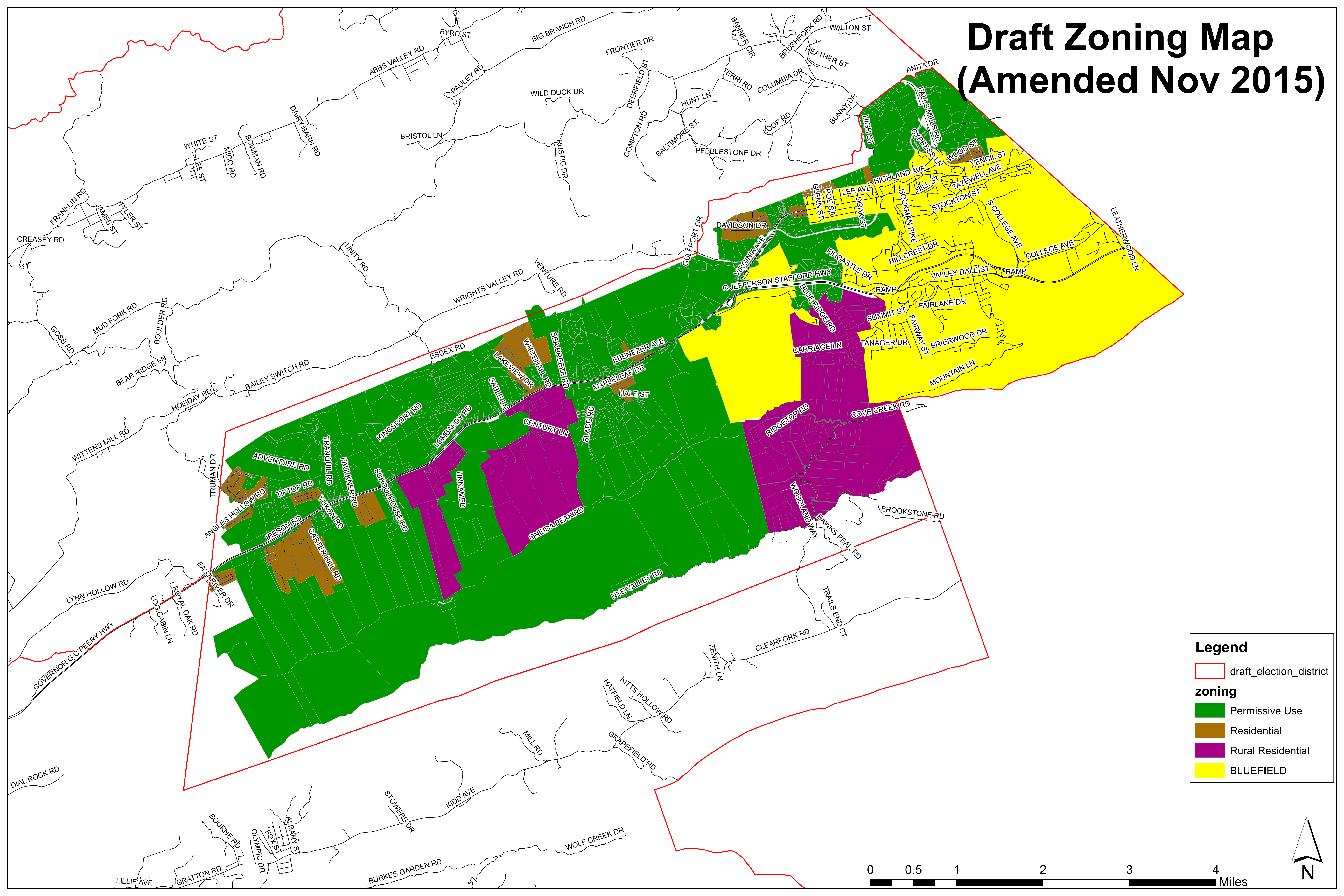


Draft Zoning Map (Amended Nov 2015)



Permissive Use District

Any otherwise lawful use is permitted except for:

1. Coal and/or Gas sludge or other discharge, waste or waste storage facilities
2. Chemical Manufacturing plants
3. Commercial billboards, illuminated or otherwise above 40 feet in height, located more than 100 linear yards from U.S. Route 19/460
4. Commercial electrical plants Commercial energy projects or facilities, including but not limited to solar farms
5. Commercial wind turbines over 40 feet in height
6. Junkyards or automobile graveyards as defined in the Tazewell County Junkyard Ordinance
7. Leather tanneries
8. Medical waste facilities and/or waste storage facilities
9. Metal recycling facilities
10. Methadone, suboxone or other drug rehabilitation facilities
11. Mobile home parks in accordance with the Tazewell County mobile home park ordinance (S)
12. Nuclear waste facilities or power plants
13. Recycling facilities where any inventory is stored outdoors
14. Roadside peddlers
15. Strip clubs and/or any other types of Adult Entertainment facilities

Residential District

Permitted Uses:

1. **Agriculture Use Types**
 - Small Family Farms
2. **Residential Use Types**
 - Accessory Apartment
 - Family Day Care Home
 - Home Occupation
 - Manufactured Home, Emergency
 - Mobile or Manufactured Home (S)
 - Multi-Family Dwelling
 - Residential Human Care Facility
 - Single Family Dwelling, Detached
 - Temporary Family Healthcare Structures
 - Townhouse-
 - Two-Family Dwelling (S)
3. **Civic Use Types**
 - Assisted Care Residence
 - Cemetery (S)
 - Club (S)
 - Community Recreation
 - Convenience Center
 - Crisis Center (S)
 - Cultural Services
 - Educational Facilities, College/University (S)
 - Educational Facilities, Primary and Secondary (S)
 - Publicly owned or operated Halfway House (S)
 - Life Care Facility
 - Nursing Home
 - Post Office
 - Public Parks and Recreation Areas
 - Religious Assembly
 - Safety Services (S)
4. **Office Use Types**
 - Government Office
 - Medical Office/Clinic
 - Home-based office for small business
5. **Commercial Use Types**
 - Assembly Hall
 - Bed and Breakfast (S)
 - Day Care Center (S)
 - Business or Trade School
 - Funeral Service
 - General Store which does not operate gasoline or compressed natural gas pump (S)
 - Golf Course
 - Hospital
 - Studio, Fine Arts
 - Veterinary Hospital/Clinic
6. **Industrial Uses**
 - None
7. **Miscellaneous Use Types**
 - Amateur Radio Tower
 - Outdoor Gathering (S)
 - Tower (S)
 - Utility Service, Minor
 - Utility Service, Major (S)

Rural Residential District

Permitted Uses:

1. **Agriculture Use Types**
 - Agriculture
 - Farm Stand
 - Forestry Operations
 - Stable
 - Small Family Farms
2. **Residential Use Types**
 - Accessory Apartment
 - Farm employee housing
 - Family Day Care Home
 - Home Occupation
 - Mobile or Manufactured Homes
 - Manufactured Home, Emergency
 - Residential Human Care Facility
 - Single Family Dwelling, Detached
3. **Civic Use Types**
 - Camps
 - Cemetery
 - Public Convenience Center
 - Cultural Services
 - Educational Facilities, Primary and Secondary
 - Public Parks and Recreation Areas
 - Religious Assembly
 - Safety Services (S)
4. **Office Use Types**
 - Home Occupations offices
5. **Commercial Use Types**
 - Antique Shop (S)
 - Assembly Hall (S)
 - Bed and Breakfast (S)
 - Commercial livestock operations (S)
 - Day Care Center (S)
 - General Store which does not operate gasoline or compressed natural gas pump (S)
6. **Industrial Uses**
 - Industrial Type I (S)
7. **Miscellaneous Use Types**
 - Amateur Radio Tower
 - Outdoor Gathering (S)
 - Tower (S)
 - Utility Service, Minor
 - Utility Service, Major (S)

DRAFT

EASTERN DISTRICT OF TAZEWELL COUNTY ZONING ORDINANCE

November 4, 2015 Draft

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Article I – General Provisions

Section 100-100 Title and Authority

(A) This ordinance, and the Official Zoning Map of Eastern District of Tazewell County, Virginia shall be known and referred to as the Eastern District of Tazewell County Virginia Zoning Ordinance.

(B) The provisions of this ordinance are adopted by the Tazewell County Board of Supervisors pursuant to Sections 15.2-2200, 15.2-2280 and 15.2-2281 of the Code of Virginia, et seq., as amended.

Section 100-102 Jurisdiction

(A) The provisions of this ordinance shall apply to all property within the unincorporated portions of the Eastern Electoral District of Tazewell County, Virginia, the boundaries of which were established by Ordinance of April 26, 2011, enacted pursuant to §15.2-1211, 15.2-1425, and 24.2-304.1 et seq. (1950) of the Code of Virginia, as amended. Except that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions of this ordinance.

Section 100-104 Purpose

(A) This ordinance, and any amendments hereto, have been adopted for the general purpose of implementing the Comprehensive Plan of Tazewell County Virginia, and for the purpose of promoting the public health, safety, and/or general welfare. To these ends, this ordinance, and any future amendments, are designed to give reasonable consideration to each of the following purposes:

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

2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive and harmonious community;
4. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
5. Protect against destruction of, or encroachment upon, historic areas;
6. Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
7. Encourage economic development activities that provide desirable employment and enlarge the tax base;
8. Provide for the preservation of agricultural and forestal lands, as well protect viewsheds;
9. Protect approach slopes and other safety areas of licensed heliports and airports;
10. Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County;
11. Protect surface and groundwater resources.

