
	R Districts	C Districts	T Districts	M-L Districts
Glare	I	I	I	II

ARTICLE 9
LANDSCAPING, SCREENING AND OPEN SPACE REGULATIONS

Section 1. General Regulations

1.1 Purpose and Intent

The purpose of this Article is to regulate the planting and preservation of landscape materials; to promote the general health, safety and welfare of our citizens; to facilitate the creation of an attractive environment; to protect property values and to further the design and economic development objectives of the Hamilton Comprehensive Plan. To these ends, these regulations are intended to promote the planting and preservation of landscape materials which:

1. Provide screening and buffering between incompatible land uses.

2. Provide parking lot landscaping to reduce the harmful effects of heat, noise and glare associated with motor vehicle use.

3. Provide shade and enhance the appearance of areas.

4. Provide for the creation of safe, attractively landscaped areas adjacent to public streets by using landscape materials that separate vehicular and pedestrian areas.

5. Provide for the protection of ground and surface water quality and air quality through the mitigating effects of trees and vegetated areas.

6. Provide for useful and attractive open space areas.

1.2 Applicability

The provisions of this Article shall apply to all site plans, subdivision applications within the corporate limits approved after the effective date of this ordinance including those which include the reconstruction and enlargement of existing structures. This Article does apply to the enlargement of any parking lot, but does not apply to the resurfacing of any existing lot. This Article shall apply to construction associated with a parking lot with greater than five spaces and the construction, extension or widening of any public or private street.

1.3 Landscape Plan Required

A landscape plan meeting the requirements of this Article is required for all subdivisions and site plan applications.

1.4 Review Procedures

The Zoning Administrator shall be responsible for the review of all landscape plans. The Zoning Administrator shall forward an evaluation of any required landscape plan to the Planning Commission or Town Council, as appropriate, before final approval of any subdivision and/or site plan application.

1.5 Contents of Landscape Plan

A certified Engineer, Land Surveyor, Landscape Architect, Landscape Contractor, or other individual with professional experience in landscape architecture shall prepare every landscape plan required by this Article. All landscape plans shall contain the following information:

1. *Scale.* Plans shall be drawn to a scale of not less than 50 feet to the inch on sheets not exceeding 24 by 36 inches.

2. *Contents.* All plans shall illustrate with sufficient detail the location of all proposed construction including driveways, parking areas, curbs, sidewalks, utility lines, structures and landscape areas. Landscape areas shall indicate dimensions, and all proposed trees and plants shall be illustrated.

3. *Schedule.* All plans shall be accompanied by a schedule of plants proposed, including the number proposed, their height, caliper or gallon size, as well as their common and botanical names.

4. *Open Space.* All plans shall include a table calculating the amount of open space and number of plants and trees required by the Zoning Ordinance and the amount of open space and number of plants and trees provided.

5. *Existing Vegetation*. Any existing vegetation proposed to be saved shall be identified by name, quantity and size. Methods of protecting the vegetation shall be illustrated or explained.

Section 2. Street Tree Planting

2.1 Applicability

Street tree planting is required any time a public street is constructed, extended or widened. This requirement shall apply to all zoning districts. Where parking lots abut public street rights-of-way, the requirements of Section 3.2 of this Article shall apply.

2.2 Street Tree Standards

1. *Species.* Tree species shall conform to those identified as street trees on the plant list of Section 5.3 of this Article. Substitutions may be made with the permission of the Zoning Administrator. All street tree plantings must be approved by the Zoning Administrator. In reviewing plans for street tree plantings the Zoning Administrator shall consider:

a. The size, type and condition of existing street trees;

b. The adopted design study, landscape plan, or design theme for the street;

c. The majority of street trees planted shall be medium or large scale canopy trees to provide shade and visual relief; and

d. Flowering ornamental trees should be planted in groups.

2. *Number*. One tree for every forty (40) feet of street frontage.

3. *Location*. In commercial zoning districts all street trees shall be located in the required landscape area adjacent to the street. In residential zoning districts street trees shall be located generally within 20 feet of the right-of-way. Nothing in this Section shall be construed as to require that tree plantings be planted at even intervals, but they must meet the minimum requirements of this article.

Section 3. Parking Lot Landscaping

3.1 Applicability

All parking areas described below, unless explicitly exempted, must be landscaped as described in this Article. For the purposes of this Article, parking lots are defined as any area used for the display or parking of any and all types of vehicles, boats or heavy construction equipment, whether these vehicles are or are not for sale or lease. This definition includes, but is not limited to, parking lots and display areas for automobile dealerships and service stations. The area of the parking lot shall be calculated to include all paved areas used for ingress/egress.

3.2 Perimeter Parking Lot Landscaping

1. Definition. Perimeter parking lot landscaping shall include all landscape areas outside the perimeter of the parking area of the lot including any landscape area required adjacent to a public street.

2. Applicability. The requirements of this Section shall apply to the construction or enlargement of any parking lot with five or more parking spaces. No perimeter parking lot landscaping shall be required if a Screen-2 or Screen-3 as described in Section 4.4 is required.

3. Parking Lots Adjacent to Public Streets

a. Landscape Area. A continuous landscape area 10 feet in width, not including the sidewalk, shall be located between the parking lot and the property line. If road improvements are necessary across the frontage of the property, a continuous landscape strip with an average width of 10 feet may be provided to meet the requirements of this Section. If a parking lot is built adjacent to an existing parking lot that has landscape area, narrower than ten feet in width, the width of the existing landscape area may be continued provided that it is at least four feet wide.

b. Number of Trees. One tree for each 40 feet of frontage shall be planted in the landscape strip. Nothing in this Section shall be construed as to require that tree plantings be planted at even intervals, but they must meet the minimum requirements of this article.

c. Screening Adjacent to Public Street. All parking lots adjacent to the public street must be screened along at least one-half of the street frontage. Screening shall be accomplished through the planting of shrubs, hedges or the creation of berms. No plant material or berm shall obstruct the sight distance of motorists entering or leaving the site.

d. Species. All trees planted to meet the requirements of this Section shall be street trees as identified in Section 5.3 (plant list).

4. Other Parking Lots

a. Landscape Area. A continuous landscape area, at least five (5) feet in width, shall be located between the property line and the parking lot.

b. Number of Trees and Shrubs. One tree and three shrubs for every 50 feet of frontage shall be planted in the landscape area. Nothing in this Section shall be construed as to require that tree plantings be planted at even intervals, but they must meet the minimum requirements of this article.

c. Species. All trees planted to meet the requirements of this Section shall be canopy trees as identified in Section 5.3 (plant list).

3.3 Interior Parking Lot Landscaping

1. Definition. Interior parking lot landscaping is any landscape area over 50 square feet in area within the perimeter of a parking area and greater than five feet from any principal structure.

2. Applicability. These requirements shall apply to the construction or enlargement of any parking lot with ten or more parking spaces. Such landscaping shall be in addition to perimeter parking lot landscaping, street tree planting and screening.

3. Interior Parking Lot Landscaping Standards

a. Minimum Landscape Area. Five percent (5%) of the gross area of a paved parking lot. The gross area of the parking lot shall include all paved areas within the lot including areas for ingress/egress. Paved storage areas may be subtracted from this figure for land uses such as lumberyards and warehouses.

b. Minimum Landscape Area. No landscape area shall be less than thirty-five (35) square feet. Each landscape area shall have at least one canopy tree.

c. Number of Trees. One tree for every ten (10) parking spaces.

d. Number of Shrubs. Three (3) shrubs for every ten (10) parking spaces.

e. Species. At least three-fourths of the trees planted to meet the requirements of this Section must be canopy shade trees as identified in Section 5.3 (plant list).

3.4 Modification of Parking Lot Landscaping Requirements

1. Properties with Existing Structures Built Prior to Adoption of Article

a. Landscape Area Adjacent to a Public Street. The Zoning Administrator may waive or reduce the requirement for a landscape area as described in Section 3.2.3a for properties with structures built prior to adoption of this Article. This requirement may be waived or reduced when the Zoning Administrator finds that the required 10 foot area would serve no useful purpose, would result in a hardship to the property owner and that a suitable screening alternative has been provided where necessary. Alternative screening such as architectural walls may be permitted when approved by the Zoning Administrator.

b. Perimeter Parking Lot Landscaping. The Zoning Administrator may waive or reduce the requirement for perimeter parking lot landscaping as described in Section 3.2. This requirement may be waived or reduced when suitable screening alternative has been provided that is acceptable to the Zoning Administrator.

c. Relation of Perimeter and Interior Parking Lot Landscaping. The Zoning Administrator may modify the numerical requirements for the amount of landscape space and amount of plant materials as required in Sections 3.2 and 3.3. If additional landscape area or plant materials are provided that exceeds the requirements of the interior or perimeter parking lot landscaping, the Zoning Administrator may apply this to the alternative perimeter or interior landscaping requirements.

Section 4. Screening and Buffer-Yard Requirements

4.1 Applicability

The requirements of this Section shall apply to all new construction and all reconstruction or enlargement of existing structures constituting more than 50% of the floor area of the existing structure(s). Alternative screening methods and reduced buffer yards may be permitted for enlargement of existing structures constituting more than 50% of the floor area of the existing structure when approved by the Zoning Administrator.

4.2 Land Use Categories

For the purpose of this Article, existing and proposed land uses are divided into the four major land-use categories: residential, institutional, commercial and industrial. Each category is subdivided to reflect the intensity of the proposed use. For instance, the residential category is divided into single-family detached, single-family attached and multifamily

residential. In those instances where a proposed or existing use is not listed below, the Zoning Administrator shall decide which land use category is applicable. If the adjacent property is vacant, the property shall be assumed to be the land use recommended in the Land Use Element of the Town Plan.

1. Residential
a. Ra Single-family detached and semi-detached
b. Rb Single-family attached (townhouses)
c. Rc Multifamily residential

2. Institutional
a. Ia Low Intensity (daytime only) uses including libraries, post offices and churches
b. Ib Schools
c. Ic Emergency Services including hospitals and fire and rescue stations

3. Commercial
a. Ca Offices and general retail uses under 5,000 square feet of gross leasable area
b. Cb Offices and General retail uses over 5,000 square feet of gross leasable area
c. Cc Hotels and motels, fast-food restaurants, convenience grocery stores, vehicle sales and service

4. Industrial
a. INa Industrial uses without outdoor storage
b. INb Industrial uses with outdoor storage

4.3 Buffer-Yards

1. *Definition.* Buffer-yards are land areas provided to buffer adjoining land uses and shall be used for the planting of landscape materials. Buffer-yards shall not be used for the storage of materials, buildings, parking or loading areas for motor vehicles or equipment or signs. Driveway and entrances connecting adjacent parking lots or developments may interrupt the required buffer-yard.

2. *Relation to Setbacks.* Buffer-yards may be provided in the area required for setbacks by the zoning district regulations, except in residential zoning districts. Buffer-yards in residential zoning districts may be provided in any of the following ways: in common open space, in common use easements located outside of the required lot area, or by providing additional yard space in addition to the required minimum yard requirements listed in the residential zoning district regulations.

3. *Buffer-Yards Exceeding Setbacks.* In any instance when the buffer-yard required by this Article exceeds the setback required by the zoning district regulations, the buffer-yard required by this Article must be provided.
4. *Credit for Existing Buffer*. Any existing buffer-yard proposed to be saved by a subdivision or development plan application, which complies with the intention of this Section, shall be deemed to meet these buffer-yard requirements.

4.4 Screening

1. *Definition.* This Article establishes three different screens as identified in the matrix in Section 4.5. (Screen 1-an open screen, Screen 2-a semi-opaque screen and Screen 3-an opaque screen). Four separate types of plants are required: large or medium scale canopy shade trees, ornamental trees, evergreen trees and shrubs.

2. *Plant Varieties.* Plantings must be identified as suitable buffer plants in Section 5.3 of this Article. The Zoning Administrator may approve alternative varieties.

3. *Number of Plants.* Plant materials are required per square foot of buffer area. For example, if the matrix requires a 25-foot buffer along a 100-foot property boundary, a resulting 2,500 square feet of buffer space is required. Screen 1, Alternative A requires five large or medium scale canopy trees, and twenty-five shrubs. Screen 1, Alternative B requires two or three large or medium scale canopy trees, five ornamental trees and twenty-five shrubs.
4. *Alternative Screens and Modifications.* Alternative planting programs achieving the objectives of the required screens are permitted to allow flexibility in landscape design. The Zoning Administrator may approve any of the alternative screens provided below or a combination of the alternatives if the applicant can demonstrate that the objective of the screen has been met. The Zoning Administrator may reduce or eliminate the requirements for evergreen trees or shrubs if a landscape plan proposes the use of hedges, shrubs, walls, or berms that achieve the objective of the required screen.

a. Screen 1. An open screen between relatively similar land uses. Open screening shall provide an attractive separation between the land uses. Screen 1 shall consist of one of the three alternative planting programs (A, B, or C) described below or as otherwise approved as described in subsection 1 above:

Screen 1 (S-1) ***TYPE OF PLANT***	A	B	C
Canopy Trees	1/500	1/1000	1/500
Ornamental Trees	0	1/500	0
Evergreen Trees	0	0	1/350
Shrubs	1/100	1/100	1/200

Note: All figures are for per square foot of required buffer-yard. Tables express number of plants required per square foot of buffer-yard.

b. Screen 2. A semi-opaque screen between land uses which are dissimilar in character. Semi-opaque screening should partially block views from the adjoining land uses and create a separation between the adjoining land uses. Screen 2 shall consist of one of the three alternative planting programs (A, B or C)

Screen 2 (S-2) TYPE OF PLANT	A	B	C
Canopy Trees	1/500	1/1000	1/500
Ornamental Trees	0	1/500	0
Evergreen Trees	1/500	1/500	1/175
Shrubs	1/100	1/100	1/200

Screen 3 (S-3) TYPE OF PLANT	A	B	C
Canopy Trees	1/500	1/1000	1/500
Ornamental Trees	1/500	1/250	1/500
Evergreen Trees	1/500	1/500	1/175
Shrubs	1/100	1/100	1/200

4.5 Screening and Buffer-Yard Matrix

The screening and buffer-yard matrix describes the requirements for screening and buffer-yards between adjoining land uses. This matrix cross-references Sections 4.2 (Land use categories), 4.3 (Buffer-Yards), and 4.4 & 5 (Screening).