Section 100-106 Effective Date

(A) This ordinance shall be effective ninety days after it is enacted by the Board of Supervisors.

Section 100-108 Application of Regulations

(A) All land uses and activities not specifically provided for or addressed in this ordinance shall be considered uses and activities not allowed within the Residential and Rural Residential Districts of the zoned portions of the Eastern District, unless otherwise hereinafter indicated that a land use or activity is compatible and consistent with the provisions of this ordinance. All land uses not specifically prohibited in this ordinance shall be allowed in the Permissive Use District of the zoned portions of the Eastern District. The purpose of these regulations is primarily to promote the public health, safety and welfare of residents or owners of land in the Eastern District.

(B) If a land use or activity is deemed by the administrator to be prohibited within the zoned portions of the Eastern District, that use or activity shall not be permitted within

the zoned portions of the Eastern District, unless successful appeal is heard and decided in favor of the landowner.

(C) Where the standards imposed by this ordinance are more or less restrictive than the standards imposed by any other public regulation, the more restrictive standard shall apply.

(D) This ordinance shall not apply to, or interfere with, any private covenant. However, if the regulations imposed by this ordinance are more restrictive, or impose a higher standard than the private covenant, then the provisions of this ordinance shall apply.

(E) All county agencies and officials that have the responsibility to issue permits and licenses pertaining to the construction of buildings or the use of land within the county shall do so only in accordance with the provisions of this ordinance for permits issued within the zoned portion of the Eastern District. If a permit or license is issued in conflict with the provisions of this ordinance, the permit or license shall be null and void.

Section 100-110 Establishment of Zoned Districts

(A) The following zoned districts shall be established within the Eastern District of Tazewell County. The location of these districts shall be shown on the official zoning map, which is incorporated into this ordinance by this reference. The restrictions imposed by this ordinance in the zoned districts are in addition to any existing zones or districts or other land use restrictions that were or are in existence at the time this ordinance is enacted by the Tazewell County Board of Supervisors.

Permissive Use

P-1 Permissive Use – District where any land use otherwise allowed by law is permitted, including but not limited to, agricultural uses, commercial uses, forestal uses, industrial uses, and any other uses but for those contained on the prohibited list hereinafter set forth. Those uses described on the prohibited use list shall not be permitted in the Permissive Use District, or in the Rural Residential or the Residential Districts.

Residential Districts

R-1 Rural Residential District

R-2 Residential

Concurrent and Overlay Districts

FO Flood Plain Overlay District

AO Airport Overlay District

RO Ridgeline Protection District

Section 100-112 Interpretation of District Boundaries

(A) If in the opinion of the administrator, uncertainty exists as to the exact location of any zoning district boundary, the administrator shall apply the following rules to determine the location of the boundary:

1. Zoning district boundaries that appear to approximately follow the center lines of street, rights-of-way or alleys, shall be construed to follow such center lines.
2. Zoning district boundaries that appear to follow platted lot lines shall be construed as following such platted lot lines except that the zoning designation of any lot shall extend to the center line of any adjacent street, right-of-way or alley. The modification of any platted lot line due to subdivision, re-subdivision, or correction of map errors shall not move or otherwise modify a designated zoning district boundary.
3. Zoning district boundaries that follow the center lines of streams and rivers shall be construed as following metes and bounds of the zoned district.
4. Zoning district boundaries that follow other geographic features such as mountains or other naturally occurring structures shall be construed as following such center lines of such mountains or other naturally occurring features.

(B) If the rules contained in (A) above do not provide sufficient certainty to determine the location of a zoning district boundary, the administrator may request the Board of Zoning Appeals interpret the location of the district boundary pursuant to the authority granted by Section 600-128.01

Section 100-114 Severability

- (A) Should any article, section, subsection, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part declared to be invalid or unconstitutional.

Article II Definitions and Use Types

Section 200-100 Definitions

- (A) For the purposes of this ordinance, the following rules of language shall apply:

The specific shall control the general.

The word “person” includes a firm, association, organization, partnership, trust, and company, as well as an individual.

The word “he” shall mean she.

The words “used” or “occupied” include the words “intended”, “designed”, or “arranged” to be used or occupied.

The word “lot” shall include plot or parcel.

The present tense includes the future tense; the singular number includes the plural; the plural includes the singular.

The word “shall” is mandatory; the words “may” and “should” are permissive.

All public officials, bodies, and agencies referred to in this ordinance are those of Tazewell County, Virginia, unless otherwise specifically indicated.

(B) Where terms in this ordinance are undefined, the meaning of the term shall be as ascribed in the most recent edition of Webster’s Unabridged Dictionary, unless it is believed that based upon normal zoning practice, a different meaning shall apply. In interpreting undefined terms in this ordinance preference shall be given to meaning assigned to the same term by other Tazewell County land use ordinance of Virginia statutes.

(C) The words and terms listed below shall have the following meanings:

ABUTTING - Contiguous or adjoining; having property or zoning district lines in common, or separated by a right-of- way.

ACCESSORY BUILDING OR STRUCTURE - A building or structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered a part of the principal building.

ACCESSORY USE - A use of land, or a building or structure or portion thereof, customarily incidental and subordinate to the principal use of the land or building or structure and located on the same lot with such principal use.

ACREAGE - A parcel of land, regardless of area, described by metes and bounds and not a lot shown on any recorded subdivision plat.

ADDITION - Any construction that increases the gross floor area of a building or structure, or results in an expanded footprint of a building or structure on the ground.

ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another.

AMENDMENT - A modification to this ordinance, including the text or associated maps that have been approved by the Tazewell County Board of Supervisors.

ANTENNA - A communication device which transmits or receives electromagnetic signals. Antennas may be directional, including panels, and microwave dishes, and omni-directional including satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached.

BOARD OF SUPERVISORS - The Board of Supervisors of Tazewell County, Virginia

BOARD OF ZONING APPEALS - The Tazewell County Board of Zoning Appeals, also referred to in this ordinance as the BZA.

BUFFER YARD - A yard improved with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods or materials of any kind.

BUILDING COVERAGE - That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

CERTIFICATE OF ZONING COMPLIANCE - For the purposes of this ordinance, official certification that premises conform to all applicable provisions of the Tazewell County zoning ordinance and may be lawfully used or occupied.

CHEMICAL MANUFACTURING – Any chemical process by which chemical compounds or any related product are made.

CLUSTER SUBDIVISION - An alternative means of subdividing land that concentrates building density in specific areas to allow the remaining land to be reserved for the preservation of environmentally-sensitive features and open space.

COMMISSION - The term Commission shall mean the Planning Commission of Tazewell County, Virginia.

COMMERCIAL BILLBOARDS – Large signs, larger in size than 14 feet by 48 feet, that advertise businesses, products, events, or other commercial-type ventures for profit or otherwise

COMMERCIAL ELECTRICAL PLANTS – Electricity generating plants, from any source of power, which produces more than Twenty Thousand Watts of output at a given time interval.

COMMERCIAL ENERGY PROJECTS – Any type of commercial venture which produces energy or power for sale and/or other commercial purposes, by methods of solar, wind, hydraulic or other means.

COMMERCIAL WIND TURBINES – Structures with large blades attached to an engine and that is used to produce electricity, which are over 40 feet in height and the electricity generated thereby would be sold or utilized by persons other than the land owner or lessee.

CONSTRUCTION, NEW - Structures for which construction commenced on or after the effective date of this ordinance and including any subsequent improvements to such structures.

CONSTRUCTION, START - The date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and /or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwellings units or not part of the main structure.

CREST - The uppermost line of a mountain or chain of mountains from which the land falls away on at least two (2) sides to a lower elevation or elevations.

DEDICATION - The transfer of private property to public ownership upon written acceptance.

DEVELOPMENT - Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations. Within the Floodplain Overlay District this definition shall also include the storage of equipment or materials.

DISTRICT - A zoning district as described and permitted by Section 15.2-2280 et seq. of the Code of Virginia.

DRIVEWAY - A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

DWELLING UNIT - A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

EASEMENT - A portion of a lot or acreage reserved for present or future use by a person or entity other than the fee simple owner of the lot or acreage. Easements may exist on the ground, or under or above the lot or acreage.

ELEVATION - Elevation measured from sea level.

ESTABLISHMENT - Any business, enterprise or other land use permitted by this ordinance.

FAMILY - One or more persons related by blood, marriage, or adoption, or under approved foster care living together as a single housekeeping unit.

FEDERAL AID PRIMARY HIGHWAY - Any highway within that portion of the state highway system as established and maintained under Code of Virginia, tit. 33.1, ch. 1, art. 2 (§ 33.1-24 et seq.), including extensions of such system within municipalities, which has been approved by the Secretary of Commerce pursuant to subsection (b) of section 103 of title 23, United States Code.

JUNKYARD - An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, as more particularly defined in the Tazewell County automobile graveyard and junkyard ordinance. (See Scrap and Salvage Services Use Type.)

LEATHER TANNERIES – Any facility that cures and tans animal hides into leather products and/or manufactures such for sale.

LOT - A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law.

MANUFACTURED HOME - A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. A manufactured home shall contain one dwelling unit. Some manufactured homes are also referred to as mobile homes.

MEDICAL WASTE – Waste resulting from or deriving from the application of a medical procedure, treatment or other situation where in human bodily fluids or other potentially hazardous materials may come from the use of these materials.

METAL RECYCLING FACILITY – Any facility or business that takes in scrap or other metals for purposes of reusing, reconfiguring or selling said metal in any form.

MOBILE HOME PARK – A parcel of land under single or common ownership upon which four (4) or more mobile/manufactured homes are located on a continual non-recreational basis, together with any structure, equipment, road or facility intended for use incidental to the occupancy of the mobile/manufactured homes, but shall not include premise used solely for storage or display of uninhabited mobile/manufactured homes or premises occupied solely by a landowner and members of his family.

NONCONFORMING BUILDING - Any building the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

NONCONFORMING LOT - A lot, the area, dimensions or location of which was lawful at the time the lot was created, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

NONCONFORMING USE - A use or activity which was lawful when originally established, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

NOT-FOR-PROFIT - An organization or activity which has obtained nontaxable status from the U. S. Internal Revenue Service.

NUCLEAR WASTE – Remaining waste materials of, relating to, produced or used in energy that is created when the nuclei of atoms are split apart or joined together.

OVERLAY DISTRICT - A district established by this ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

PATIO - A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

PAWNBROKER OR PAWNSHOP – Any person or business entity that lends or advances money or other things for profit on the pledge and possession of personal property or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the property or other things back to the seller at a stipulated price.

PORCH - A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

PRINCIPAL BUILDING OR STRUCTURE - A building or structure in which the primary use of the lot on which the building is located is conducted.

PRINCIPAL USE - The main use of land or structures as distinguished from a secondary or accessory use.

PRIVATE - Unless otherwise specifically indicated, private shall mean anything not owned, operated, provided and/or maintained by a local, state, or federal government.

PROHIBITED USE – Uses that are on a specified list of prohibited uses within any zoned District. These uses are not allowed to occur in that zone or any other zone or district covered under this Ordinance, unless otherwise noted by special use permit in certain defined instances.

In the residential and rural residential zones, prohibited uses are primarily those that are not specifically set forth as permitted uses in those zones.

PUBLIC - Unless otherwise specifically indicated, public shall mean anything owned, operated, provided and/or maintained by a local, state, or federal government.

PUBLIC WATER AND SEWER SYSTEMS - A water or sewer system owned and operated by: (1) a municipality or county; or, (2) a private individual or a corporation approved and properly licensed by the State Corporation Commission prior to the adoption date of this ordinance; and meeting the requirements of the State Health Department and/or Virginia Department of Environmental Quality.

RECYCLING FACILITY – Any location the primary use of which is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including but not limited to , scrap metals, paper, rags, tires, and bottles, and other such materials.

REPLACEMENT COST - The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the Tazewell County Commissioner of Revenue to determine the percentage of the cost of improvements.

RIGHT-OF-WAY - A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded.

ROADSIDE PEDDLERS – Any person or persons who are engaged in the business of selling, trading, or otherwise providing goods or services along any public roadway, for profit. Said definitions shall include any vendors who set up their wares on a seasonal or crop basis at certain times of year. Said definitions shall not include roadside peddlers who conduct their business more than 50 feet from any state routes, highways or public county roadways. Roadside peddlers shall not include peddlers who own or lease an occupied structure that is permitted by the Department of Building Safety. (Defined as requested by residents)

SCREENING - A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. Screening is intended to substantially, but not necessarily totally obscure visual impacts between adjoining uses.

SETBACK - The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

SLUDGE – A soft, thick material that is produced in various industrial processes, which can include the treatment of sewage, waste or discharge from coal processing or natural gas production such as fraking operations.

SPECIAL USE - A use with operating and/or physical characteristics different from those uses permitted by right in a given zoning district which may, nonetheless, be compatible with those by-right uses under special conditions and with adequate public review. Special Uses are

allowed only at the discretion and approval of the Tazewell County Board of Supervisors following review and recommendation by the Tazewell County Planning Commission. In the event the Tazewell County Planning Commission does not approve or recommend a special use, the Tazewell County Board of Supervisors may overrule and allow the special use after an appeal is made to this Board.

SPECIFIED ANATOMICAL AREAS - (a) Less than completely and opaquely covered: (1) Human genitals, pubic region, (2) buttock, and (3) female breast below a point immediately above the top of the areola; and (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

STOOP - A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

STORY - That portion of a building included between the surface of any floor and the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling above it.

STRIP CLUBS OR OTHER TYPES OF ADULT ENTERTAINMENT FACILITIES – This would include any adult bookstores, adult drive-in theaters, adult live entertainment facilities, adult mini-motion picture theaters, adult model studios, adult motion picture arcades, adult motion picture theaters, or other adult use facilities whatsoever wherein commerce is engaged in pertaining to the display of sexually explicit materials, services or any other related things.

STRUCTURE - Anything that is constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, signs, manufactured homes and swimming pools. Walls and fences shall not be deemed structures except as otherwise specifically provided in this ordinance.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before such damage occurred.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either any project for improvement for a structure to comply with existing state or county health, sanitary or safety code specifications which are solely necessary to assure safe living condition or any alteration of a structure listed on the National Register of Historic Places of the state landmarks register.

TELECOMMUNICATIONS - The transmitting and receiving of electromagnetic signals through the atmosphere.

VARIANCE - A reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with Section 15.2-2201 of the Code of Virginia, as amended.

VISIBLE - Capable of being seen without visual aid by a person of normal visual acuity.

ZONING ADMINISTRATOR - The zoning administrator of Tazewell County, Virginia, or an authorized agent thereof, also referred to in this ordinance as the administrator, who is appointed by and serves at the will and pleasure of the Tazewell County Board of Supervisors.

Section 200-102 Use Types

(A) The purpose of Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within the zoned portions of the Eastern District. The Use Types section also facilitates the process of determining the applicable use type of any activity not explicitly defined.

(B) In the event of any question as to the appropriate use type of any existing or proposed use or activity, the administrator shall have the authority to determine the appropriate use type. In making such determination, the administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the North American Industry Classification System Manual published by the U. S. Office of Management and Budget. In addition, the administrator shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and will require an amendment to the text of this ordinance.

(C) The administrator shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.

(D) A determination of the administrator may be appealed to the Board of Zoning Appeals pursuant to the procedures for administrative appeals outlined in Section 600-128

Section 200-102.01 Agricultural Use Types

AGRICULTURE - The use of land for the production of food and fiber, including farming, dairying, pasturage, agriculture, horticulture, viticulture, aquaculture, and animal and poultry husbandry. A garden accessory to a residence shall not be considered agriculture. The keeping of a cow, pig, sheep, goat, chicken, llama, ostrich, or bison or similar animal shall constitute agriculture regardless of the size of the animal and regardless of the purpose for which it is kept. Certain pets, including but not limited to pot-bellied pigs, shall be exempt from agricultural use.

FARM EMPLOYEE HOUSING – A dwelling located on a farm for the purpose of housing an employee of that farm operation and his/her family. Also included in this use type would be multi-family dwellings for seasonal employees in connection with an orchard or other agricultural use which relies on seasonal employees who must be housed.

FARM STAND - An establishment for the seasonal retail sale of agricultural goods and merchandise primarily produced by the operator on the site, or on nearby property. Agricultural goods produced on other properties owned or leased by the operator may also be allowed provided a majority of the produce comes from land surrounding the farm stand. This use type shall include agricultural products picked by the consumer.

FORESTRY OPERATIONS - The use of land for the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper to process the timber cut from that parcel or contiguous parcels. Excluded from this definition shall be the cutting of timber associated with land development approved by County, which shall be considered accessory to the development of the property.

SMALL FAMILY FARMS – Any farm or agricultural usage by a single family or related members of a family unit, any one of whom is the owner of the land which is farmed. The primary purpose of the Small Family Farm is to provide agricultural products for such family's consumption but can also include an incidental surplus for sale of such products for income to said family. Owning and producing livestock shall also be allowed for the same said purposes on Small Family Farms.

STABLE - The boarding, keeping, breeding, pasturing or raising of horses or ponies by the owner or occupant of the property and/or their paying or non-paying guests. Included in this definition are riding academies.

Section 200-102.03 Residential Use Types

ACCESSORY APARTMENT - A second dwelling unit within a detached single family dwelling or within an accessory structure on the same lot as the detached single family dwelling, which is clearly incidental and subordinate to the main dwelling unit.

FAMILY DAY CARE HOME - A single family dwelling in which more than five but less than 13 individuals, are received for care, protection and guidance during only part of a twenty-four hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall not be counted towards this total. The care of 5 or fewer individuals for portions of a day shall be considered a home occupation.

HOME OCCUPATION - An accessory use of a dwelling unit for gainful employment involving the production, provision, or sale of goods and/or services.

MOBILE OR MANUFACTURED HOME – Any dwelling which comes from a factory already set up for habitation, that can be moved from one location to another, regardless of whether the mechanisms for such move have been removed from the structure or whether the dwelling has been permanently affixed to a foundation.

MOBILE HOME PARK – A parcel of land under single or common ownership upon which four (4) or more mobile/manufactured homes are located on a continual non-recreational basis, together with any structure, equipment, road or facility intended for use incidental to the occupancy of the mobile/manufactured homes, but shall not include premise used solely for storage or display of uninhabited mobile/manufactured homes or premises occupied solely by a landowner and members of his family.