	Ra	Rb	Rc	Ia	Ib	Ic	Ca	Cb	Cc	INa	Inb
Ra	*** ***	*** ***	**25 S3**	**25' S2**	**25' S2**	**25' S3**	**25' S3**	**25' S3**	**25 S3**	**25 S3**	**25 S3**
Rb	*** ***	*** ***	**25' S1**	**25' S2**	**25' S2**	**25' S3**	**25' S3**	**25' S3**	**25 S3**	**25 S3**	**25 S3**
Rc	**25 S3**	**25' S3**	**25' S2**	**25' S2**	**25' S2**	**25' S3**	**25' S3**	**25' S3**	**25 S3**	**25 S3**	**25 S3**
Ia	**25' S2**	**25' S2**	**25' S2**	*** ***	**10' S1**	**15 S2**	*** ***	**10' S2**	**25 S2**	**25 S2**	**25 S3**
Ib	**25' S2**	**25' S2**	**25' S2**	**10' S1**	*** ***	**10' S1**	**10' S2**	**15 S2**	**15 S2**	**25 S2**	**25 S3**
Ic	**25' S3**	**25' S3**	**25' S3**	**15 S2**	**10' S1**	*** ***	**10' S2**	**10' S2**	**15 S2**	**25 S2**	**25 S3**
Ca	**20' S2**	**20' S2**	**20' S2**	*** ***	**10' S2**	**15 S2**	*** ***	**10' S2**	**10' S2**	**15 S1**	**15 S2**
Cb	**25' S3**	**25' S3**	**25' S3**	**15 S2**	**15 S2**	**10' S2**	**10' S2**	**10' S2**	**10' S2**	**15 S1**	**15 S2**
Cc	**25 S3**	**25 S3**	**25 S3**	**25 S2**	**15 S2**	**15 S2**	**10' S2**	**10' S2**	**10' S2**	**15 S1**	**25' S2**
INa	**25 S3**	**25 S3**	**25 S3**	**25 S2**	**25 S2**	**25 S2**	**15 S2**	**15 S2**	**15 S2**	**10' S1**	**15 S1**
INb	**25 S3**	**25 S3**	**25 S3**	**25 S3**	**25 S3**	**25 S3**	**15 S2**	**15 S2**	**15 S2**	**15 S1**	**15 S1**

4.6 Screening of Outdoor Storage and Loading Areas
All outdoor storage and loading areas created after the adoption of this ordinance shall be screened from all public streets and adjacent residential properties. An opaque screen at least eight feet in height comprised of plants, trees, walls or other opaque materials must be provided.

4.7 Modifications of Screening and Buffer-Yard Requirements

1. *Buffer-Yard Exceeding 15% of Area.* No buffer-yard shall be required which comprises more than 15% of the subject property. In any case which the required buffer-yard would exceed 15% of the buffer-yard, such yard shall be reduced to 15% of the gross area of the site.

2. *Construction of Walls.* Screening and buffer-yard requirements shall be reduced by one-half (1/2) where the developer constructs a six-foot high brick or architectural block wall.

3. *Temporary Uses.* Screening and buffer-yard requirements may be reduced or eliminated by the Zoning Administrator for temporary uses of property.

4. *Combined Development Plan.* The Zoning Administrator may modify or reduce the requirements for screening and buffer-yards when the adjoining land uses are developed under a combined development plan.

Section 5. Standards

5.1 Minimum Specifications for Plant Materials

1. *Condition.* All plants required by this Article shall be well branched and well formed, sound, vigorous, healthy and free from disease, sunscald, windburn, abrasion and harmful insect or insect eggs and shall have healthy, normal and unbroken root systems. All plants shall comply with the American Association of Nurserymen's Standards and conform to the representative species.

2. *Size.* All plant material installed to meet the requirements of this ordinance shall comply with the minimum size requirements below at the time of planting:

a. Street Trees. Height: 15 feet; Caliper: three inches.

b. Canopy Trees. Height: 12 feet; Caliper: Two and one half inches.

c. Ornamental Trees. Height: 6 feet.

d. Evergreen Trees. Height: 8 feet; full-branching.

e. Shrubs. Height: Two feet.

f. Hedges. Planted and maintained to form a continuous, solid visual screen at least two feet in height within one year after planting.

5.2 Planting Procedures
All trees and shrubs shall be installed in a sound manner following accepted professional planting procedures. At a minimum, all trees planted shall have root balls adequate to enclose the entire root system, all trees shall be mulched and staked, and all plants shall be watered at time of installation.

5.3 Plant List
Plant material in the following list may be used to satisfy the requirements of this Article. The plant list is divided into the following categories: large canopy trees, medium canopy trees, ornamental trees, evergreen trees, shrubs, hedges and ground cover. Each plant is also classified by the following functions: street trees, parking lot shade trees, and buffer trees. Plants must conform to the varieties and functions identified in this plant list unless alternative varieties are approved by the Zoning Administrator.

CANOPY TREES		
COMMON NAME	BOTANICAL NAME	FUNCTION
Ginkgo (male)	Ginkgo biloba	Parking, street, buffer
Thornless Honey Locust	Gleditsia triacanthosinermis	Parking, street
Green Ash	Fraxinus pennsylvania	Parking, street, buffer
Sycamore	Platanus occidentallis	Parking, buffer
Red Maple	Acer rubrum	Parking, street, buffer
Norway Maple	Acer platanoides	Parking, street, buffer
Sugar Maple	Acer saccharum	Parking, street, buffer
Pin Oak	Quercus palustris	Parking, street, buffer
Red Oak	Quercus borealis	Parking, street, buffer
Willow Oak	Quercus phellos	Parking, street, buffer
Sweet Gum	Liquidamber styraciflua	Parking, street, buffer
London Plane Tree	Platanus acerifolia	Parking, street, buffer
Japanese Pagoda Tree	Sophora japonica	Parking, street, buffer
Littleleaf Linden	Tilia cordata	Parking, street, buffer
Silver Linden	Tilia tomentosa	Parking, street, buffer
Village Green	Zelkova serrata	Parking, street, buffer
Yellowwood	Cladrastis lutea	Parking, street, buffer

ORNAMENTAL TREES		
COMMON NAME	BOTANICAL NAME	FUNCTION
Amur Maple	Acer griseum	Buffer
Dogwood	Cornus florida	Street, buffer
Washington Hawthorne	Crataegus plaenopyrum	Street, buffer
American Plum	Prunus americana	Street, buffer
Bradford Pear	Pyrus calleryana bradford	Street, buffer
Flowering Crabapple	Malus (various species)	Street, buffer

Flowering Cherry	Prunus (various species)	Street, buffer
Downy Serviceberry	Amelanchier arborea	Buffer
Shadblow	Amelanchier canadensis	Buffer

EVERGREEN TREES		
COMMON NAME	BOTANICAL NAME	FUNCTION
Eastern Red Cedar	Juniperus virginiana	Buffer
White Pine	Pinus strobus	Buffer
Austrian Pine	Pinus nigra	Buffer
Norway Spruce	Picea abies	Buffer
American Holly	Ilex opaca	Buffer
Dark American Arbovitae	Thuja occidentalis nigra	Buffer

EVERGREEN SHRUBS		
COMMON NAME	BOTANICAL NAME	FUNCTION
English Yew	Taxus baccata	Buffer
Japanese Yew	Taxus cuspidata	Buffer
Azalea	(various species)	Buffer
Chinese Holly	Ilex cornuta	Buffer
Japanese Holly	Ilex crenata	Buffer
Rhododendron	(various species)	Buffer
Euonymus	(various species)	Buffer

GROUND COVER		
COMMON NAME	BOTANICAL NAME	FUNCTION
Ajuga	Ajuga repandens	Buffer
English Ivy	Hedera helix	Buffer
Pachysandra	Pachysandra terminalis	Buffer
Ground Juniper	(various species)	Buffer
Dwarf Cotoneaster	(various species)	Buffer
Periwinkle	Vinca minor	Buffer

DECIDUOUS AND FLOWERING SHRUBS		
COMMON NAME	BOTANICAL NAME	FUNCTION
Azalea	(various species)	Buffer
Cotoneaster	(various species)	Buffer
Forsythia	(various species)	Buffer
Viburnum	(various species)	Buffer
Winged Euonymus	(various species)	Buffer

5.4 Preservation of Vegetation and Tree Cover

Existing tree cover within any proposed subdivision or site development plan shall be retained to the greatest extent possible and taken fully into account in the design of the improvements and grading of the property. The Zoning Administrator must approve the removal of any tree that has a diameter of six inches or more measured at a point three feet above the ground. The Zoning Administrator shall approve such removal only when the development or subdivision of the site may not proceed otherwise.

5.5 Credit for Existing Vegetation

1. *Hedgerows.* Hedgerows preserved at property boundaries may meet the requirements of screening as required by Section 3 of this Article.

2. *Trees.* Existing trees preserved on site may be used to satisfy the requirements for parking lot landscaping and street plantings required by Sections 2 and 3 of this Article. Any existing trees used to meet the requirements of the ordinance must be at least four-inch caliper, in healthy condition and be protected from construction activity. Such protection procedures shall be illustrated on the landscape plan.

3. *Exceptional Trees.* Trees of exceptional size, canopy, historic value or age preserved may be credited as four trees for the purposes of this Article if approved by the Zoning Administrator.

5.6 Monitoring and Enforcement

1. *Responsibility.* The enforcement of the provisions of this Article shall be the responsibility of the Zoning Administrator or designee.

2. *Occupancy Permits.* No occupancy permit shall be issued until the plants and other screening materials required by this Article have been installed to the satisfaction of the Zoning Administrator.

3. *Bonds.* If the weather prohibits the installation of the required plant materials at the time of occupancy, the applicant may, at his option, post a cash bond for the installation of the required plants. The bond shall be supported by an estimate by a landscape contractor of the cost of installing such landscaping, and a letter expressing the intent of the contractor to install the required plants. If the required landscaping is not installed within six months, the bond shall be forfeited to the Town.

5.7 Maintenance Requirements

1. *Responsibility.* The owner or his agent shall be responsible for the maintenance, repair and replacement of all landscape materials and fences required by this Article.

2. *Condition.* All landscape materials shall be kept in healthy condition, free of all disease and infestation. All fences and screens shall be maintained in a safe and attractive condition.

3. *Repair and Replacement.* The owner or agent, upon written notice from the Zoning Administrator, shall repair or replace any landscape materials, screens or fencing not meeting the requirements of subsection 2 above within 30 days.

5.8 Sight Distance

No tree, shrub, hedge or vegetation, whether or not required by this Article, shall be planted or maintained in any way that interferes with the sight distance of any persons operating any moving vehicle.

Section 6. Open Space Regulations

6.1 Purpose

These regulations require the establishment and maintenance of improved open space to provide adequate light, air and space to residents or occupants of all developments. These regulations require the establishment of a nonprofit organization to be responsible for the maintenance of common improvements in all developments and subdivisions, and shall apply to all development plans and subdivision applications submitted after adoption of this ordinance. The regulations below separately address open space in residential and nonresidential developments.

6.2 Minimum Open Space Required

Open space shall be provided in an amount required by the Subdivision Ordinance and the district regulations of this ordinance.

6.3 Non-Residential Properties
Open space area in nonresidential zoning districts shall be appropriately landscaped and shall not include streets, drives, easements, off-street parking and loading areas, and areas so located or of such size or shape to have no substantial aesthetic or recreational value. Buffer-yards, areas of parking lot landscaping and yard setbacks may be applied toward the requirements of this section.

1. Maintenance Requirements:
a. Responsibility. The owner or his agent shall be responsible for the maintenance of all open space areas in a clean, safe and attractive condition.

b. Condition. All open space areas shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to the residents or occupants this open space is intended to serve.

c. Repair. The owner or agent, upon written notice from the Zoning Administrator, shall repair any defective condition of the open space areas that render these spaces unusable or unsafe, within 30 days. If the deficiencies set forth by the Zoning Administrator have not

been rectified within the 30-day period or any extension thereof, the Town, in order to preserve property values in the area and to prevent the open space from becoming a public nuisance, may repair the open space to a clean, safe and attractive condition in accordance with the approved landscape plan. The owner shall be responsible for reimbursing the Town for any costs associated with this repair.

6.4 Open Space for Residential Properties

1. *Applicability*. These regulations shall apply to all land in common open space, not in lots, in residential developments whether these lands are proposed to be dedicated for public use or not; all improvements provided for common use and benefit whether or not required by this ordinance; and all lands to be dedicated or conveyed for public use.

2. *General Requirements*

a. Organization. A nonprofit organization or other legal entity under the laws of Virginia must be established to provide for the ownership, care and maintenance of all open space areas and improvements.

b. Covenants. All such organizations described in subsection a. above shall be created by covenants and restrictions recorded among the land records of Loudoun County prior to the approval of the record plat. All such covenants shall include provisions for the maintenance of common open space.

3. *Maintenance Requirements*

a. Responsibility. The organization described in subsection 2a. above shall be responsible for the maintenance of all open space areas and improvements in a clean, attractive and safe condition.

b. Condition. All open space areas shall be appropriately landscaped and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to the residents that this open space is intended to serve.

c. Repair. The owner or agent, upon written notice from the Zoning Administrator, shall repair any defective condition of the open space areas that render these spaces unusable or unsafe, within 30 days. If the deficiencies set forth by the Zoning Administrator have not been rectified within the 30-day period or any extension thereof, the Town, in order to preserve property values in the area and to prevent the open space from becoming a public nuisance, may repair the open space to a clean, attractive and safe condition in accordance with the approved landscape plan. The owner shall be responsible for reimbursing the Town for any costs associated with this repair.