Please also see the Mobile Home Park ordinance that applies to all of Tazewell County, Virginia. Any

MULTI-FAMILY DWELLING - A building or portion thereof which contains three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

RESIDENTIAL HUMAN CARE FACILITY - A building used as a group home where not more than 8 mentally ill, mentally handicapped or other developmentally disabled persons, not related by blood or marriage, reside, with one or more resident counselors or other staff persons and for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, pursuant to Section 15.2-2291 of the Code of Virginia. Excluded from this definition are drug or alcohol rehabilitation centers, half-way houses and similar uses.

SINGLE FAMILY DWELLING - A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy.

DETACHED - A single family dwelling which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

ATTACHED - Two single family dwellings sharing a common wall area, each on its own individual lot.

TEMPORARY FAMILY HEALTH CARE STRUCTURES - A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.

TOWNHOUSE - A grouping of three or more attached single family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

TWO-FAMILY DWELLING - The use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family.

Section 200-102.05 Civic Use Types

ASSISTED CARE RESIDENCE - An establishment that provides shelter and services which may include meals, housekeeping, and personal care assistance primarily for the elderly. Residents are able to maintain a semi-independent life style, not requiring the more extensive care of a nursing home. Residents will, at a minimum, need assistance with at least one of the following: medication management, meal preparation, housekeeping, money management, or personal hygiene. At least one nurse's aide is typically on duty, with medical staff available when needed.

CAMPS - A use which primarily provides recreational opportunities of an outdoor nature on a daily or overnight basis. Included in this use type would be scout camps, religious camps, children's camps, wilderness camps, and similar uses which are not otherwise specifically described in this ordinance.

CEMETERY - Land used or dedicated to the burial of the dead, including columbariums, crematoriums, mausoleums, and necessary sales and maintenance facilities. Funeral Services use types shall be included when operated within the boundary of such cemetery.

CLUBS - a use providing meeting or social facilities for civic or social clubs, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. This definition shall not include fraternal or sororal organizations associated with colleges or universities. A Club does not include a building in which members reside.

COMMUNITY RECREATION - A recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

CONVENIENCE CENTER - A publicly operated and maintained facility used by county residents as a drop off location for the disposal of household refuse.

CORRECTION FACILITIES - A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.

CRISIS CENTER - A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

CULTURAL SERVICES - A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

EDUCATIONAL FACILITIES, COLLEGE/UNIVERSITY - An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees.

EDUCATIONAL FACILITIES, PRIMARY/SECONDARY - A public, private or parochial school offering instruction at the elementary, junior and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

GUIDANCE SERVICES - A use providing counseling, guidance, recuperative or similar services for persons requiring rehabilitation assistance or therapy for only part of a twenty-four hour day. This use type shall not include facilities operated for the treatment of drug addiction and substance abuse.

HALFWAY HOUSE - An establishment providing residential accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons reentering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders or circumstances.

LIFE CARE FACILITY - A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents.

NURSING HOME - A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Nursing homes have doctors or licensed nurses on duty.

POST OFFICE - Postal services directly available to the consumer operated by the United States Postal Service.

PUBLIC ASSEMBLY - Facilities owned and operated by a public agency accommodating public assembly for sports, amusement, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, fairgrounds, and sales and exhibition facilities.

PUBLIC MAINTENANCE AND SERVICE FACILITIES - A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

PUBLIC PARKS AND RECREATIONAL AREAS - Publicly-owned and operated parks, picnic areas, playgrounds, indoor or outdoor athletic facilities, and open spaces.

RELIGIOUS ASSEMBLY - A use located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

SAFETY SERVICES - Facilities for the conduct of safety and emergency services for the primary benefit of the public, whether publicly or privately owned and operated, including police and fire protection services and emergency medical and ambulance services.

Section 200-102.07 Office Use Types

FINANCIAL OFFICE - Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments and free-standing automatic teller machines.

GENERAL OFFICE - Use of a site for business, professional, or administrative offices, excluding medical offices/ clinic. Typical uses include real estate, insurance, management, travel, computer software or information systems research and development, or other business offices; organization and association offices; or law, architectural, engineering, accounting or other professional offices. Retail sales do not comprise more than an accessory aspect of the primary activity of a General Office.

GOVERNMENT OFFICE - Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen. Typical uses include federal, state, city, town and county offices.

MEDICAL OFFICE/CLINIC - Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Excluded from this definition shall be facilities operated for the treatment of drug addiction and substance abuse. Medical offices/clinics are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia.

LABORATORIES - Establishments primarily engaged in performing research or testing activities into technological matters. Typical uses include engineering and environmental laboratories, medical, optical, dental and forensic laboratories, x-ray services, and pharmaceutical laboratories only involved in research and development. Excluded are any laboratories which mass produce one or more products directly for the consumer market.

SUBSTANCE ABUSE CLINIC - An establishment which provides outpatient services primarily related to the treatment of alcohol, or other drug or substance abuse disorders, which services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the Commonwealth of Virginia.

Section 200-102.09 Commercial Use Types

ADULT BOOKSTORE - An establishment that devotes more than fifteen (15) percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas;" or (b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen (15) percent of the total floor area of the establishment to the sale of books and periodicals.

ADULT DRIVE-IN-THEATRE - An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" for observation by patrons.

ADULT LIVE ENTERTAINMENT – Any entertainment activity, including but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling or comedy performances that are characterized by an emphasis on specified sexual activities, or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons

ADULT MINI-MOTION PICTURE THEATRE - An establishment, with a capacity of more than five (5) but less than fifty (50) persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

ADULT MODEL STUDIO - Any establishment open to the public where, for any form of consideration of gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia (1950), as amended, for the issuance or conferring of, and is in fact authorized there under to issue and confer, a diploma.

ADULT MOTION PICTURE ARCADE - Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images

so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or specified "anatomical areas."

ADULT MOTION PICTURE THEATRE - An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

ADULT USE - Any adult bookstore, adult drive-in theatre, adult live entertainment, adult mini-motion picture theatre, adult motion picture arcade, adult motion picture theatre, adult model studio, or massage parlor, as defined in this ordinance.

AGRICULTURAL SERVICES - An establishment primarily engaged in providing services specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be service of agricultural equipment, independent equipment operators, and other related agricultural services.

ANTIQUE SHOPS - A place offering primarily antiques for sale. An antique for the purposes of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

ASSEMBLY HALL - A building, designed and used primarily for the meeting or assembly of a large group of people for a common purpose. Typical uses include meeting halls, union halls, bingo parlors, and catering or banquet facilities.

AUTOMOBILE DEALERSHIP, NEW - The use of any building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.

AUTOMOBILE DEALERSHIP, USED - Any lot or establishment where three or more used motor vehicles, including automobiles, trucks, and motorcycles are displayed at one time for sale.

AUTOMOBILE REPAIR SERVICES, MAJOR - Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. This includes minor automobile repairs in conjunction with major automobile repairs. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

AUTOMOBILE REPAIR SERVICES, MINOR - Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale,

installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services and similar repair and service activities where minor repairs and routine maintenance are conducted.

AUTOMOBILE RENTAL/LEASING - Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

AUTOMOBILE PARTS/SUPPLY, RETAIL - Retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments which offer minor automobile repair services.

BED AND BREAKFAST - A dwelling, occupied by the owner, in which not more than 5 bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without meals.

BUSINESS SUPPORT SERVICES - Establishments or places of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

BUSINESS OR TRADE SCHOOLS - A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an educational facility, either primary and secondary, or college and university.

CAMPGROUNDS - Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles and/or tents.

CAR WASH - Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

COMMERCIAL INDOOR AMUSEMENT - Establishments which provide multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

COMMERCIAL INDOOR ENTERTAINMENT - Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, and concert or music halls.

COMMERCIAL INDOOR SPORTS AND RECREATION – Predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

COMMERCIAL OUTDOOR ENTERTAINMENT - Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

COMMERCIAL OUTDOOR SPORTS AND RECREATION – Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, and motorized model airplane flying facilities.

COMMUNICATIONS SERVICES - Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as Utility Services - Major or Towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

CONSTRUCTION SALES AND SERVICES - Establishments or places of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

CONSUMER REPAIR SERVICES - Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops or repair of musical instruments.

CONVENIENCE STORE - Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, automobile fuels, and limited household supplies and hardware. Typical uses include neighborhood markets and country stores.

DANCE HALL - Establishments in which more than 10 percent of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected or some other form of compensation is obtained for dancing.

DAY CARE CENTER - Any facility operated for the purpose of providing care, protection and guidance to 10 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.

EQUIPMENT SALES AND RENTAL - Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

FLEA MARKET - Businesses engaged in the outdoor sale of used or new items, involving regular or periodic display of merchandise for sale.

FUNERAL SERVICES - Establishments engaged in undertaking services such as mortuaries and crematories.

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

GASOLINE STATION - Any place of business with fuel pumps and gasoline storage tanks which provides fuels and oil for motor vehicles.

GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

HOSPITAL - A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

HOTEL/MOTEL/MOTOR LODGE - A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week or month. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities.

KENNEL, COMMERCIAL - The boarding, breeding, raising, grooming or training of dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

LAUNDRY - Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

MANUFACTURED HOME SALES - Establishments primarily engaged in the display, retail sale, rental, and minor repair of new and used manufactured homes, parts, and equipment.

MINI-WAREHOUSE - A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

PAWN SHOP - A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

PERSONAL IMPROVEMENT SERVICES - Establishments primarily engaged in the provision of informational, instructional personal improvements and similar services. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

PERSONAL SERVICES - Establishments or places of business engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; tattoo studios, grooming of pets; seamstresses, tailors, or shoe repairs; florists; and Laundromats and dry cleaning stations serving individuals and households.