6.5 Submission Requirements

Prior to the dedication, conveyance or approval of the record plat of those lands described in Section 6.4, the following documents shall be submitted to and approved by the Town.

1. *Articles of Incorporation.* The Articles of Incorporation, By-laws or other organizational documentation for the nonprofit organization.

2. *Covenants.* The covenants or restrictions related to the use of common property including the system and amounts of assessments.

3. *Fiscal Program.* A fiscal program for a ten-year period to provide for the maintenance and care of all lands, streets, facilities and uses under the purview of the nonprofit organization.

4. *Right of Entry.* A document granting the right of entry upon such common property to the Town police officers, fire and rescue squad personnel while in pursuit of their duties; and, in the case of private streets and common driveways, permitting the enforcement of cleared emergency vehicle access.

5. *Deed of Conveyance.* A copy of the Deed of Conveyance and a Title Certificate or, if approved by the Town, a commitment for a policy of title insurance issued by an insurance company authorized to do business in Virginia, assuring unencumbered title for all lands proposed to be conveyed to the Town, other appropriate governmental agency, or other organization, including the nonprofit organization.

Section 7. Fences

7.1 Purpose

The purpose of these provisions is to establish regulations controlling the use and type of fences, hedges, or walls. This is for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy, and the improvement of the visual environment. This includes the provision of a neat and orderly appearance consistent with the neighborhood and community character.

7.2 Definitions

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates a different meaning.

FENCE – GENERAL. The word *FENCE* shall, in general terminology, mean any structure composed of wood, metal, stone, masonry, glass, plastic, or other material erected in such a manner and positioned as to enclose or partially enclose any premises or any part of any premises. Trellises, or other structures supporting, or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to enclose or partially enclose or separate any premises shall be included within the definition of the word *FENCE***.** Structures erected other than on lot lines or within five (5) feet of lot lines, which have solely

an ornamental purpose and which do not in fact serve adjoining premises, hedges, retaining walls, or radio controlled fences, shall not be included within the definition of the word

FENCE. Definitions of the permitted types of fences are as follows, subject to the other regulations contained in this article:

(A) *HEDGE*. A row of dense, closely-spaced living plant material composed of vines, trees, shrubs, bushes, or combination thereof.

(B) *SOLID FENCE*. A fence designed to inhibit public view and provide seclusion and, when viewed at right angles, having more than 50 percent of its vertical surface area closed to light and air.

(C) *BOARD-ON-BOARD* or *ALTERNATING BOARD-ON-BOARD*. A fence constructed of vertical wood boards or other natural and permanent material with one-inch nominal size boards between, or upon, a frame of 2-inch nominal members and 4x4 nominal posts.

(D) *LOUVER* or *VENTILATING FENCE*. A fence made of a series of wood slats or other natural material and permanently placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.

(E) *SOLID PICKET FENCE*. A fence made up of upright wooden boards or other material that abut one another, side by side with no openings. The top of the fence may be pointed or blunt.

(F) *STOCKADE* or *PALISADE FENCE*. A fence constructed with a row of large pointed stakes of wood or other natural and permanent material placed upright against each other having more than 50% of the area of its vertical plane closed to light or air.

(G) *MASONRY, WALL STONE* or *BRICK*. A solid fence constructed of stone or brick.

(H) *PARTIALLY OPEN FENCE*. A fence designed to offer a vertical, but not totally blocked, visual separation. This fence is used where a low level of screening is adequate to soften the impact of the use or where partially visibility between areas is more important than a total visual screen. Partially open fences include:

(1) *PICKET FENCE*. A partially open fence made of upright wooden or other approved materials of poles or slats. This fence may be an open fence if the space between the vertical boards is greater than the width of the boards.

(2) *ARBOR* or *TRELLIS*. A fence of latticework used as a screen or as a support for climbing plants.

(I) *OPEN FENCE*. A fence constructed for its functional, ornamental or decorative effect and, when viewed at right angles, having not less than 50% of its vertical surface area open to light and air. Examples of open fences are:

(1) *SECURITY* or *INDUSTRIAL FENCE*. A fence made with metal wire having sharp points, barbs, edges or other attached devises designed to discourage physical contact along its length.

(2) *SMOOTH RAIL, SPLIT RAIL, MILLED RAIL* or *CONTEMPORARY RAIL FENCE*. A fence constructed of narrow, whole or split wooden timbers or boards placed horizontally between upright supporting posts. Smooth rail, split rail, milled rail or contemporary rail fences may have supplemental wire fencing or mesh attached to the interior of the fence. Such wire shall be painted or coated black. For the purpose of improved containment, the opening size shall be not less than 3” X 3” and designed in a horizontal grid.

(3) *WROUGHT IRON FENCE*. A fence constructed of metal, including aluminum, iron or steel, pipe, tubes or bar stock and having some type of decorative features or design. Wrought iron fences shall not have pointed ends exposed but may have finials with blunt ends.

(4) *RADIO CONTROLLED* GATE. The use of insulated wire (typically low voltage and located underground) to transmit a radio signal to a receiving device. Radio controlled gates are exempt from these regulations.

(5) *RETAINING WALL*. A wall composed of wood, stone, brick or other masonry material designed to hold back a portion of higher ground from a lower one. A retaining wall permits two uneven levels to be placed adjacent to each other with an abrupt vertical change between them.

(6) *ACCENT FENCE*. A fence that is used solely for ornamental purpose and does not enclose or partially enclose an area.

7.3 <u>Regulation on Use</u>

1. *Regulations – general.* Except as otherwise specifically permitted herein, no fence or wall shall exceed six feet in height. Supporting members for wall and fences shall be located so as to not be visible from the adjoining property unless the fence is designed such that the supporting members are identical in appearance on both sides of the fence or wall. All portions of the property shall remain accessible from outside the fence area by means of a gate or other opening.

a. The fence, wall, or hedge shall not be permitted to encroach upon public rights-of-way or easements or no build zones, conservation/no disturb zones. The fence, wall, or hedge shall not be located so as to adversely affect the vision of drivers on the public streets or from driveways intersecting public streets.

b. The height of a fence shall be measured from the established grade line to the highest point of the fence including posts and finials. The height of the fence may not be artificially increased by the use of mounding unless otherwise required by the zoning district regulations.

2. *Permitted fencing.* Fences shall be permitted in required setbacks as follows, except as otherwise provided in the zoning regulations.

a. *Open fences.*

(1) Open or partially open (ornamental or decorative) fences shall be permitted in all zoning districts and shall be no greater than six feet in height above the established grade. The partially open or open fence may be located anywhere within the buildable area of the lot. If the Administrator determines that a maintenance conflict would be created by the construction of a fence along the property line, he may require conditions including, but not limited to a setback from the property line or the installation of a gate within the fence.

(2) Open fences within the front or corner-side yard shall be safely placed so as not to obstruct visibility at driveway or roadway intersections.

b. *Solid fences.* Solid fences shall be permitted in all zoning districts only in side and rear yards. Solid fences shall be no greater than six feet in height, unless otherwise permitted herein. Brick, stone or masonry walls are permitted forward of the building line along scenic roadways but cannot exceed three feet in height. Solid fences within the front or corner-side yard shall be safely placed so as not to obstruct visibility at driveway or roadway intersections and shall not exceed four feet in height. If the Administrator determines that a maintenance conflict would be created by the construction of a fence along the property line, he may require conditions including, but not limited to a setback from the property line or the installation of a gate within the fence.

c. *Chain link fences*. Such fences may not be placed forward of the primary structure and are restricted to side and rear yards. Such fences may be erected parallel to and on, or approximately on, the common property line to a height not exceeding six feet above the established grade. If the Administrator determines that a maintenance conflict would be created by the construction of a fence along the property line, he may require conditions including, but not limited to a setback from the property line or the installation of a gate within the fence.

d. *Hedges.* Hedges shall be permitted in all zoning districts. Hedges shall not be located within any no build zone, conservation zone/no disturb zone, drainage easement, floodway, flood plain or other area that would be detrimental to the public health, safety or welfare.

e. *Arbor; trellises.* Arbors or trellises shall be permitted in all zoning districts. Arbors or trellises, which are detached from the building, may encroach on a required side yard which abuts a street and forward of the structure provided that:

(1) The maximum height is eight feet;

(2) The maximum width is five feet;

(3) The maximum depth is three feet, and;

(4) The surface of the arbor or trellis shall be a least 50% open.

3. Prohibited fencing.

a. Electrified, barbed wire, razor wire, and stockade fences are hereby prohibited in all zoning districts.

4. Required fencing.

a. *Screening fence.* A fence, wall or hedge to restrict the view of service structures or elements required by Article 9, Section 4.6 shall comply with the standards in that section. Screening fences shall be constructed of stone, brick, masonry, wood or other approved material.

b. *Swimming pools.* Swimming pools located within all zoning districts of the municipality shall be surrounded by open ornamental fences or a solid fence provided the solid fence is no higher than six feet and otherwise complies with the regulations herein and the building and zoning code regulations. All openings, and material with the fence, shall be provided with latches and permanent locks.

5. *Other fencing.* The Zoning Administrator or designee may permit other fences similar in character and design to one or more of the permitted fences herein, upon application.

7.4 Permit and Inspection

Any fences that may be permitted shall require the issuance of a permit by the Zoning Administrator or designee after the same has been approved.

1. Upon permit application, each property owner shall provide the following:

a. Name and address of the owner of the lot for which the permit is requested.

b. Name and address of the person, firm or corporation that will carry out the actual installation.

c. An overall plot plan including the shape and dimensions of the lot together with the location, material, height and location of all proposed and existing fences, potential visibility conflicts and the drainage flow across the lot. Section and elevation views of the proposed fence detailing its construction and method of fixture to the ground should also be submitted, as determined by the Administrator.

Upon obtaining a building permit and constructing the fence, the property owner shall ascertain that the fence thus constructed does not deviate from the plans as approved by the Zoning Administrator or designee issuing permits and does not encroach upon another lot or

parcel of land. The town shall furnish such inspection, as is deemed necessary, to determine that the fence is constructed in accordance with plans submitted for permit, provided however, that such determination by the municipality shall not be construed to mean the town has verified the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him/her herein.

7.5 Maintenance

Permitted fences, walls, shrubbery, hedges or structures shall be maintained in good condition, be structurally sound and completely finished at all times. Any grounds between such fences, walls, shrubbery, hedge or structures and property lines shall be well maintained at all times by the appropriate property owner. Supporting members for walls and fences shall be located so as to not be visible from the adjoining property unless the fence is designed such that the supporting members are identical in appearance on both sides of the fence or wall.

7.6 Compliance Required; Conflicting Provisions

1. Fences shall be designed, erected, altered, reconstructed, moved, anchored, positioned and maintained, in whole or in part, strictly in accordance with the provisions of this subchapter and building code provisions applicable to fences.

2. If these standards conflict in any way with the standards in any planned development zoning text, then the most restrictive standards shall prevail. Standards in this section applicable to matters not covered in the planned development zoning text shall also apply.

ARTICLE 10
SPECIAL USE PERMITS AND PLANNING COMMISSION PERMITS

Section 1. Purpose of Special Use Permit and Commission Permit Procedures

Special use permits and Planning Commission permits are authorized by the terms of this Ordinance. The purpose of the special use permit procedure is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses either have unusual characteristics, or have characteristics which are different from those of their immediate surroundings and are essential and desirable for the general convenience and welfare, but because of the nature of the use, and possible impact, not only on neighboring properties, but on a large section of the Town, require the exercise of planning judgment on location and site plan.

The purpose of the Planning Commission permit procedure is to provide for those public uses, public structure, public utility, or public service uses upon which the Planning Commission is required to report following adoption of the Comprehensive Plan under the state enabling statutes (Section 15.2-2232 Code of Virginia, as amended), thus facilitating coordination of the purposes of state planning statutes with those of state zoning enabling legislation.

Section 2. General Guides and Standards

A special use permit should be approved only if it is listed as permitted by special use permit in the district regulations and only if it is found that the location is appropriate and not in conflict with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are complied with.

In approving a special use permit, the Town Council may impose such reasonable conditions as it believes necessary to accomplish the objectives of this Ordinance and to mitigate impacts of the proposed use. Unless otherwise specified in this Article or specified as a condition of approval, the height limits, yard spaces, lot area, and sign requirements shall be the same as for other uses in the district in which the proposed special use permit is located.

A Planning Commission permit shall be approved only if it is found that the general location or approximate location, character, and extent thereof of the proposed public use, public structure, public utility or public service use is substantially in accord with the adopted comprehensive plan or part thereof as determined by the local commission.

Section 3. Procedures, Site Plan Required

The procedures for approval of site plans and special use permit are generally the same as those prescribed for changes and amendments in Article 12 , including the public hearing and report by the Planning Commission. The area included in an approved special use permit shall be noted on the Zoning District Map by means of a special symbol (SU). Any

conditions will be so noted on the Zoning District Map by means of a special symbol as well (Prof).

Prior to forwarding a recommendation to the Town Council, the Commission shall hold a public hearing on the special use or commission permit application in accord with the procedures for notice and hearing as set forth in Article 12 , Section 3 of this ordinance. The Administrator may also require the submission of plans or drawings as necessary for consideration by the Planning Commission.

The Planning Commission shall communicate its findings to the Council, indicating its recommendation of approval or disapproval with written reasons therefore.

Section 4. Existing Special Use Permit Uses

Any use listed as requiring approval as a special use permit, and which use legally exists at the effective date of the regulations of this Article, shall be considered a non-conforming use unless it has been approved by special use permit by the Town Council.

Section 5. Special Use Permits, Specific Guides and Standards

Approval of a special use permit shall comply with the specific guides and standards for particular uses which are permitted by special use permit as contained in the district regulations unless there is a specific finding by the Administrator that compliance with the standard is clearly unnecessary to the purposes of this Ordinance.

Section 6. Lapse of Special Use or Commission Permit

After the Town Council has approved a Special Use Permit or the Planning Commission has approved a Commission Permit, the special use permit or the commission permit so approved or granted shall lapse after the expiration of two years if no substantial construction or change of use has taken place in accordance with the plans for which such special use permit or commission permit was granted, or if the Council or Commission does not specify some longer period than two years for good cause shown, and the provision of these regulations shall thereafter govern.

ARTICLE 11
BOARD OF ZONING APPEALS

Section 1. Composition

There shall be a Board of Zoning Appeals (hereinafter called the Board) which shall consist of five members, each to be a resident of the Town and each to be recommended by the Hamilton Town Council and appointed by the Loudoun County Circuit Court for terms of five years except that original appointments shall be made for such terms that the term of one member shall expire each year. When approved by the Council, one member may be a member of the Town Planning Commission. Vacancies shall be filled by the Council for the unexpired portion of the term. A member may be removed by the Council for cause, upon written charges and after a public hearing. Each member may receive such compensation as the Town Council may authorize for attendance at each regular or called meeting of the Board.

Section 2. Organization

The Board shall elect one of its members as Chairman. The Chairman shall preside at all meetings of the Board and in his/her absence a member designated as acting Chairman shall preside. The Chairman shall be a voting member of the Board and possess all of the same rights and privileges as other members of the Board. The Board of Zoning Appeals, by majority vote, appoint a Secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the Board and perform such other ministerial duties as the Board shall direct. The Secretary may be a salaried Town employee and shall perform the duties of Secretary of the Board in addition to his or her other regular duties.

Section 3. Procedure

The Board shall adopt such rules of procedure as it may deem necessary or use “Roberts Rules of Order” in order to carry into effect the provisions of this Ordinance, said rules to be in writing and copies available to the public at the office of the Zoning Administrator and/or the Secretary of the Board. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his/her absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and 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. The Board shall submit a report of its activities to the Town Council after each meeting.

Section 4. Powers

The Board of Zoning Appeals shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this Ordinance.

2. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in undue hardship; provided that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done as hereinafter provided.

3. To hear and decide applications for interpretation of the Zoning District Map where there is any uncertainty as to the location of a district boundary.

4. To determine, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified.

Section 5. Variances

Subject to the provisions of Section 4 of this Article, the Board shall have the power to grant variances 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 undue hardship; provided that the spirit of the Ordinance shall be observed and substantial justice done, as follows:

A variation in the yard and lot area requirements in any district so as to relieve practical difficulties or particular hardships in cases, when a property owner can show that his property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this Ordinance, or where by reason of exceptional topographic conditions of other extraordinary situation, or condition of such piece of property, or the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this 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 such 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 such variance shall be authorized by the Board unless it finds:

1. That the strict application of the Ordinance would produce undue hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

***Section 6.* Zoning Administrator; authority to grant administrative variances.**

6.1 At the time an application is submitted, the applicant shall elect whether to seek an administrative variance or whether to seek a variance as set forth in Section 5 of this Article. If the applicant fails to make such an election, his application will be processed under this section.

6.2 The Zoning Administrator may grant an administrative variance from any building setback requirement. No such administrative variance shall be authorized by the Administrator unless he makes the following findings in writing:

(1) That the strict application of the ordinance requirement would produce undue hardship;

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

(3) That the authorization of such administrative variance will not be of substantial detriment to adjacent property and that the character of the zoning district will not be changed by the granting of the administrative variance.

6.3 Any application for an administrative variance described in this section shall be made in accordance with the provisions of this article.

6.4 The Zoning Administrator shall, at least 14 days before acting on any application for an administrative variance, post on the land or building involved a notice of the application as to notify the public describing the property and nature of the variance.

6.5 The Zoning Administrator shall send written notice of an application for an administrative variance to adjacent property owners by registered, certified or first class mail. The "date of notice" shall be the date the notice is mailed. The notice shall specify that the Zoning Administrator will approve or disapprove the application not less than 21 days after the date of notice. If written notice is provided by first class mail, the Zoning Administrator shall make affidavit that such notice has been sent and shall file the affidavit with the application.

6.6 If any adjacent property owner objects to the application, in writing, prior to the date the Zoning Administrator renders the decision on the application, the application shall be transferred to the board of zoning appeals for a decision.

6.7 The Zoning Administrator shall approve or disapprove an application for an administrative variance not less than 21 days after the date of notice of the application nor more than 90days after the application for the variance is received.

6.8 Any appeal of the final decision of the Zoning Administrator on an application for an administrative variance shall be made to the Board of Zoning Appeals.

Section 7. Performance Bond

The Board may require satisfactory evidence and guarantee or bond that the conditions stipulated will be and will continue to be complied with. Any variance permit may be authorized and issued for either a limited or an indefinite period of time and shall be revocable by the Board at any time for failure to adhere to the applicable conditions. Before revoking any such permit, however, the Board shall afford the permit holder an opportunity to be heard, giving him at least five days written notice of the time and place of such hearing, served as prescribed by law.

Section 8. Lapse of Variance

After the Board of Appeals has granted a variance, the variance shall lapse after the expiration of two years if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the Board does not specify some longer period than two years for good cause shown, and the provisions of these regulations shall thereafter govern.

Section 9. Amendment of Variance

The procedure for amendment of a variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Administrator determines the change to be minor relative to the original approval he/she may transmit the same to the Board with the original record without requiring that a new application be filed.

Section 10. Procedure on Appeals

10.1 Appeals

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau affected, by any decision of the Administrator, or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Secretary of the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Administrator certifies to the Board after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record, on application and on notice to the Administrator and for good cause shown. An application for appeal (appeal) shall be advertised for public hearing as set forth by the provisions of Section 15.2-2285 of the Code of Virginia, 1950, as amended.

In any case where the Administrator has certified conformity with the provisions of this Ordinance and a building permit has been issued and construction of the building for which

such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, suit may be filed within 15 days after the start of construction by a person who had no actual notice of the issuance of such permit. The Court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the Board of Zoning Appeals.

10.2 Hearing and Decision

The Board shall fix a reasonable time for the hearing of the application or appeal, give public notice thereof as required by law, as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the application or appeal. Upon the hearing any party may appear in person or by agent or by attorney. In exercising its powers, the Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken, The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of the 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. A tie vote on appeal of any order, requirement, decision or determination of the Administrator shall be found to have failed.

Section 11. Appeals to Courts

Appeals to courts from a decision of the Board may be filed in the manner prescribed by law.

ARTICLE 12
CHANGES AND AMENDMENTS

Section 1. Initiation of Change

The Town Council may, from time to time, amend, supplement, or change, by ordinance, the boundaries of the districts, the regulations herein established or a change to the zoning map. Any such zoning map amendment may be initiated by resolution of the Town Council, or by motion of the Planning Commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the Town Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Town. Zoning Text Amendments shall only be initiated by resolution of the Town Council.

Section 2. Report from Planning Commission

Before taking any action on any proposed amendment, supplement, or change, the Town Council shall submit the same to the Planning Commission for its recommendations and report. The Town Council may set a deadline for which the failure of the Commission to report on the proposal which has been referred to the Planning Commission shall be deemed recommended for approval, unless the Town Council grants an extension to this time period by majority vote.

Section 3. Notice and Hearing

The Planning Commission shall hold a public hearing thereon, before submitting its report to the Town Council. Notice of public hearings before the Commission shall be given by publishing the time, place, and nature of the hearing once a week for two successive weeks in a newspaper published or having general circulation in the Town, provided that such notice for both the Planning Commission and the Town Council may be published concurrently. The public hearing shall be held not less than five or more than twenty-one days after final publication. In addition, the Commission shall cause the date, time, place, and nature of the hearing to be posted conspicuously on the property for 30 consecutive days prior to the hearing and a certificate of posting shall become a part of the record of the hearing. The published and posted notices shall comply with all of the requirements of the Code of Virginia.

Before approving any proposed change or amendment, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed above. The Planning Commission and the Town Council may hold a joint public hearing after public notice as set forth hereinabove. If such joint hearing is held, then public notice, as set forth above, need be given only by the Town Council. If an advertised hearing is continued or deferred, notice shall be repeated for the new hearing. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range of the applicable part of the comprehensive plan.

When a proposed amendment involves a change in the zoning classification then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved, and to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected; including those properties which lie in an adjoining jurisdiction. Notice sent by certified mail to the last known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be re-mailed. Costs of any notice hereunder shall be charged to the applicant.

Whenever the notices required hereby are sent by an agency, department or division of the Town such notices may be sent by first class mail, provided, however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

Section 4. Withdrawal of Application

Applications for a change in zoning may be withdrawn from consideration before the first notice of a public hearing thereon has been published and fees refunded if no publication cost is incurred. Applications for a change in zoning which are withdrawn after first publication shall be considered as denied for the purpose of the one-year limitation on reconsideration as provided in Section 7 below.

Section 5. Action by the Town Council

The Town Council shall take action on a request for amendment within one year of the date of filing. If any, amendments to this Ordinance are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the Comprehensive Plan, the entire Zoning Plan and integrity and validity of the zoning districts herein described, and to avoid isolated unplanned spot-zoning changes in the Zoning District Map. Any amendments adopted by the Town Council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment or amendments to the zoning plan and Ordinance; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required in Section 3 above.

In determining what, if any, amendments to the text of this Ordinance or the Zoning District Map are to be adopted, the Town Council shall recognize that a certain element of stability is desirable in land use controls and that all citizens have the right to be treated reasonably; at the same time the Council recognizes in adopting this Ordinance that conditions and standards will change, and that no citizen, whether a general resident of the Town, a neighbor, or an affected property owner, has the right to indefinite continuation of any zoning regulation or classification.

Section 6. Conditional/Proffered Zoning/ Zoning Map Amendments

6.1 Purpose

Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods ~~are~~ may be needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this section to provide a zoning method as authorized under Sec. 15.2-2296 through 15.2-2302, Code of Virginia 1950, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

6.2 Proffer in Writing

As a part of a petition for a special exception, rezoning or amendment of the zoning district map the owner or owners of the property involved may, prior to a public hearing before the Town Council, voluntarily proffer conditions in writing, that are in addition to the regulations provided for the zoning district or districts as herein set forth, as the owner/owners deem appropriate for the particular case; as per Section 15.2-2297 (a) of the Code of Virginia (1950). Such proffers shall be so noted (Prof) on the Zoning map.

For the purpose of this Ordinance, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in full force and effect until a subsequent amendment affects the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

6.3 Review and Revision of Proffered Conditions

Additional conditions or modified conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Town Council has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.

After the Town Council public hearing has been advertised or commenced, and additional or modified conditions are proffered by the applicant, which conditions were discussed at the public hearing before the Planning Commission, then a second public hearing need be held only before the Town Council before the application and the modified conditions can be approved.

Should additional conditions be proffered by the applicant at the time of the public hearing before the Town Council, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Town Council, which hearing may be either separately or jointly held.

6.4 Annotation of Zoning Map

The zoning map shall show by an appropriate symbol on the map the existence of proffered conditions attaching to the zoning on the map. The Administrator shall keep in his/her office and make available for public inspection a Conditional Zoning Record. The Record shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

6.5 Enforcement of Conditions

The Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including: (a) the ordering in writing of the remedy of any noncompliance with such conditions; (b) the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

6.6 Conformity of Development Plans

Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any Town official in the absence of said substantial conformity. For the purpose of this Section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

6.7 Change of Approved Conditions

Once conditions have been approved, and there is cause for an amendment that would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. If the amendment concerns an approved site plan, such application shall include the submission requirements for a site plan set forth in Article 11, except that the Zoning Administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

6.8 Review of the Administrator's Decision
Any zoning applicant who is aggrieved by the decision of the Administrator pursuant to the provisions of Section 6.5 above may petition the Town Council for the review of the decision of the Administrator.

Section 7. Reconsideration, One-Year Limitation

Whenever a petition requesting an amendment, supplement, or change has been denied by the Town Council, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

ARTICLE 13
ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement

It shall be the duty of the Zoning Administrator and such deputies as are appointed by him/her to enforce the provisions of this Ordinance and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Ordinance. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to the Zoning Administrator any seeming violation in new construction, reconstruction, or land uses.

Section 2. Certificate of Occupancy

2.1 No vacant land shall be occupied or used, except for agricultural uses associated with the conduct of a farm, until a certificate of occupancy shall have been issued by the Administrator.

2.2 No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, until a certificate of occupancy and compliance shall have been issued by the Zoning Administrator, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.

2.3 Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within 10 days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. .

2.4 A certificate of occupancy may be issued for a part of a building or development or section thereof completed in accord with the terms of this Ordinance even though the entire building or development or section thereof has not been completed.

2.5 No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.

2.6 A certificate of occupancy shall be required of all non-conforming uses.

2.7 The Administrator may issue a temporary and contingent certificate of occupancy and compliance for a period not to exceed six months where, because of the unusual nature of the uses, a trial period of operation is in his/her opinion the most appropriate way to determine actual compliance with the terms of this Ordinance.

Section 3. Permits

3.1 No building or structure shall be erected, constructed, altered, moved, converted, extended, or enlarged, without the owner or owners first having obtained a zoning permit. Such permit shall require conformity with the provisions of this Ordinance. When issued, such permit shall be valid for a period of six months unless a longer period of time is specified thereon in accord with the terms of this Ordinance.

3.2 No manufactured home shall be placed for occupancy in a manufactured home subdivision without the owner or owners first having obtained a placement permit therefor from the Administrator.