PETROLEUM PRODUCTS – Gasoline, oil or other refined products which derive from manufactured, natural or chemical products used to fuel automobiles, heat homes or businesses, or other combustion activities.

RECREATIONAL VEHICLE SALES AND SERVICE - Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

RESTAURANT - An establishment engaged in the preparation and sale of food and beverages. Service to customers may be by counter or table service, or by take-out or delivery.

RETAIL SALES - Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications.

STUDIO, FINE ARTS - A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer.

TRAVEL CENTER - An establishment containing a mixture of uses which cater to the traveling public and in particular motor freight operators. A travel center might include such uses as fuel pumps, restaurants, overnight accommodations, retail sales related to the motor freight industry or traveling public and similar uses.

VETERINARY HOSPITAL/CLINIC - Any establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

Section 200-102.11 Industrial Use Types

ASPHALT PLANT - An establishment engaged in manufacturing or mixing of paving materials derived from asphaltic mixtures or tar.

CONSTRUCTION YARDS - Establishments housing facilities of businesses primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

CUSTOM MANUFACTURING - Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools or the use of mechanical equipment commonly associated with residential or commercial uses.

INDUSTRY, TYPE I - Establishments engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Type I Industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature or requiring similar production characteristics.

INDUSTRY, TYPE II - Enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Included in this use type are industries involved in processing and/or refining raw materials such as chemicals, rubber, wood or wood pulp, forging, casting, melting, refining, extruding, rolling, drawing, and/or alloying ferrous metals, and the production of large durable goods such as automobiles, manufactured homes or other motor vehicles.

INDUSTRY, TYPE III - An establishment which has the potential to be dangerous or extremely obnoxious. Included are those in which explosives are stored, petroleum is refined, natural and liquid gas and other petroleum derivatives are stored and/or distributed in bulk, radioactive materials are compounded, pesticides and certain acids are manufactured, and hazardous waste is treated or stored as the establishment's principal activity.

LANDFILL, CONSTRUCTION DEBRIS - The use of land for the legal disposal of construction and demolition wastes consisting of lumber, wire, sheet rock, broken brick, shingles, glass, pipes, concrete, and metals and plastic associated with construction and wastes from land clearing operations consisting of stumps, wood, brush, and leaves.

LANDFILL, RUBBLE - The use of land for the legal disposal of only inert waste. Inert waste is physically, chemically and biologically stable from further degradation and considered to be non-reactive, and includes rubble, concrete, broken bricks and block.

LANDFILL, SANITARY - The use of land for the legal disposal of municipal solid waste derived from households, business and institutional establishments, including garbage, trash,

and rubbish, and from industrial establishments, other than hazardous wastes as described by the Virginia Hazardous Waste Regulations.

MEAT PACKING AND RELATED INDUSTRIES - The processing of meat products and by-products directly from live animals or offal from dead animals.

RAILROAD FACILITIES - Railroad yards, equipment servicing facilities and terminal facilities.

RECYCLING CENTERS AND STATIONS - A receptacle or facility used for the collection and storage of recyclable materials designed and labeled for citizens to voluntarily take source separated materials for recycling.

RESOURCE EXTRACTION, OIL AND GAS- A use involving on-site extraction of subsurface crude petroleum or natural gas resources. Specifically excluded from this use type shall be the refinement and/or bulk storage of the extracted resources.

RESOURCE EXTRACTION, MINERAL - A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

SCRAP AND SALVAGE SERVICES - Places of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, automotive graveyards or wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

TRANSFER STATION - Any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is to be transferred to a landfill.

TRANSPORTATION TERMINAL - A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including bus terminals, railroad stations and public transit facilities.

TRUCK TERMINAL - A facility for the receipt, transfer, short term storage and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. post office.

WAREHOUSING AND DISTRIBUTION - Uses including storage, warehousing and dispatching of goods within enclosed structures or outdoors. Typical uses include wholesale distributors, storage warehouses, moving/storage firms.

Section 200-102.13 Miscellaneous Use Types

AMATEUR RADIO TOWER - A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the Federal Communications Commission.

AVIATION FACILITIES - Private or public land areas used or intended to be used for the take-off and landing of aircraft. Aviation facilities may include facilities for the operation, service, fueling, repair and/or storage of the aircraft.

OUTDOOR GATHERING - Any temporary organized gathering expected to attract 500 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held on publicly owned land shall not be included within this use type.

TOWER - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes but need not be limited to radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone and wireless communication towers. Tower types include, but are not limited to monopoles, lattice towers, wooden poles, and guyed towers. Excluded from this definition are amateur radio towers, which are otherwise defined.

PARKING FACILITY, SURFACE/STRUCTURE - Use of a site for surface parking or a parking structure unrelated to a specific use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

SHOOTING RANGE, OUTDOOR - The use of land for archery and the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting, and the unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

UTILITY SERVICES, MINOR - Services which are necessary to support existing and future development within the immediate vicinity and involve only minor structures. Including in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included are all major utility services owned and/or operated by Tazewell County, Virginia, and any major utility services that were in existence prior to the adoption of this ordinance.

UTILITY SERVICES, MAJOR - Services of a regional nature which normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, water towers and tanks, community waste water treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission.

Article III District Regulations

Section 300-100 Rural Residential R-1

Section 300-100.01 Statement of Intent

(A) The R-1 rural residential district includes areas that are generally characterized by very low density residential and institutional uses mixed with parcels that have historically contained agricultural uses, forest land and open spaces. These areas provide an opportunity for rural living in convenient proximity to public services and employment. Agricultural uses should be encouraged to be maintained. Over time, however, these areas are expected to become increasingly residential in character, with residential development becoming the dominant use over agricultural and more rural type uses.

Section 300-100.03 Permitted Uses

(A) The following uses are permitted by right or by special exception permit in the R-1 rural residential district subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

1. Agricultural Use Types

- Agriculture
- Farm Stand
- Forestry Operations
- Stable
- Small Family Farms

2. Residential Use Types

- Accessory Apartment
- Farm employee housing
- Family Day Care Home *
- Home Occupation *
- Mobile or Manufactured Homes*
- Manufactured Home, Emergency *
- Residential Human Care Facility
- Single Family Dwelling, Detached

3. Civic Use Types

- Camps
- Cemetery

Public Convenience Center
Cultural Services
Educational Facilities, Primary and Secondary
Public Parks and Recreation Areas
Religious Assembly
Safety Services (S)

4. Office Use Types

Home Occupations offices *

5. Commercial Use Types

Antique Shops (S)
Assembly Hall (S)
Bed and Breakfast (S)
Commercial livestock operations (S)
Day Care Center (S)
General Store which does not operate gasoline or compressed natural gas
pumps(S)

6. Industrial Uses

Industrial Type I (S) *

7. Miscellaneous Use Types

Amateur Radio Tower
Outdoor Gathering (S)
Tower (S)
Utility Services, Minor
Utility Services, Major (S)

Section 300-200 R-2 Residential

Section 300-200.01 Statement of Intent

(A) The R-2 Residential District applies to areas of the county where smaller lot single family development and higher density residential development has historically occurred, and areas where such development would be appropriate due to the availability, or potential availability of public water and/or sewer services. Generally, R-2 districts are located near the incorporated communities in the County. Also this district will allow for a wide range of civic uses. This district is intended to provide the highest degree of protection from uses that are potentially incompatible with single family dwellings.

Section 300-200.03 Permitted Uses

(A) The following uses are permitted by right or by special exception permit in the R-2 Residential District subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

1. Agricultural Use Types

Small family farms

2. Residential Use Types

Accessory Apartment
Family Day Care Home *
Home Occupation *
Manufactured Home, Emergency *
Mobile or Manufactured Homes * (S)
Multi-Family Dwelling
Residential Human Care Facility
Single Family Dwelling, Detached
Temporary Family Healthcare Structures
Townhouses -
Two- Family Dwelling (S)

3. Civic Use Types

Assisted Care Residence
Cemetery (S)
Clubs (S)
Community Recreation
Convenience Center
Crises Centers (S)
Cultural Services
Educational Facilities, College/University (S)
Educational Facilities, Primary and Secondary (S)
Publicly owned or operated Halfway House (S)

Life Care Facility
Nursing Home
Post Office
Public Parks and Recreation Areas
Religious Assembly (S) *
Safety Services (S)

4. Office Use Types

Government Office
Medical Office/Clinic
Home-based office for small business

5. Commercial Use Types

Assembly Hall
Bed and Breakfast (S)
Day Care Center (S)
Business or Trade Schools (S)
Funeral Services
General Stores that operate gasoline or compressed natural gas pumps(S)
Golf Course
Hospital
Studio, Fine Arts
Veterinary Hospital/Clinic

6. Industrial Uses

None

7. Miscellaneous Use Types

Amateur Radio Tower (S)
Outdoor Gathering
Tower (S) -
Utility Services, Minor (S)
Utility Services, Major (S)

Section 300-300 P-1 Permissive Use

Section 300-300.01 Statement of Intent

The P-1 Permissive Use District applies to areas of the county where any otherwise lawful use is permitted unless expressly prohibited by this ordinance. In this District parcels may include two or more different uses and may include a variety of housing types within the same development areas. This District includes agricultural uses, commercial uses, industrial uses, forestal uses, residential and rural residential uses.