3.3 No zoning permit by the Administrator or other authorized official, lawfully issued prior to the effective date of this Ordinance, or of any amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of this Ordinance, or any such amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and ordinances, rules, and regulations pertaining thereto, and in effect at the time of the issuance of such permit; provided, that all such permits shall expire not later than six months from the effective date of this Ordinance, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

Section 4. Plans to Accompany Applications for Zoning Permits

All applications for zoning permits shall be accompanied by a current plat of the property, or if not available, a drawing or plan in duplicate or as required by the Administrator showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary and required in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings, including the number of families or dwelling units or rental units proposed. The Planning Commission may request any and all additional information that the Administrator deems necessary to determine whether a permit shall be issued, including, but not limited to a site plan.

A careful record of the original copy of such applications and plans shall be kept in the offices of the Administrator and a duplicate copy shall be kept at the building at all times during construction. In a particular case, the Administrator may waive the requirement for plans when such plan is clearly unnecessary to a decision or the record on the case.

Section 5. Procedures for Approval of Site Plans for Special Use Permits Which Require Approval by the Town Council

5.1 Application

Copies of a preliminary site plan or plans shall be filed with the Town Council through the Administrator. The Administrator shall review the site plan for compliance with the regulatory ordinances prior to forwarding the application to the Planning Commission and the Town Council. The preliminary site plan shall comply with the applicable requirements of the Land Development and Subdivision Ordinance and Article 13, Section 5 of the Hamilton Zoning Ordinance, and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Town Council and Planning Commission. The Administrator shall forthwith forward the plans and a copy of the application to the Planning Commission. The Administrator may require additional copies of specific sheets for distribution to the members of the Council and Commission.

5.2 Submission of Site Plan

Twelve (12) blue line or black line prints shall be submitted to the Administrator. The Administrator shall determine within ten (10) working days if the preliminary site plan meets the minimum submission requirements. If the plat is in order, the Administrator shall forward said plat to the appropriate review agencies for review and to the appropriate consultants for construction requirement compliance and estimate review per Section 6.2.2. Of the Hamilton Subdivision and Site Plan Ordinance. Once the Town receives a check for the fees as determined by the fee schedule, the plan shall be considered officially submitted. The Zoning Administrator's review is only to determine whether the documents submitted meet the minimum submission requirements.

5.3. Conformance with Application Requirements

The Zoning Administrator shall, within an additional ten (10) working days, review the site plan to determine if it is in conformance with the application requirements of this Ordinance, the Town of Hamilton Zoning Ordinance and the requirements of the Facilities Standards Manual. If the preliminary site plan is in accordance, then the plan shall be considered as accepted for application and the preliminary site plan shall be forwarded to the Planning Commission.

5.4 Site Plan Submission Requirements

1. Conformance with Ordinance: All site plans shall provide all the information necessary to show conformance with this ordinance.

2. Required Information: All site plans shall be drawn on numbered sheets 24" x 36" in size and shall contain the following information:

a. General information to include the name of the proposed development, proposed use of the property, names and addresses of the owner of record and the developer, names and addresses, signature and registration of the engineer or surveyor preparing the plan.

b. Deed reference, tax map and parcel number, date plan was drawn and dates of any revision, vicinity map at a scale of 1" = 1,000' and existing zoning.

c. Zoning requirements, including the district, as well as the required and proposed minimum lot size, floor area in square feet, maximum building coverage expressed as floor area ration (FAR), open space in square feet, open space ratio, building setback (restriction) lines for front, rear and sides, parking and setback lines and number of proposed and required parking spaces.

d. Boundary survey or survey of record provided such survey shows an error of closure within the limit or one in twenty-five hundred (1/2,500), existing

easements, buildings, water courses, existing utilities, culverts and drainage outlets.

e. A topographic map, conforming to National Map Accuracy Standards indicating by whom and what means it was made, having a contour interval of no greater than five feet and related to the United States Coast and Geodetic Survey sea level datum.

f. Location and width of existing right-of-way and roadways, location and dimension of existing driveways and access points to the site and within 200 feet of the site.

g. Location of the 100 year floodplain as shown on the most recent Federal Emergency Management Agency (FEMA) maps or the Floodplain Map of Loudoun County and all overland watercourses and drainage structures within the proposed development or within 200 feet of the development.

h. Names of all owners of record of abutting properties, zone and use of all abutting properties.

i. Layout plans of streets, sidewalks, sanitary sewer, storm sewers, water mains, curbs and gutter, including connections to existing watermains, sanitary sewer mains and storm drainage structures.

j. Layout of provision for collection and discharging of surface drainage.

k. Plans for sediment and erosions control and stormwater management.

l. A soils overlay map at a scale of not less than 1” = 200’ with accompanying narrative.

m. The approximate location and type of all existing trees six inches in diameter and greater. If the property is densely wooded, the limits of such wooded area may be shown on the plans in lieu of locating individual trees within those areas.

n. All sheets shall be clearly marked “Preliminary Site Plan” and plans shall have a signature block for approval.

3. Accompanying Documents

If applicable, an unexecuted copy of the following documents, with a notarized statement of authenticity for each, shall be submitted:

a. Proposed deed of dedication.

b. Proposed road maintenance agreement if applicable.

c. Proposed protective or restrictive covenants.

d. Where land is to be dedicated to and held by a lot owner's (homeowner's) association or similar organization, bylaws and other organizational documents shall be submitted for review.

5.5 Review of Site Plan

1. Distribution
Copies of the site plan shall be distributed to the following agencies as deemed necessary by the Zoning Administrator.

a. The Town Engineer, the Town Council and the Planning Commission
b. The consulting Town Engineer (contract engineer)
c. The Virginia Department of Transportation
d. Loudoun County Department of Building and Development
e. Loudoun County School Board (residential only)
g. Office of Mapping

2. Review Period Without State Agency Referral

If the Administrator determines that there is not a need to distribute the site plan to a state agency for its review, the review by the agencies to whom the plan was referred shall be completed and returned to the Administrator within thirty (30) days after the date on which the preliminary site plan was officially submitted. If an agency cannot respond within this thirty (30) day period, the agency shall so inform the Administrator, in writing, stating the reason for the delay and the expected date of the reply.

3. Review Period With State Agency Referral

If the Administrator determines that the site plan requires the review of a state agency, the review by such state agency shall be completed and returned to the Administrator within forty-five (45) days after the date on which the site plan was officially submitted. If the agency cannot respond within forty-five (45) day period, the agency shall so inform the Administrator, in writing, state the reason for the delay and the expected date of the reply.

4. Planning Commission Required to Act

The Planning Commission shall act on any proposed site plan within ninety (90) days after the date on which the site plan was officially submitted, except that the Planning Commission shall act within sixty (60) days after the official submittal of any proposed preliminary site plan that did not, in the discretion of the Administrator, need to be distributed to a state agency for its approval, by either approving or disapproving such plan in writing, and giving with the letter specific reasons therefore. Specific reasons for

disapproval may be contained in a separate document or may be written on the plan itself. The reasons for disapproval by reference to specific duly adopted ordinances, regulations or policies and shall generally identify such modifications or corrections as will permit approval of the plan. Such approval shall be certified in writing by the Chairman of the Planning Commission on two blueline or blackline sets of the plan. One set shall be returned to the Developer.

5. Waiver of Required Planning Commission Action

The required time for action by the Planning Commission may be waived for a period agreed to by the Developer and the Town if such waiver is agreed to in writing by the developer and the Town setting forth the reasons for the waiver and a time frame for action on the preliminary site plan.

5.6 Action on Site Plan

1. Period for Which Site Plan is Valid

After approval of a preliminary site plan, a final site plan application may be accepted within two (2) years after the date of such action. If a final site plan application is not submitted within such time, approval or conditional approval of the preliminary site plan shall become void.

2. Location Permit Not to be Issued

No location permit shall be issued on the basis of an approved site plan.

3. Final Site Plan Approval not Obligated by Approval

Approval or conditional approval of the site plan shall not obligate the Town Council to approve the final site plan.

Before recommending approval of a site plan, the Planning Commission may make reasonable additional requirements, including, but not limited to, requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, buffer-yards, screening, accessways, curb cuts, traffic control, height of buildings and setback of buildings, to protect adjoining residentially zoned lots or residential uses. The site plan shall be amended in accord with the requirements of the Planning Commission before being submitted to the Town Council with a recommendation for approval. The Planning Commission shall review the plans and prepare its report within a reasonable time, but in no case longer than 90 days after the first public hearing unless the applicant requests additional time in order to prepare revised plans. The Town Council shall not advertise its public hearing until the report and plans shall have been received from the Planning Commission.

Approval by the Town Council of a site plan for a special use permit shall be valid for a period of two years. Following approval by the Council, a final site plan in the form of a final plat shall be prepared and filed. This final plat may be approved by the Planning Commission

and shall comply with the specifications of the Council and the requirements of this Article and applicable laws, regulations, and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed plat.

Section 6. Temporary Site Plans

6.1 A temporary site plan may be approved by the Administrator for a proposed development or land use for a period not to exceed one (1) year, where development is in progress and all buildings are of a temporary nature. The drainage, erosion, and sediment control practices, parking, screening, fencing, services, and utility requirements of this Ordinance and this Section may be modified for the purpose of a temporary plan.

6.2 Prior to the approval of such temporary site plan a cash bond or letter of credit approved by the Town Attorney, may be required to guarantee that all structures erected under the plan will be removed at the expiration of the period for which the permit was issued.

Section 7. Revocation of Permits

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this Article except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the Administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

Section 8. Agreement and Bond

Prior to approval of a zoning permit there shall be executed by the owner or developer, an agreement to construct such required physical improvements in form and substance as approved by the Town. The Town may require a bond with surety or conditions acceptable to the Town Attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions, or agencies responsible for such improvements. The aforesaid agreement, bond, or conditions shall be provided for completion of all work covered thereby, maintenance thereof or for subsequent defects therein, within the time to be determined by the Town Council, which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond hereunder shall be determined by the Town Attorney.

Section 9. Approval and Extension

Approval of a site plan submitted under the provisions of this Article shall expire five years after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given, upon written request by the applicant, to the Administrator, made within ninety (90) days before the expiration of the approved site plan. The Administrator shall acknowledge the request and shall make a decision regarding the requested extension within thirty (30) days after receipt of the request.

Section 10. Right of Developer to Continue Project

Subject to the time limits and conditions specified in this Ordinance, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

Section 11. Inspection and Supervision of Improvements

11.1 The owner or developer shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by Administrator or Inspectors.

11.2 Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the Town, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.

11.3 The installation of improvements as required in this Article shall in no case serve to bind the Town to accept such improvements for the maintenance, repair, or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

Section 12. Filing Fees

12.1 All persons, firms, or corporations appealing to the Board of Zoning Appeals, necessitating the publication of notices in the newspaper or applying for special use permits under the provisions of this Ordinance or applying for an amendment to the Zoning Ordinance or a change in the classification of the district or a portion thereof, necessitating the publication of notices in the newspaper shall be required to pay in advance a fee in accordance with the schedule of fees adopted by the Town Council. The applicant(s) shall also pay the town's costs for both engineering and legal review associated with these applications.

12.2 The payment of such money in advance to the Administrator as specified shall be deemed a condition precedent to the consideration of such appeal, conditional use application or amendment. Fees shall be Non-refundable.

Section 13. Violation and Penalties

13.1 In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land used in violation of this Ordinance, the Administrator is authorized and directed to institute any appropriate action to put an end to such violation.

13.2 Where there is reasonable cause to believe that a violation of this Ordinance has occurred, the Administrator or his authorized representatives may, with written consent of the owner or occupier of the premises in question on a form provided by the Administrator, enter the premises for the purposes of inspection. Where permission to enter is withheld, the Administrator shall seek a court order from the General District Court of Loudoun County or a search warrant from a magistrate of the jurisdiction as may be appropriate.

13.3 Any violation of the provisions of this Ordinance that results in physical harm or injury to any person shall be deemed a Class 2 criminal misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than $1,000.00 for each separate offense. Each day during which the violation is found to have existed shall constitute a separate offense.

13.4 Any violation of the provisions of this Ordinance other than those set forth in Section 13.3 of this Article shall be deemed a civil violation and, upon an admission of liability or finding of liability, shall be punishable by a fine of $200.00 for the first charge and $500.00 for each additional charge. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten (10) day period, and in no event shall a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of $5,000.00. Nothing in this subsection shall be construed as to prohibit the Zoning Administrator from initiating civil injunction procedures in cases of repeat offenses.

13.5 After the Zoning Administrator has issued a notice of violation on any person committing or permitting a violation of the Zoning Ordinance provisions to occur and if such violation has not ceased within such reasonable time as is specified in such notice, the Zoning Administrator shall issue a summons and/or ticket to be issued personally upon such person or posted in a conspicuous location at the site of the violation. If a person complies in writing to a notice of violation, and agrees to cease said violation, no further fines shall be levied after the date of such agreement, provided such agreement is complied with.

13.6 The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town Treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.

13.7 If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same

manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

Section 14. Conflict of Interest

No member of the Town Council, Planning Commission or Board of Zoning Appeals, shall participate in the deliberations or vote on any ordinance, resolution, motion, or other proceedings involving any matter in which he, a member of his immediate family, his partner or agent, has a financial interest other than as an owner of not more than five percent of the stock of a corporation, or as a citizen of the Town.

If such interest exists, it shall be the duty of such member to take no part in the deliberations with regard to such matters.

The provisions of this section do not apply to adoption of a comprehensive zoning plan or ordinance applicable throughout the Town.

ARTICLE 14
FLOOD PLAIN AND AGRICULTURAL-FORESTAL DISTRICTS

Section 1. Purpose of Article

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruptions 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:

1. Regulating the uses, activities and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.

2. Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.