Section 300-300.03 Prohibited Uses

(A) The following uses are prohibited except by special exception permit (S) in the P-1 Permissive Use District. Said prohibited uses have been deemed to not promote the main purpose of this ordinance in the protection of the public health, safety, and/or general welfare. Further these prohibited uses do not meet the goals set forth in Section 100-104 of this ordinance.

1. Coal and/or Gas sludge or other discharge, waste or waste storage facilities
2. Chemical manufacturing plants
3. Commercial billboards, illuminated or otherwise above 40 feet in height, located more than 100 linear yards from U.S. Route 19/460
4. Commercial electrical plants Commercial energy projects or facilities, including but not limited to solar farms
5. Commercial wind turbines over 40 feet in height
6. Junkyards or automobile graveyards as defined in the Tazewell County Junkyard Ordinance
7. Leather tanneries
8. Medical waste facilities and/or waste storage facilities
9. Metal recycling facilities
10. Methadone, suboxone or other drug rehabilitation facilities which may offer opiate replacement therapy or other such services
11. Mobile home parks in accordance with the Tazewell County mobile home park ordinance (S)
12. Nuclear waste facilities or power plants
13. Recycling facilities where any inventory is stored outdoors
14. Roadside peddlers, as herein defined
15. Strip clubs and/or any other types of Adult Uses as herein defined

Section 300-500 Floodplain Concurrent or Overlay District

All uses of land in any zoned district must also comply with the Tazewell County's Floodplain Ordinance Section

Section 300-600 Airport Concurrent or Overlay District

All uses of land in any zoned district must also comply with Tazewell County's Airport Overlay District.

Section 300-700 Ridgeline Protection Concurrent District

All uses of land in any zoned district must also comply with Tazewell County's Ridgeline Protection Ordinance.

Article IV Use and Design Standards

Section 400-100 Use and Design Standards

(A) The standards contained in the district regulations in Article III shall apply to all of the following use types, unless specifically modified and/or superseded by the use and design standards below.

(B) The standards listed as general standards shall apply in all districts in which the use type is permitted by right or permitted subject to approval of a special exception permit, as indicated in Article III, District Regulations.

(C) Where a specific zoning district is indicated, the standards listed below shall apply to that zoning district, in addition to any general standards listed for that use.

Section 400-102 Agricultural Use Types

Section 400-102.01 Commercial Feedlots

(A) General Standards:

1. Containment areas for animals shall be located five hundred (500) feet from any property line, regardless of ownership, or any public right-of-way.
2. Any commercial feedlot proposed shall prepare and follow a management plan for responsible and environmentally safe management of all animal wastes. Such plan shall be approved by the Virginia Department of Environmental Quality, Division of Water.
3. Commercial feedlots shall be laid out and established consistent with the design recommendations and standards set forth in the most recent issue of Best Management Practices Handbook of the Virginia Department of Environmental Quality, Division of Water.

Section 400-102.03 Farm Employee Housing

(A)) General Standards:

1. No more than two (2) farm employee dwellings for every twenty-five (25) acres of land, or portion thereof, in the agricultural use shall be permitted.
2. All farm employees housing shall comply with the Commonwealth of Virginia statewide Uniform Building Code.

Section 400-202 Residential Use Types – This applies to all the districts: Residential, Rural Residential and Permissive Use Zones.

Section 400-202.01 Family Day Care Home

(A) General Standards:

1. Family day care homes, shall comply with the Minimum Standards for Family Day Care Homes established by the Virginia Department of Social Services, as may be amended.

Section 400-202.03 Home Occupations

(A) Intent. These provisions recognize that certain small-scaled commercial activities may be appropriate accessory uses within residential dwellings. The character and scale of such commercial activities must be subordinate and incidental to the principal use of the premises for dwelling purposes, and must be consistent with the predominant residential character of the property and/or surrounding neighborhood. In addition, these provisions are intended to limit the size of such home occupations so as to not create an unfair competitive advantage over businesses located in commercially zoned areas. These provisions only apply to Home Occupations located in the R-1 and R-2 districts.

(B) General standards:

1. More than one home occupation shall be permitted provided the total floor area used for all home occupations does not exceed 20 percent of the principal dwelling's gross floor area.
2. No dwelling or structure shall be altered, occupied or used in a manner which would cause the premises to differ from a character consistent with a residential use.
3. There shall be no outside storage of goods, products, equipment, or other materials associated with the home occupation. No toxic, explosive, flammable, radioactive, or other hazardous materials used in conjunction with the home occupation shall be used, sold, or stored on the site
4. There shall be no sale on the premises of goods or products not produced on the premises.
5. The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area. In addition, the lot or property on which the home occupation is conducted shall not have any parking spaces added to it during the time the home occupation is being conducted, nor shall any parking space be used that was not customarily or regularly used prior to that time.
6. Notwithstanding delivery services such as UPS and FEDEX, the home occupation shall not involve the commercial delivery of materials or products to or from the premises.

7. The home occupation shall not increase demand on public services to the extent that the combined demand for the dwelling and home occupation is significantly more than is normal to the use of the property for residential purposes.
8. No equipment or process shall be used in a home occupation which creates noise in excess of 50dB(A) measured at the property line, or vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises or through common walls. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or through common walls.
9. No activity in conjunction with a home occupation shall be conducted before 7:00 a.m. or after 10:00 p.m. that adversely impacts or disturbs adjoining property owners.
10. Only one other employee other than permanent residents of the dwelling shall be engaged or employed in such home occupation at the residential location.
11. There shall be no display or storage of goods or products visible from the public right-of-way or adjacent property.
12. The sale of goods or products produced on the premises, or providing services which involve the consumer coming to the premises shall be limited to no more than ten (10) customers or clients in any one week period. Child care for five (5) or less children shall be permitted.
13. Lessons in the applied arts shall be permitted, provided the class size for any lesson does not exceed five (5) students at any one time and shall not exceed ten (10) students in any one week period.

Section 400-202.05 Manufactured Home

(A) Intent. Manufactured homes provide a viable and affordable housing option for a segment of the county's population. This housing option is provided in areas predominately of agricultural and forest use with minimal requirements, consistent with the state code. This option is also provided under certain design criteria in more residentially developed areas where they will not conflict with developments planned for site built dwellings.

(B) General standards:

1. No manufactured homes constructed before July 1, 1976 shall be erected, installed or occupied in any zoned district, except under the following conditions:
 - a. The manufactured home existed in a manufactured home park in the county prior to the effective date of this ordinance. Such manufactured homes shall be allowed to be relocated and/or remain in a mobile home park; and,

- b. A manufactured home located outside a mobile home park shall be allowed to remain subject to the provisions for nonconforming uses contained in Article VI of this ordinance.
2. The manufactured home shall have the tow assembly and wheels removed, be mounted on and anchored to a permanent foundation, and skirted in accordance with the provisions of the Virginia Uniform Statewide Building Code.

(C) Additional standards in the RR Rural Residential District on individual lots:

1. The manufactured home shall have a minimum width of nineteen (19) feet.

Section 400-202.07 Manufactured Home, Emergency

(A) Intent- These regulations are adopted in recognition that temporary emergency housing options may be necessitated by fire, flood, or other unforeseen and sudden acts of nature.

(B) General standards:

1. The Administrator may authorize the emergency use of a manufactured home on a lot if the building official certifies that the permanent dwelling on the lot has been lost or destroyed by a fire, flood, or other unforeseen and sudden act of nature, and as a result is uninhabitable.
2. Only one emergency manufactured home shall be permitted on any lot of record. It shall be located on the same lot as the destroyed dwelling, and must be occupied only by the person, persons, or family, whose dwelling was destroyed.
3. The emergency manufactured home shall be less than nineteen (19) feet in width.
4. To the extent feasible, the emergency manufactured home shall meet any setback and yard requirements for the district in which it is located. It shall be anchored and stabilized in accordance with the provisions of the Virginia Uniform Statewide Building Code.
5. The emergency manufactured home must be removed as soon as reconstruction or replacement of the uninhabitable dwelling is complete, or within a twelve-month period of its placement on the site, whichever is sooner. A onetime extension of up to six (6) additional months may be granted by the administrator if substantial reconstruction of the destroyed dwelling has occurred, and work has, and is continuing to progress. A final certificate of zoning compliance for the reconstructed dwelling shall not be issued until the emergency manufactured home is removed from the site.

(C) Federal Disasters.

1. Where the President of the United States has declared a Federal Disaster, the County Administrator may authorize the placement of temporary manufactured homes supplied by the Federal Emergency Management Agency (FEMA) to disaster victims who lost their homes. In such cases, all zoning and building code requirements shall be waived in favor of FEMA standards. The period for temporary placement of manufactured homes shall be twelve (12) months, unless FEMA authorizes an extension for an additional twelve (12) months.

Section 400-202.11 Mobile Home Park - All uses of land in any zoned district must also comply with Tazewell County's Mobile Home Park Ordinance

Section 400-302 Office Use Types

Section 400-402 Commercial Use Types

Section 400- 402.01 Adult Uses are prohibited in all zoned districts. Nevertheless, where such use is continued as a nonconforming use, adult uses must comply with these general standards.

(A) General standards:

1. Sexually explicit material shall not be displayed in the windows of any adult uses. Further, adult merchandise as defined in Section 200-100 shall not be visible from any point outside the establishment.
2. Signs or attention-getting devices for the adult use shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in Section 200-100.
3. All off-street parking areas of the adult use shall be illuminated from dusk to closing. Adequate lighting shall also be provided for all entrances and exits serving the adult use, and all areas of the establishment where the adult use is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.
4. Any signs located anywhere within the confines of Tazewell County advertising the location of the adult use must bear the name of the owner of the parcel of land where the adult use occurs.

Section 400-502 Industrial Use Types - This is allowed in the Permissive Use Zone unless otherwise specifically prohibited or restricted by special use permit.

Section 400-502.01 Scrap and Salvage Services General Standards

No person, real or corporate, shall maintain or operate a scrap and salvage services establishment in the county without first having obtained a special exception permit and a junkyard permit as specified in the Tazewell County junkyard ordinance.

Article V Development Standards and Procedures – This is applicable to all zones

Section 500-102 Accessory Uses and Structures

(A) As defined in Section 200-100, accessory uses and structures may be associated with principal use types. Principal uses which are allowed by right or by special exception may include accessory uses and activities, provided such accessory uses and activities are appropriate and incidental to the principal use, and provided they are designed and located in accord with the intent and provisions of this ordinance.

Section 500-104 Accessory Uses: Agricultural Use Types

(A) Agricultural use types may include uses and activities necessarily and customarily associated with the purpose and function of permitted agricultural use types.

Section 500-106 Accessory Uses: Residential Use Types

(A) Residential use types may include the following accessory uses, activities or structures on the same site or lot:

1. Private garages and parking for the principal use.
2. Recreational activities and uses used by residents, including structures necessary for such uses.
3. Playhouses, gazebos, incidental household storage buildings, swimming pools, pool houses and other similar accessory structures.
4. Other uses and activities necessarily and customarily associated with purpose and function of residential use types, as determined by the administrator.
5. Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.
6. Sales trailer associated with active construction on a site. A sales trailer shall be removed from an active site within thirty (30) days of issuance of the final certificate of occupancy for the permanent sales office for the project.

Section 500-108 Accessory Uses: Civic Use Types

(A) Civic use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory dwellings commonly associated with or necessitated by the location and operation of the principal use.
3. Food services operated incidental to the principal use and operated primarily for the convenience of employees, residents or users of the principal use. Typical examples include cafeterias and dining halls.
4. Convenience commercial facilities clearly incidental to the principal use and operated primarily for the convenience of employees, residents, and users of the principal use. Typical examples include museum gift shops, college bookstores, or snack bars clearly incidental to the principal use.
5. Other uses and activities necessarily and customarily associated with purpose or function of civic use types, as determined by the Administrator.
6. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

Section 500-110 Accessory Uses: Office Use Types

(A) Office use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the office use type.
3. Day care facilities available only to the employees of the office use type.
4. Other uses and activities necessarily and customarily associated with purpose or function of office use types, as determined by the Administrator.
5. One accessory dwelling unit occupied by employees responsible for the security of the use.
6. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

Section 500-112 Accessory Uses: Commercial Use Types

(A) Commercial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory storage buildings or areas.
3. One accessory dwelling unit occupied by employees responsible for the security of the use.
4. Other uses and activities necessarily and customarily associated with purpose or function of commercial use types, as determined by the administrator.
5. Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

Section 500-114 Accessory Uses: Industrial Use Types

(A) Industrial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the industrial use type.
3. Day care facilities available only to the employees of the industrial use type.
4. Cafeterias and sandwich shops available only to the employees of the industrial use type.
5. Incidental retail sale of goods associated with the industrial use type.
6. One accessory dwelling unit occupied by employees responsible for the security of the use.
7. Other uses and activities necessarily and customarily associated with purpose or function of industrial use types, as determined by the administrator.
8. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

Section 500-200 Site Plan Review – This is applicable only to new use or new construction.

(A) The purpose of this section is to provide for the submission of appropriate site plans and to enable adequate opportunity for administrative review of such to ensure compliance with the provisions of this and other ordinances.

(B) A site plan shall be required and shall be submitted to the county for each of the following:

1. All new development in every zoning district except for single family and two-family dwellings.
2. The conversion of any single family or two-family dwelling to any other use or to a higher intensity residential use.
3. Additions or modifications to buildings or sites, except single family and two-family dwellings, if the addition or modification results in a two thousand five hundred (2,500) square foot or greater increase in impervious surface area of the site.
4. The conversion of any property from fee simple ownership to a condominium form of ownership.

(C) All required site plans shall be prepared and sealed by a professional engineer, architect, landscape architect, or land surveyor B, who is registered by the Commonwealth of Virginia. The administrator may waive this requirement if the type, scale or location of the proposed development does not necessitate such plans .

(D) A plot plan that meets the standards contained in Section 500-500.03 shall be required for all uses or development not requiring a site plan.

Section 500-200.01 Pre-Application Conference

(A) At the discretion of the administrator a preliminary site plan applicant shall schedule a pre-application conference with the administrator. The purpose of the pre-application conference is to informally review the proposed preliminary site plan to determine any issues and concerns that may emerge as part of the formal review of the site plan - The administrator's and other county staff comments on the proposed preliminary site plan shall be informal, and shall not constitute a formal action on the application. Also the time period for preliminary site plan approval shall not commence until after the pre-application conference, when the applicant files, and the county accepts a completed preliminary site plan application.

Section 500-200.03 Preliminary Site Plan Requirements

(A) The administrator shall establish county procedures for preliminary site plan review and approval.

(B) The administrator shall coordinate the county review of any preliminary site plan submitted in accordance with approved county administrative procedures, and shall have the authority to request opinions or decisions from other county departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.

(C) Complete sets of preliminary site plans shall be submitted for review. A review fee shall be required for any preliminary site plan submitted. The county shall establish procedures for the collection of these fees and the administrator shall establish the number of complete sets of plans the applicant shall submit.

(D) Applicants for preliminary site plan approval shall submit a preliminary site plan to the county for review and approval prior to preparing a final site plan. The preliminary site plan shall show the general location of all existing and proposed land uses and site features. The administrator shall prepare a checklist of the minimum information that is to be required on a preliminary site plan and the applicant shall provide all information required by the checklist.

(E) The county staff shall review the preliminary site plan and shall advise the applicant whether or not the features and uses shown on the preliminary site plan conform to the provisions of this ordinance and any other applicable county ordinance and requirements. If the features and uses shown on the preliminary site plan conform to the provisions of this ordinance, the administrator shall refer the preliminary plan to the Planning Commission for their review and approval. If the features and uses shown on the preliminary site plan do not conform to the provisions of this ordinance, the administrator shall advise the applicant in writing, and shall advise the applicant on what changes to the preliminary site plan are necessary prior to referral to the Planning Commission.

(F) The Planning Commission shall review, and approve or disapprove any complete preliminary site plan submitted for its review within 60 days of the filing of the plan with the Planning Commission and the Planning Commission's acceptance of the plan. If the Planning Commission disapproves a preliminary plan, they shall notify the applicant of what changes must be made on the preliminary site plan before re-submittal to the Planning Commission for approval. If the Commission does not act on the site plan within sixty (60) days, the plan shall be deemed disapproved.

Section 500-200.05 Final Site Plan

(A) Every final site plan shall be submitted in accordance with the requirements of this ordinance. The final site plan shall show the location of all existing and proposed land uses and site features. The county shall prepare a check list of the minimum information that is to be required and the applicant shall provide all information required by the checklist to insure conformance with county ordinances or standards.

Section 500-200.07 Format of Final Site Plans

(A) A final site plan shall be submitted on sheets no greater in size than 34 by 44 inches. A sheet size of 24 by 36 inches is preferred. The county shall prepare a check list of the minimum format requirements that are to be required.

(B) If more than one sheet is used to supply the information required by this ordinance, sheets shall be numbered, and match lines shall be provided, when appropriate, to clearly indicate where the plans join.

(C) After approval, the county may require that any approved plans be submitted to the county in digital format.

Section 500-200.09 Final Site Plan Administrative Procedures/Requirements.

(A) The administrator shall have the administrative authority to establish county procedures for final site plan review and approval.

(B) The administrator shall coordinate the county review of any final site plan submitted in accordance with county administrative procedures, and shall have the authority to request opinions or decisions from other county departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.

(C) Complete sets of final site plans shall be submitted for review. A review fee shall be required for any plan submitted. The county shall establish procedures for the collection of these fees and the administrator shall establish the number of complete sets of plans the applicant shall submit.

(D) The county shall review, and approve or disapprove any complete final site plan submitted for its review within 60 days of the filing of the final site plan with the county and the county's acceptance of the plan.

(E) Approval of the final site plan pursuant to the provisions of this ordinance shall expire five years from the date of approval in accordance with Section 15.2-2261 of the Code of Virginia, as amended, unless building and/or zoning permits have been obtained for the development.

(F) No building or zoning permit shall be issued by any county official for any building, structure or use depicted on a required final site plan, until such time as the plan is approved by the county.

(G) No change, revision, or erasure shall be made on any pending or approved final site plan, nor on any accompanying data sheet where approval has been endorsed on the plan or sheets, unless authorization for such changes is granted in writing by the administrator prior to approving the change.

Section 500-200.11 Minimum Standards and Improvements Required

(A) Any improvement required by this ordinance, or any other ordinance of the county shall be installed at the cost of the developer unless other agreements have been reached between the developer, the county, and/or any other governmental agency.