3. Requiring all those uses, activities and development that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.

4. Protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.

5. Assuring compliance with Federal and State laws and regulations that address the need for floodplain management and protection.

6. Qualifying residents and property owners in the Town of Hamilton for the insurance and subsidies provided by the National Flood Insurance Program.

Section 2. Applicability

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

Section 3. Compliance and Liability

3.1 No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarge, 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.

3.2. 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 areas

outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damage.

3.3. This ordinance shall not create liability on the part of the Town of Hamilton or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 4. Abrogation and Greater Restrictions

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

Section 5. Severability

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

Section 6. Penalties

In addition to all other penalties provided by law, flood insurance may be withheld from structures constructed in violation of this ordinance.

Section 7. Establishment of Flood Plain District

The floodplain district is hereby established as an overlay district, meaning that it is a district overlaid upon other districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions. In the event of any conflict between the provisions or requirements of the Floodplain District and those of any underlying district, the more restrictive provisions shall apply.

In the event any provision concerning the Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

<u>Basis of District:</u>

The floodplain district shall include areas subject to inundation by waters of the one-hundred (100) year flood. The basis for the delineation of the district shall be the one-hundred (100) year flood elevations or profiles.

The Approximated Floodplain Areas shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood elevations and

floodway information from federal, state, and other acceptable sources shall be used, when available.

Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough review by the Town.

Section 8. Official Zoning Map

The boundaries of the Floodplain District are established as shown on the Flood Insurance Rate Map or as designated in Section 7 above, which is declared to be a part of this.

Section 9. District Boundary Change

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

Section 10. Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of the District, the applicant may appeal the decision of the Administrator to the Board of Zoning Appeals. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present their case to the Board and to submit their own technical evidence if they so desire.

Section 11. General Provisions

11.1 All uses, activities, and development occurring within the 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 this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Hamilton Subdivision Ordinance. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to comply 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 floodway of any watercourse, drainage ditch, or any other drainage facility or system.

11.2 No new construction or development shall be permitted within the floodplain district unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the elevation of the one-hundred (100) year flood more than one foot at any point. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one-hundred (100) year flood elevation.

11.3 Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the Division of Soil and Water Conservation (Department of Conservation and Historic Resources). A permit from the U.S. Corps of Engineers and the Marine Resources Commission, and certification from the State Water Control Board may be necessary (a joint permit application is available from any one of these three organizations). Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be provided to the Division of Soil and Water Conservation (Department of Conservation and Historic Resources), and the Federal Insurance Administration.

11.4 All applications for development in the floodplain district and all zoning permits issued for the floodplain shall incorporate the following information:

1. For structures that have been elevated, the elevation of the lowest floor (including basement).

2. For structures that have been flood-proofed (non-residential only), the elevation to which the structure has been flood-proofed.

3. The elevation of the one hundred (100) year flood.

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

Section 12. Permitted Uses

The following uses are permitted in the flood plain overlay district, provided that they are not prohibited by any other applicable ordinance.

1. Agricultural uses such as general farming, pasturing, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Public and private recreational uses and activities such as sidewalks, trails, parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, and fishing areas.

3. Accessory residential uses such as gardens, play areas, and pervious loading areas.

4. Accessory industrial and commercial uses such as pervious parking and loading areas.

5. Temporary uses such as circuses, carnivals and similar activities.

***Section 13. Uses Permitted with a* Special Use Permit**

The following uses are conditionally permitted in the floodplain district when a Special Use Permit is granted by the Hamilton Town Council, provided that they are not prohibited by this or any other ordinance.

1. Structures except for manufactured homes, and primarily accessory to the uses and activities permitted by this section.

2. Utilities and public facilities and improvements such as streets, bridges, transmission lines, pipelines and other similar uses.

3. Storage of materials and equipment provided that they are not buoyant, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.

4. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural developments shall be undertaken in strict compliance with the flood proofing provisions contained in all applicable codes and ordinances.

Section 14. Factors to be Considered When Granting a Special Use Permit

In passing upon applications for variances, both the Hamilton Planning Commission and the Town Council shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

1. 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 area that will cause any increase in flood levels during the one-hundred (100) year flood.

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

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

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

5. The importance of the services provided by the proposed facility to the community.

6. The requirements of the facility for a waterfront location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

10. The safety of access by ordinary emergency vehicles to the property in time of flood.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

12. Such other factors which are relevant to the purposes of this ordinance.

In processing a Special Use Permit application under this section, the Hamilton Planning Commission and/or the Hamilton Town Council may refer any application and accompanying documentation pertaining to any request for a use-permit 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. A Special Use Permit shall be issued only after the Hamilton Town Council 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.

The Hamilton Town Council shall notify the applicant in writing, that the issuance of a Special Use Permit to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance. A record shall be maintained of the above notification as well as all Special Use Permit actions, including justification for the issuance of the Special Use Permit. Any Special Use Permits that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Section 15. Design Criteria for Utilities and Facilities

1. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate

flood damage and impairment. Private package sewage treatment plants are prohibited under this ordinance.

2. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

3. Drainage Facilities

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

4. Utilities

All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the change of impairment during a flooding occurrence.

5. Streets and Sidewalks

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

Section 16. Existing Structures in Floodplain Districts

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

1. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.

2. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance, the Virginia Uniform Statewide Building Code and other applicable provisions of law.

3. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

Section 17. Agricultural and Forestal Districts

It is hereby declared to be the policy of the Town to conserve, protect and encourage the development and improvement of its agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also the policy of the Town to conserve and protect agricultural and forestal lands as valued natural and ecological resources that provide essential open spaces for clean air sheds, as well as for aesthetic purposes. It is the purpose of this section and the ordinances that are adopted pursuant to this section to provide a means by which agricultural and forestal land may be protected and enhanced as a viable segment of the Town's economy and as an economic and environmental resource of major importance.

17.1 Effects of Districts

1. All provisions of the Town Zoning Ordinance and Subdivision Regulations shall be applicable within all Agricultural and Forestal Districts, but only to the extent that such Ordinance and Regulations are not in conflict with the purposes of Title 15.2-4300 of the Code of Virginia of 1950, as amended. All land use planning decisions, special exceptions, special use permits and variances affecting any parcel of land within or adjacent to a District shall take into account the existence of the District and the purposes and policies of this chapter and the ordinances that are adopted pursuant to this chapter.

2. Land used in agricultural and forestal production within a District shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Article 4 (Sections 58.1-3229 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia of 1950, as amended, if the requirements for such assessment contained therein are satisfied, whether or not the Town or County of Loudoun Land Use Assessment Ordinance is in effect.

3. All other applicable provisions of Title 15.2-4300, of the Code of Virginia of 1950, as amended, are and shall be incorporated in this section and the ordinances that are adopted pursuant to this section and made a part of the same.

17.2 Creation of a District

1. Any owner or owners of land may submit an application to the local governing body for the creation of a district within such locality. Each district shall have a core of no less than 25 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in such district if the nearest boundary of such parcel is within one mile of the boundary of the core, or if it is contiguous to a parcel in the district, the nearest boundary of which is within one mile of the boundary of the core. The applicant shall provide written verification from the County to this effect.

2. No land shall be included in any district without the signature on such application, or the written approval of all owners thereof.

3. The district may be located in more than one locality, provided that:

a. Separate application is made to each county, city and town involved;

b. Each local governing body approves such district; and

c. The total size of such district meets the minimum requirements set out in a

17.3 Procedure

The procedure for reviewing and approving agricultural and forestal district applications shall be as set forth in Section 15.2-4305 through 15.2-4311 of the Code of Virginia, 1950, as amended.

When considering land for inclusion in a district the following factors should be considered by the Planning Commission and the Advisory Committee:

1. The agricultural and forestal significance of land within the district and in areas adjacent thereto;

2. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto those are not now in active agricultural or forestal production;

3. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;

4. Local development patterns and needs;

5. The comprehensive plan and, if applicable, the zoning regulations (land for which an application has been filed shall be zoned to a category which permits the operation of agricultural and forestal activities).

6. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and

7. Any other matter which may be relevant.

17.4 Agricultural and Forestal Districts Advisory Committee

Upon receipt of the first agricultural and forestal districts application the Town Council shall establish an advisory committee as set forth in Section 15.2-4304 of the Code of Virginia, 1950, as amended.

17.5 Review of Districts

The Town Council shall review a District within stipulated periods, as set forth in the ordinances adopted pursuant to this chapter, in order to determine whether to terminate, modify or continue the District. The Council shall request the recommendations of the Planning Commission and the Agricultural and Forestal District Advisory Committee in conducting such review.

17.6 Discontinuance of Association in District

1. Any owner of land lying in a District may request, in writing, termination and withdrawal of his or her property in accordance with Section 15.2-4314 of the Code of Virginia of 1950, as amended. The termination of any owner's association in a District for any reason shall not in itself serve to terminate the existence of the District.

2. Any heir at law or devisee of any owner of land lying within a District shall, as a matter of right, be entitled to withdraw for a District within two years of the date of death of the owner.

ARTICLE 15
SITE PLAN REGULATIONS

15.1 Site Plan Regulations

1. Site Plan Required

Any developer of any tract of land in the Town shall submit a site plan for the following uses as established by the Hamilton Zoning Ordinance:

a) New Development: On a vacant lot or parcel containing no buildings or structures, a site plan shall be required for the following:

1) Construction of a new building or structure;

2) Construction of parking areas or other impervious areas greater than 10,000 square feet in total area, with the exception of vehicle or equipment display areas, and provided that this provision shall not apply to the construction of such an area on a lot used principally for a single-family dwelling; or

3) Land disturbing activities 10,000 square feet or greater in area as defined in Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

b) Redevelopment: On a lot or parcel upon which buildings, structures or impervious areas have been previously constructed, a site plan shall be required for the following:

1) Enlargement or expansion of the floor area of an existing permanent building by more than 2,500 square feet;
2) Enlargement of a parking area or other impervious area by more than 10,000 square feet, with the exception of vehicle or equipment display areas, and provided that this provision shall not apply to the construction of such an area on a lot used principally for a single-family dwelling; or
3) Change in use of an existing parcel or building to a more intensive use category. This determination shall be made by the administrator, who will use Article 6, Section 1.1 of the Hamilton Zoning Ordinance to determine if a more intensive use is being proposed. All changes from a residential use to a commercial or industrial use shall require a site plan. ; or

4) Land disturbing activities 10,000 square feet or greater in area as defined in the Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

c) All building and uses subject to a Commission Permit under Section 15.2-2232 of the Code of Virginia 1950, as amended.

d) Uses permitted under a Special Use Permit, which require compliance with Article 13, Section 5 of the Hamilton Zoning Ordinance. Site Plans required for uses permitted under a Special Use Permit, which do not require improvements to be made to the overall site, may be waived by the Administrator upon finding that no physical changes to the site are required by this ordinance.

15.2 Pre-Application Meeting

A pre-application conference with the Zoning Administrator and other Town staff is recommended prior to submission of a site development plan. The intent of the conference is to clarify the requirements of this Ordinance, and other ordinances of the Town that may be applicable, in order that the site plan can be prepared in an efficient manner, and to facilitate plan review by the Zoning Administrator. Any conceptual plans discussed and/or requirements communicated during the conference shall not be considered binding on the Town or applicant.

15.3 Site Plan Submission Requirements

Every site development plan required by this section shall contain the following minimum information:

a) General Information:

1) Name of the proposed development.

2) Existing and proposed uses of the property.

3) Name and addresses of the owner of record and of the applicant.

4) Names of any holders of easements affecting the property.

5) Deed reference, instrument number, and tax map and parcel number and/or parcel identification number (PIN).

6) Names, addresses, signatures, and registrations of professionals preparing the site plan.

7) Date plan was drawn and date of any revision(s).

8) Vicinity map at a scale not less than one inch equals 2,000 feet, indicating thereon roads and their names and numbers, Town Corporate Limits, subdivisions and other landmarks.

9) Boundary survey, with an error of closure within the limit of one in ten thousand, certified by a licensed land surveyor and indicating the date completed.

The survey must show the location and type of boundary evidence, except where a tract or site is a part of a subdivision of record. If only a portion of a parcel is proposed for development, the limits of development shall be shown.

10) Existing zoning and all required building setback lines and/or build-to lines.

11) Owner(s), zoning, tax map and parcel number and/or parcel identification number (PIN), and present use of each adjoining parcel.

12) North arrow, date, and scale of drawing and number of sheets.

13) A blank space four (4) inches by (4) inches in size on the plan face for the use of the approving authority for required signatures.

b) Project Tabulations:

1) Gross acreage of the total lot area to the nearest one-hundredth of an acre.

2) Number of lots.

3) Number of parking spaces required and provided based on the proposed use.

4) Proposed permitted uses by square footage.

5) Total square footage of all proposed buildings by floor area.

6) Proposed lot coverage for all buildings and uses.

7) Gross residential density for each type of residential use, if applicable.

8) Total area of all open spaces areas, common areas and recreation areas by square footage and as a percentage of the lot.

9) Total impervious area by square footage.

10) Average lot or parcel size for residential subdivisions.

c) Existing & Proposed Site Conditions:

1) Number of floors, floor area, height, general use, and location of each building.

2) Location, type, size, and height of all fencing, walls and screening proposed and/or required under the provisions of this Ordinance.

3) Location, name, route number and full width, if applicable, of existing and proposed streets and travelways, access easements, alleys and right-of-ways.

4) Existing and proposed property lines.

5) Existing and proposed topography with maximum two-foot contours for the entire site.

6) All existing and proposed utilities of all types, including locations, sizes, dimensions, materials, profiles and grades of all public water, sanitary sewer, and storm drainage facilities and proposed connections to existing water lines, sanitary sewer lines, drainage channels and storm drainage structures. Meter sizes for all buildings and estimated water consumption must be indicated.

7) Location of proposed fire hydrants and/or distance to nearest existing fire hydrant.

8) Water courses, wetlands, and their names.

9) One-hundred (100) year flood plain limits.

10) Location, width, and pavement type of existing driveways, sidewalks, and access points on the property.

11) Location, width and typical pavement section of all proposed entrances, parking lots, sidewalks, and trails.

12) Projected average number of vehicle trips generated by the proposed use per day and per AM and PM peak hour based upon the latest edition of the ITE Trip Generation Manual.

13) Boundaries, purposes, and widths of all easements.

14) Archeological, natural and historic features and landmarks. The plan shall be revised to delineate such as discovered during the review process.

15) Identification and location of areas of contamination, remediation, and other adverse environmental conditions of the property.

16) Identification and location of any grave, object, or structure marking a place of burial.

17) Location and type of all outdoor trash receptacles and dumpsters and proposed screening methods.

18) Location and size of areas intended to be dedicated or reserved for public use, open space, or common areas, including location and design of facilities proposed within such areas.

19) Locations, heights, and specifications of all outdoor lighting for parking lots, sidewalks and pedestrian walkways, public spaces and common areas, and all other areas designed or intended for use during evening hours, including a diagram of each type of outdoor luminaire and photometric plan indicating lighting patterns and footcandles.

20) An indication of phases or sections within the proposed development and the order of development.

21) The location, character, size, height and orientation of proposed signs.

d) Supplemental Information:

1) Landscape Plan in conformance with Article VIIII of the Hamilton Zoning Ordinance.

2) Erosion and Sediment Control Plan in conformance with the requirements of the Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

3) For sites with the presence of potential wetlands and jurisdictional streams, a Joint Permit and Virginia Water Protection Permit, approved by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality, as applicable.

4) A deed of dedication with plat and/or deed of easement with plat for all rights-of-way, easements, or other properties which will be conveyed to the Town of Hamilton as a result of the development, in a form approved by the Town Attorney.

5) Front elevations shall be shown on all commercial, industrial, townhouse, and multifamily developments, regardless of height.

6) A bond estimate of public improvements, in a form approved by the Town Attorney.

15.4 Administration & Review Procedures

a) A minimum of twelve (12) clearly legible blue or black line copies of a site plan shall be submitted to the Zoning Administrator. Submitted plans shall include a completed application, and payment of review fees, as established by the Town.

b) The Zoning Administrator shall be responsible for the receipt, review, processing, of site plans, including any modifications which conform to the standards and

requirements in this Article or Ordinance. The Zoning Administrator may from time to time establish reasonable procedures and forms for the administration of this section. The Zoning Administrator may request opinions and/or decisions from other departments, divisions, agencies, or authorities of the Town and County government; from officials, departments, or agencies of the Commonwealth of Virginia; or from other qualified persons as may from time to time be retained.The reviewing departments, agencies and officials may include, but need not be limited to the Town Attorney, the Director of Public Works, the Town Engineer or consulting engineer, the Loudoun County Fire Marshall or the Loudoun County Sherriff Department.

c) The Zoning Administrator shall check the plan for completeness within thirty (30) days of receipt. If the plan does not contain all information required by this Article or by other provisions of this Ordinance, the Zoning Administrator may return the plans as incomplete, provided that he shall identify the deficiencies or omissions in the submitted plan in writing to the applicant and stamp the plan "Incomplete". If the Zoning Administrator determines that the omissions or deficiencies are minor in nature and will not affect the ability of the Town to adequately review the plan, he may accept the plans as substantially complete, provided that he shall identify the deficiencies or omissions in writing to the applicant and require that the applicant address the omissions or deficiencies prior to final approval.

d) The applicant shall mail a written notice, on a form provided by the Zoning Administrator, to all abutting property owners, and owners of property directly across the street from the site, indicating the general nature and intent of the proposed activities indicated on the site plan as submitted. Notices sent by registered or certified mail to the last known address of such owner shown on the real estate tax assessment records of the Town shall be deemed adequate compliance with this requirement. The applicant shall provide copies of all such notices and receipts to the Zoning Administrator. No site development plan shall be approved within five (5) calendar days of any such notice.

e) Once the plan is deemed complete or substantially complete, the site plan together with the comments received from Town staff shall be forwarded to the Planning Commission prior to the next regular meeting. The Zoning Administrator shall make a report on the site plan to the Planning Commission and identify any required modifications. The Planning Commission shall consider the site plan, staff comments, and the Zoning Administrator's report and make a non-binding recommendation to the Zoning Administrator as to whether the plan should be approved, approved with modifications, or disapproved.

f) Approval, approval with modifications, or disapproval of a site plan by the Zoning Administrator shall occur within sixty (60) days of official acceptance of the plan as complete or substantially complete. Approval with modifications shall

be deemed preliminary approval of the site plan, provided that the Zoning Administrator shall indicate final approval or disapproval of the plan with thirty (30) days of official acceptance of the revised plan containing the required modifications. If the plan is disapproved, written notification shall be provided to the applicant or the applicant's designated agent stating the deficiencies in the plan that caused the disapproval by reference to specific adopted ordinances, regulations, or policies and identifying the modifications or corrections that would permit approval of the plan.

g) No public easement, right-of-way, or public dedication shown on any site plan shall be accepted for dedication for public use until such proposed dedication shall first be approved by the Town Council, upon recommendation by the Town Attorney and evidence of such approval is shown on the instrument to be recorded.

h) No permit shall be issued for the construction of any building or improvement requiring a permit in any area covered by the site plan unless it is in compliance with the provisions of this Article and the duly approved site plan.

i) Any approved site plan may be revised, provided request for revision shall be filed with the Zoning Administrator and processed in the same manner as the original site plan, except that Planning Commission review and recommendation shall not be required if the proposed revisions do not substantially affect the overall plan. Approval, approval subject to modifications, or disapproval of revisions to a site development plan shall occur within sixty (60) days of official acceptance of the request by the Zoning Administrator.

j) The Town, County, and State agencies responsible for the supervision and enforcement of this Article or Ordinance shall retain the right to periodically inspect the site during the period of construction.

k) Approval of a site development plan pursuant to this Article shall expire five (5) years after the date of approval unless a building permit has been obtained for construction in accordance with Section 15.2-2261 of the Code of Virginia. The site plan shall be deemed final once it has been reviewed and approved by the Town if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Extensions may be granted upon request by the applicant to the Zoning Administrator, sixty (60) days prior to lapse of approval, and may include a request to extend all bond and surety agreements. A six (6) month extension may be granted one time at the discretion of the Zoning Administrator taking into consideration the size and phasing of the proposed development. Further extension may be authorized only by Planning Commission approval upon demonstration of a good cause by the applicant and taking into consideration the time and phasing of the proposed development.

l) One (1) set of approved plans shall be at the job site at all times when work is being performed.

m) Upon compliance with the terms of this Ordinance and satisfactory completion of construction, as determined by an on-site inspection by Town staff, the Zoning Administrator shall furnish a Certificate of Occupancy in accordance with the standards laid out in Article XX, Section XX of the Hamilton Zoning Ordinance.

ARTICLE 16
DEFINITIONS

Section 1. General Rules of Construction

The following general rules of construction shall apply to the regulations of this Ordinance:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.

2. Words used in the present tense include the past and future tenses, and the future the present.

3. The word "shall" is always mandatory. The word "may" is permissive.

4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure."

5. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

6. The terms "main" and "principal" as used herein are synonymous.

Section 2. Definitions

For the purpose of this Ordinance, certain terms and words are hereby defined:
(See additional definitions, Article 7).

Accessory Building/Structure. Means a building subordinate to the main building on a lot and used for purposes customarily incidental and subordinate to those of the main building and non-residential in use. Accessory structures can be attached or detached, depending upon their use and construction.

Accessory Dwelling Unit. A subordinate dwelling unit in a main building for use as a complete, independent living facility with provision within the accessory dwelling for cooking, eating, sanitation, and sleeping.

Accessory Use. An accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) is located on the same lot as the principal use of the premises. When the term “accessory” is used in this Ordinance, it shall have the same meaning as “Accessory Use.”

Administrator. The Zoning Administrator of the Town of Hamilton.

Alley. A public or private way less than thirty (30) feet in width and affording secondary means of access to abutting property and not intended for general traffic circulation.
Alteration. (See Structural Alteration).

Anticipated Development. That development which could occur given the existing zoning and regulations on property located within the flood plain/floodway.

Apartment. A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

Applicant-Owner. An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on their behalf in planning, negotiation, or in representing or executing the requirements of the ordinances of the Town of Hamilton.

Attic. The part of a building directly under a roof that divides a roof and a story.
Automobile, Salvage or Wrecking Yard. Any lot or place which is exposed to the weather upon which more than five inoperable motor vehicles of any kind, are placed.

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

Basement/Cellar. That portion of a building between the floor and ceiling having a height of 6 feet 8 inches or more, which is wholly or partly underground and has more than one half of its height below grade.

Bed and Breakfast. Overnight accommodations, generally for not more than seven days, in which a morning meal is provided in a single family detached residence that is owner or manger occupied; i.e., where five (5) or fewer rooms without cooking facilities are rented to transient guests. Commercial use or rental of the property for business meetings, seminars, receptions and similar events or activities shall not be permitted.

Berm: A continuous bank of earth designed and placed to block or partially obscure elements of a site (such as a parking area) or of a building (such as a loading dock). Berms typically range in height from two (2) to six (6) feet, with width-to-height ratios of from 2:1 to 5:1.

Block. That property fronting on one side of a street or road and lying between two intersecting streets or roads or otherwise limited by a right-of-way, a waterway, an un-subdivided tract or any other physical barrier of such nature as to interrupt the continuity of development.

Board of Zoning Appeals. The Board appointed to review appeals made by individuals with regard to decisions of the zoning administrator or any other administrative officer in the interpretation of this ordinance and to review application for variances and zoning map interpretations.

Boarding House. (See Rooming House.)

Breezeway. An open-sided or screened in roofed passageway for connecting two buildings, as a house and garage.

Broadcasting Station. A building/site used for the act of transmitting speech, music, images, etc. as by radio or television.

Buffer-yard. Land area used to separate one use from another to absorb runoff or shield from dust, noise, lights or other such effects and to provide space for screening, all in accord with the requirements of this Ordinance.

Buildable Area. The area of that part of the lot not included within the yards or open spaces herein required.

Buildable Width. The width of that part of a lot not included within the open spaces and yards herein required.
Building. Any structure permanently affixed to a lot or lots and having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or property of any kind.

Building, Completely Enclosed. Any building having no outside openings other than ordinary doors, windows, and ventilators.

Building, Height of. Means the vertical distance measured from grade to the highest point of a roof. If a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge for a gable, hip or gambrel roof. For buildings set back more than ten (10) feet from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Building Front Setback Line. A line within a lot between which line and the street line of any abutting street no building or structure may be erected.

Building, Main. The principal building 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.

Bulk. A term used in this Ordinance to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

Business and Professional Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Child Care Center: A facility operated for the purpose of providing care, protection, and guidance to a group of four (4) or more children separated from their parents or guardians during part of the day only, and meeting the licensing requirements for child care centers of Section 63.1-196 of the Code of Virginia, 1950, as amended.

Churches and other places of worship. A building or structure, or group of buildings or structures, which are primarily intended for the conducting of organized religious services and accessory uses associated therewith. The term "church" shall include buildings in which religious services of any denomination are held.

Clinic. An establishment where patients who are not lodged overnight are admitted for examination or treatment by physicians or dentists. This definition includes a group practice in which several licensed medical, dental or health care professionals work cooperatively.

Club, Private. Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

Commercial Use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Commercial Vehicle: Any vehicle designed to transport heavy machinery equipment, dump trucks, tractor and trailer rigs, either as one unit or separately, vehicles having more than two axles on the road, and similar vehicles not ordinarily used for personal transportation.
Commission. The Planning Commission of the Town of Hamilton, Virginia.

Comprehensive Plan: Maps, charts, and descriptive matter officially adopted by the Hamilton Town Council showing, among other things, recommendations for the most appropriate use of land; for the most desirable density of population; for the general location and extent of facilities for water and sewer; and for the general location, character and extent of community facilities.

Condominium. Real property and any incidentals thereto or interests therein which have been or are to be lawfully established as such under the Virginia Condominium Act.

Convalescent, Nursing or Rest Home. Any institution however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more non-related persons admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

Council: The Town Council of Hamilton, Virginia.

Country Inn. A single-family dwelling in which the principal use is permanent residential quarters; and in which, as an accessory use, accommodations for from six through ten guests in four through nine rooms are made available for transient occupancy for compensation, generally for not more than seven days.

Deck. An exterior, roofless, floor system supported on at least two or more opposing sides by an adjoining dwelling/structure and/or posts, piers or other independent supports.

Density, Residential. Unless otherwise specified, the number of dwelling units per gross acre of residential land area, with gross acres including all the land area, including streets, easements, and open-space portions of a developed site.

Developer: An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on their behalf in planning, negotiation, or in representing or executing the requirements of the ordinances of the Town of Hamilton.

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

District. Any section of the Town of Hamilton in which the zoning regulations are uniform and so designated on the Zoning District Map.
Dog Kennel, Commercial. A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation, or any place where more than five adult dogs are kept.

Driveway or Accessway: That space specifically designated and reserved on the site for movement of vehicles from one location to another on site or from the site to a public street.

Dwelling. Means any building, or portion thereof, which is designed or used exclusively for residential purposes, but not including hotels, motels, timeshare units, travel trailers, recreational vehicles or similar accommodations.

a. *Single-family detached* means a separate, detached building containing one dwelling unit.
b. *Duplex* means a separate, detached building containing two dwelling units, which dwelling units may be on separate lots.
c. *Multifamily* means a building containing three or more dwelling units, or one or more dwelling units when the primary use of the building is for a permitted non-residential use.
d. *Townhouse attached* means a single-family attached dwelling, containing one dwelling unit, in a row of not less than three (3) nor more than eight (8) such units. Each unit shall be separated from adjacent dwellings by solid party walls, and shall be located on a separate lot of record.

Dwelling, Manufactured Home:
Manufactured homes are also commonly referred to as “mobile homes” and differ from Modular Homes as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards. Three types are defined herein as follows:

a) Manufactured Home, Type A: A multi-sectional manufactured home (“doublewide”) constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development.
b) Manufactured Home, Type B: A traditional single manufactured home (“singlewide”) constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. 12 - 12

c) Manufactured Home, Type C: Any manufactured home constructed before July 1, 1976 and which consequently does not meet the criteria of a Type A or Type B manufactured home as defined herein.

Dwelling unit. Means one or more rooms arranged, designed or intended to be occupied as separate living quarters by a individual, group or ~~one~~ family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement: A grant of one (1) or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

Eminent Domain. The power of the town to take private property for public use with payment of compensation to the owner.
Engineer: A person who is recognized by the Commonwealth of Virginia and who is registered with the State Department of Professional and Occupational Registration, or registered with a like body in another state, as a "professional engineer."

Evergreen: A coniferous or other plant that retains it leaves or needles in all seasons.

Family:

a. A family is, exclusive of household servants:

(1) An individual;
(2) Two or more persons related by blood, adoption, marriage or guardianship, living and cooking together as a single housekeeping unit;
(3) A number of persons, not exceeding four, living and cooking together as a single housekeeping unit though not related by blood, adoption, marriage or guardianship; or
(4) Not more than two unrelated persons living and cooking together as a single housekeeping unit, along with one or more dependents related to either of them by blood, marriage, adoption or guardianship.

b. For purposes of single-family residential occupancy, family shall be deemed to include group homes or other residential facilities licensed by the department of mental health, mental retardation, and substance abuse services occupied by not more than eight mentally ill, mentally retarded, or developmentally disabled persons, together with one or more resident counselors or other staff persons. Mental illness and developmental disability do not include current illegal use of, or addiction to, a controlled substance, as defined in Code of Virginia, § 54.1-3401.

Fence: Any artificially constructed barrier of any material or combination of materials erected to enclose, partition, or screen areas of land.

Flood. A general and temporary inundation of normally dry land area.

Flood Prone Area. Any land area susceptible to being inundated by water from any source.
Floodplain.

a. A relatively flat or low land area adjoining a river, stream, or watercourse that is subject to partial or complete inundation;
b. An area subject to the unusual and rapid accumulation of surface waters from any source.

Floodplain Area. An area susceptible to being inundated by water from any source.

Floor Area.

a. Commercial, business, and industrial buildings, or buildings containing mixed uses: the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including:

(1) attic space providing headroom of less than seven feet;
(2) basement space not used for retailing;
(3) uncovered steps or fire escapes;
(4) accessory water towers or cooling towers;
(5) accessory off-street parking spaces;
(6) accessory off-street loading spaces;
(7) Stairways; and
(8) Mechanical areas

b. Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

Frontage. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot; the distance between the side lines of any lot as measured along a line, at the required setback distance from the front lot line, generally paralleling the street upon which the lot fronts. The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line, as defined and required herein. On irregularly shaped lots that make such a measurable line impossible, the frontage shall be measured along the line that can be drawn so as to best meet the intent of the above definition.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for the following: embalming and the performance of other services used in the preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and, the storage of funeral vehicles, but not including facilities for cremation.

Garage, Private. Accessory building designed or used for the private storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of twice as many automobiles as there are dwelling units. A garage which is attached to the main dwelling structure shall be considered part of that structure for purposes of setback, yard and height regulations.

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.

Garage, Repair: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of motor vehicles is conducted or rendered, such services taking place within an enclosed building or screened from public view.

Grade. Grade or grade elevation shall be determined by averaging the elevations of the finished ground adjacent to all the corners and/or other principal points in the perimeter wall of the building.

Guest House. Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, and not rented or otherwise used as a separate dwelling unless permitted by the terms of this Ordinance.

Guest Room. A room that is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking.

Hospital. A building or group of buildings, having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities, central service facilities, and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

Hotel, Motel, Motor Lodge or Tourist Home. A building in which lodging or boarding and lodging are provided for 14 or more persons, primarily transient and offered to the public for compensation and in which room assignments are made through a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to keeping of boarders or roomers, or a multiple-family dwelling that is herein separately defined. A hotel or motel may include restaurants, taverns or clubrooms, public banquet halls, ballrooms, and meeting rooms.

Impervious Surface: A surface on previously undeveloped land that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

Inoperable Motor Vehicle. Any motor vehicle which is not in operating condition, or any vehicle which has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle or on which there are displayed neither a valid license plate, nor a valid inspection decal.
Junk. Dilapidated and inoperative automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons and other kinds of vehicles and parts thereof, discarded appliances, scrap building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, wood scraps, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

Junk Yard or Automobile Graveyard. An area of more than two hundred 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 "junk yard" shall include the term "automobile graveyard" as 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.

Library: A place devoted to the collection and display of books, manuscripts and related intellectual property for use and circulation by the public but not for sale.

Loading Space. A space within a building or on the premises providing for the temporary standing, loading, or unloading of vehicles.

Lot. A parcel of land occupied or intended to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as are required by this Ordinance, and having frontage upon a street or road, either shown on a plat of record or considered as a unit of property and described by metes and bounds. Such lot may consist of a single lot of record or a part or combination of one or more lots of record.

Lot, Corner. A lot abutting upon two or more streets at their intersection where the interior angle of the intersection is not greater than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees. A reversed corner lot is a corner lot that is turned, with reference to an adjoining lot, to front on another street.

Lot Coverage. That portion of the lot that is covered by buildings and structures.

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

Lot, Double Frontage. A lot, other than a corner lot, which has a frontage on two streets.

Lot Line, Front. The line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a predominance of the other lots in the block front.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot of Record. A lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds in a deed recorded in the Clerk's Office of the Circuit Court of the County.

Lot Width. The horizontal distance between the side lot lines measured at the front building setback line.

Manufactured Home. A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 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. A structure, transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities. The term also includes parts trailers, travel trailers, and other similar vehicles on a site for greater than 180 days.

Manufactured Home Park. A lot or parcel of land on which are located or which is arranged or equipped for the accommodation of two or more manufactured homes occupied for living purposes.

Manufactured Home Park/Subdivision. A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

Manufactured Home Subdivision. An area designed to accommodate one or more manufactured homes or modular homes on individual lots which may be offered for sale under the terms of this Ordinance and the Subdivision Ordinance.

Modular Home. A movable or portable dwelling over 32 feet in length and over 20 feet wide, designed and constructed without a carriage or hitch, as a stationary house constructed for placement upon a permanent foundation, to be connected to utilities, for year-round occupancy. It can consist of one or more components that can be retracted when transported and subsequently expanded for additional capacity, or of two or more units separately transportable but designed to be joined and joined into one integral unit.

Noise: Sound of a harsh, loud, or confused kind causing disturbance to occupants of an abutting, adjacent, or adjoining property, as provided for in the performance standards of these regulations and any other provisions of the Town Code.

Non-conforming Use. The 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 this Ordinance.

Non-conforming Lot. A–platted lot that does not conform to the minimum area, width or depth 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.
Non-conforming Structure. A building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance, for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to this Ordinance.

Office, business and professional: (see Business and Professional Office)

Off Street Parking. All weather surface area not in a street or alley and exclusion of driveway permanently reserved for the storage of vehicles and connected with a street or alley with a

paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

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

Open Space. Any parcel of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Open space owned by a public agency and maintained by it for the use and enjoyment of the general public.

Outdoor Storage: The keeping in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than one (1) week.

Parking Lot, Public. An area containing one or more parking spaces for self-propelled passenger vehicles, designed for and available to the public as an accommodation for patrons, customers or employees, either with or without charge.

Parking Space Off-Street. An all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet (9' x 18'), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Patio. A platform or surface extending from a house or building.

Porch. A structural part of a building that is enclosed and covered by a roof that is usually separate from the main roof of the structure. A porch is generally associated with an entrance to the structure but also may be a covered and enclosed deck.

Premises. A lot, together with all buildings and structures thereon.

Property: Any tract, lot, or parcel, including, but not limited to several of the same collected together for the purpose of subdividing, preparing a site development plan, and/or developing.

Public Building. A building, or part thereof, owned or leased and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth, a county or a town or city.

Public Water and Sewer Systems. A water or sewer system owned and operated by a municipality or county, or owned and operated by a corporation approved by the governing body and properly chartered and certified by the State Corporation Commission, and subject to special regulations as herein set forth.

Regulations. The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Ordinance.

Restaurant. An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building. This definition also includes cafes, cafeterias, sit-down restaurants, tea rooms, confectionery shops, refreshment stands, and outdoor cafes.
Retail Stores and Shops: Buildings for the display and sale of merchandise at retail (but specifically exclusive of coal, wood, and lumber yards), such as the following which serve as illustrations: drugstore, newsstand, food or grocery store, candy shop, dry goods and notions store, antique store, gift shop, hardware store, household appliance store, furniture store, florist, music and radio store. This group also includes the consolidation of retail stores into one or more buildings as a shopping center.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. May include a fee simple or easement ownership.

Rooming House. A building other than a hotel, motel, or motor lodge where, for compensation and by pre-arrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but containing no more than five sleeping rooms.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured, usually in a round, parabolic shape, intended to receive and/or transmit radio, electromagnetic, or microwaves from terrestrially based and/or orbitally based sources.

School: Any public, parochial, or private place of instruction that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, middle schools, junior high schools, vocational schools, montessori schools and high schools, meeting all the licensing requirements of the Commonwealth of Virginia.

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by use of planted vegetation, fences, walls or terms in accordance with the terms of this Ordinance.
Setback. The minimum distance by which any building or structure must be separated from the lot lines.

Setback, Front. A portion of land lying between the front lot line and the front building setback line, and extending across the full width of the lot. The front setback depth shall be the minimum distance, measured horizontally, between the front building setback line and the front lot line.

Setback Measurement. In measuring a setback, the building line shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the building line to the nearest lot line.

Setback, Rear. A portion of land lying between the rear lot line and the nearest part of the building not hereinafter excepted, and extending across the full width of the lot. The rear setback depth shall mean the minimum distance, measured horizontally, between any part of the building not specifically excepted and the rear lot line.

Setback, Side. A portion of land lying between a side lot line and the nearest part of the building or use not hereinafter excepted, and extending from the front setback to the rear setback line, or if there be no front or rear setback, to the front or rear lot lines. Side setback width shall mean the minimum distance, measured horizontally, between any part of the building or use not specifically excepted and the nearest side lot line.

Sign. For definitions pertaining to signs, see Article 7.

Site Development Plan. A drawing illustrating a proposed development and prepared in accordance with the specifications of this ordinance.

Special Use Permit. The permit for a use listed as requiring such permit in this Ordinance and which may be in a specified district under certain conditions, such conditions to be determined in each case by the terms of this Ordinance and by the Town Council of the Town of Hamilton after public hearing and report by the Planning Commission in accordance with the procedures specified by this Ordinance and applicable state law.
Storefront. A room, set of rooms, or establishment offering items for sales that people would come to buy.

Street (Road). A public or private thoroughfare which affords the principal means of access to abutting properties.

Street, Centerline. The centerline of a street shall mean the centerline thereof as shown in any of the official records of the Town or as established by the Virginia Department of Highways and Transportation. If no such centerline has been established, the centerline of a street shall be a line lying midway between the sidelines of the right-of-way thereof.

Street Line. (Right-of-way Line) The line between a lot, tract, or parcel of land and a contiguous street.

Structural Alteration. Any change in the supporting members of a building or structure, including bearing walls, partitions, columns, beams, girders or similar parts of a building or structure, and any substantial change in the roof of a building.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, mobile homes, monopoles, swimming pools, backstops for tennis courts, gazebos, and pergolas.

Structure (Primary): A structure that accommodates the primary use of the site.

Temporary. Lasting or effective for a limited time period only; not permanent.

Tent. Portable shelter or temporary structure of fabric or skins supported by poles.

Through Lot. A lot that has frontage on a front street and back street. Both would be considered front yards.

Townhouse. A single-family dwelling designed to be sold as a unit but forming one of a group or series of three or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one of the dwelling units to another.

Use: Activity proposed for any portion or part of a parcel, tract, or lot.

Variance. A variance from application of the strict terms of this Ordinance which may be granted in a specific case by the Board of Zoning Appeals under the terms of this Ordinance and applicable state law.

Wayside Stand. A temporary structure designed for the display and sale of local agricultural products.

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

Yard, Front. A yard lying between the front lot line and the front building setback line, and extending across the full width of the lot. The front yard depth shall be the minimum distance, measured horizontally, between the front building setback line and the front lot line.

Yard Measurement. In measuring a yard, the building line shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the building line to the nearest lot line.

Yard, Rear. A yard lying between the rear lot line and the nearest part of the building not hereinafter excepted, and extending across the full width of the lot. The rear yard depth shall mean the minimum distance, measured horizontally, between any part of the building not specifically excepted and the rear lot line.

Yard, Side. A yard lying between a side lot line and the nearest part of the building or use not hereinafter excepted, and extending from the front yard to the rear yard, or if there be no front or rear yard, to the front or rear lot lines. Side yard width shall mean the minimum distance, measured horizontally, between any part of the building or use not specifically excepted and the nearest side lot line.

ARTICLE 17
SEVERABILITY, CONFLICT, EFFECTIVE DATE

Section 1. Severability
If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be judged invalid or held unconstitutional by the Courts, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 2. Repeal of Conflicting Ordinances
All ordinances, maps or parts of ordinances and maps in conflict herewith are hereby repealed.

Section 3. Effective Date
This ordinance shall take effect and be in force from and after the passage thereof.