(B) Prior to the approval of a final site plan the applicant shall execute an agreement to construct required or proposed improvements located within public rights-of-way or easements or any such improvement connected to any public facility. The applicant shall also file a performance guarantee with surety acceptable to the county in the amount of the estimated cost

of the improvements plus ten percent contingency, as determined by the county Engineer. The owner's performance guarantee shall not be released until the construction has been inspected and accepted by the county.

(C) Proposed lot sizes, buildings or uses shown on a final site plan shall conform to the provisions of this ordinance. Nonconforming lots of record, buildings or uses may be developed in accordance with Section 600-126 of this ordinance.

(D) Proposed parking areas, travel lanes and access drives shown on plans shall be designed, located and constructed in accordance with Section 500-300 of this ordinance.

(E) Utilities shown on plans shall conform to applicable county public service authority (PSA) standards, as determined by the PSA.

(F) Erosion and sedimentation control plans shall be designed and implemented in accordance with the provisions of the county code.

(G) Proposed exterior site lighting shall be in accordance with Section 500-500.01 of this ordinance.

(H) Required buffer yards, screening and/or landscaping shown on plans shall be designed and located in accordance with Section 500-400 of this ordinance.

(I) All off-street parking shown on plans shall be designed and located in accordance with Section 500-300 of this ordinance.

Section 500-400 Buffer Yards, Screening and Landscaping along District Boundaries

It is the intent of these provisions to promote the public health, safety and welfare by reducing common conflicts associated with incompatible abutting land uses. It is also the intent of these provisions to promote the protection of the natural environment through plantings that absorb gaseous emissions and improve air and water quality. To these ends, these requirements seek to ease transition among different uses by reducing noise, glare, dust and overcrowding, redirecting emissions, confining litter, maintaining property values, protecting neighborhood character, promoting visual harmony, restricting passage, promoting peaceful enjoyment and privacy and enhancing the natural environment. Further, the requirements seek to encourage innovation in landscape and architectural design.

Section 500-400.01 General Requirements – These requirements are applicable to new construction. These provisions shall apply to all developments requiring a site plan as specified by this ordinance. All required landscaped plans shall be prepared by person knowledgeable of plant materials and landscape design.

Section 500-400.03 Buffer Yards: Buffer yards may be required by the administrator where proposed use is not allowed in an adjacent zoned district. Buffer yards containing

specified screening and plantings shall be required between zoning districts of different intensities as shown below. For each required buffer type, the developer of the site shall choose which option to install.

- (A) Required buffer yards shall be located such that they provide a visual and physical barrier between abutting zoning districts of different intensities and shall buffer and screen all exterior storage, service, refuse, maintenance, repair, processing, salvage, parking, and other similar areas. No use of the site may be extended into or beyond the required buffer yard.
- (B) Required buffer yards shall not be located on any portion of any existing or dedicated public or private street or right-of-way, shall not obstruct the visibility of traffic circulation, and shall not interfere with the use of adjoining properties.
- (C) Where required the administrator can pick one of the following types of buffer yards:
 - 1. Buffer yards are required for any use permitted in R-2 but not R-1 district where the lot upon which the use occurs abuts border of the other district. Option 1 is a six-foot screen; option 2 is a ten-foot buffer yard, one row of evergreen shrubs.
 - 2. Buffer yards are required for commercial uses where the lot upon which the use occurs abuts border of the other district. Option 1 is an eight-foot buffer year, one row of small evergreen trees, one row of evergreen shrubs; option 2 is a fifteen-foot buffer yard, one row of small evergreen trees.
 - 3. Buffer yard are required for industrial uses where the lot upon which the use occurs abuts border of the other district. Option 1 is a fifteen-foot buffer yard, one row of large evergreen trees, one row of small evergreen trees; option 2 is a twenty-five foot buffer yard, one row of large evergreen trees; option 3 is a fifty-foot buffer yard, two rows of any type trees.
- (D) Required buffer yards, including screening and plantings shall be in place at the time of any occupancy or use of the property.
- (E) The required buffer yard shall be reserved solely for screening and plantings, except for required pedestrian or vehicular access driveways to the property, passive recreation areas, or pedestrian or bicycle trails, which can be accommodated in a manner that preserve the intended screening function between abutting zoning districts of different intensities. In no case shall any portion of a required buffer yard be used for parking, service, refuse, storage, maintenance, or any other use that impairs the intended buffer function.
- (F) The property owner or lessee shall have the responsibility to continuously maintain the required buffer yards, screening and plantings such that they continue to meet the specified standards and intent of this section. All materials shall present an attractive appearance and be of durable construction.

Section 500-400.03 Standards for Buffer Yard Planting and Screening

- (A) Plantings required by this section shall be provided in accordance with the following standards:

1. Where required, all evergreen shrubs shall have a minimum height of at least 24 inches at the time of planting and an ultimate height of six feet or more. One such shrub shall be planted for each three linear feet of buffer yard. Evergreen shrubs that meet these standards include various types of hollies, yews, and junipers.
2. Where required, each small evergreen tree shall have a minimum height of at least six feet at time of planting and an ultimate height of 15 feet or greater. One such tree shall be planted for each five linear feet of buffer yard. Small evergreen trees that meet these standards include various types of pines, hollies, upright arborvitae and junipers.
3. Where required, each large evergreen tree shall have a minimum height of at least eight feet at the time of planting and an ultimate height of 50 feet or greater. One such tree shall be planted for each 15 linear feet of buffer yard. Large evergreen trees that meet these standards include various types of pines, firs and hemlocks.
4. Existing evergreen trees and shrubs which meet the requirements of this section may be counted as contributing to total planting requirements.
5. All portions of buffer yard areas not containing plantings shall be seeded with lawn grass of other approved vegetative ground cover.
6. No landscaping plantings shall be located in easements, wherever possible.

(B). Screening required by this section shall be provided in accordance with the following standards:

1. Screening shall be visually opaque and shall be constructed of a durable material. It shall be installed within the required buffer yard, and shall be continuously maintained.
2. Acceptable screening materials shall include stockade fences, decorative masonry walls, brick walls, and earth berms. Alternate materials may be approved, if in the opinion of the administrator, their characteristic and design meet the intent and standards of this section.

Section 500-400.05 Modifications

(A) The requirements of this section shall be applied equally to all similarly classified and situated properties but may be modified or waived by the Administrator where the intent of this section is preserved and where the proposed developments of the new use meets any of the following guidelines:

1. Natural land characteristics and/or existing vegetation would achieve the same intent of this section, provided such natural features are maintained and not modified by the development or use of the site;
2. Innovative landscape design, staggering of planting, screenings or architectural design would achieve the intent of this section;
3. The amount of required buffer yard would occupy more than fifteen percent of the total lot, parcel of land or development site, and proportional increases of planting and screening are added which are determined by the administrator to offset any reductions of the required buffer yard, or
4. The subject uses are separated by an alley, public utility right-of-way, water body or other physical separation. In such case, the width of the separating feature may replace the buffer yard requirements on a foot-for-foot basis, provided the intent of the applicable screening and planting requirements is met. Where such separating feature is wider than the applicable buffer yard requirements, one row of the applicable planting requirements may be waived for every five feet of separation in excess of the required buffer yard; provided, however, that a minimum of one row of plantings or screening may be required.
5. When property lines abut an adjacent jurisdiction, the Administrator shall determine the specific screening and buffering requirements along the property lines after consideration of the zoning designation and or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated property within the county.

Section 500-400.07 Conflicting Requirements

(A) When buffering, screening or planting requirements are required by a conditional rezoning, or a Special Exception Permit approved after the effective date of this ordinance, and such requirements are in conflict with the requirements contained herein, the more restrictive requirements shall apply.

Section 500-500 Miscellaneous Provisions

Section 500-500.01 Plot Plans

(A) A plot plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded use or development not requiring a site plan. Plot plans shall be legibly drawn and shall clearly indicate the area, shape and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.

Section 500-500.03 Standards and Procedures for Review of Condominiums

(A) A subdivision plat shall be submitted to the county for any new residential, commercial or industrial condominium development, including the conversion of any existing development to the condominium form of ownership. This plat shall meet all standards for subdivision plats. Plats shall be reviewed by the subdivision agent who shall approve the plat provided it meets the provisions of this ordinance and the county subdivision ordinance.

Article VI Administration

Section 600-100 Zoning Administrator; Powers and Duties

(A) The administrator, or his designee, shall have the following powers and duties:

1. *Zoning permit.* To issue or deny a zoning permit for the erection, reconstruction, moving, adding to or alteration of any structure, or the establishment of any land use. The administrator shall also have the authority to revoke any zoning permit if violations of the provisions of this ordinance occur.
2. *Certificate of zoning compliance.* To issue or deny a certificate of zoning compliance certifying construction and use in accordance with this ordinance.
3. *Collect fees.* To collect any fees required or set forth in this ordinance.
4. *Making and keeping records.* To make and keep all records required by state law or necessary and appropriate for the administration of this ordinance.
5. *Inspection of buildings or land.* To inspect any building or land to determine if violations of this ordinance have been committed or exist.
6. *Enforcement.* To enforce this ordinance and take all necessary steps to remedy any condition found in violation of the provisions of this ordinance.
7. *Request assistance.* To request the assistance of other local and state officials or agencies in the administration and enforcement of this ordinance.
8. *Interpretation.* To interpret the official zoning map and provisions of this ordinance, and offer written opinions on their meaning and applicability.

(B) The administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His authority shall include: (1) ordering in writing the remedying of any condition found in violation of the ordinance; (2) insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to Section 15.2-2311 of the Code of Virginia, as amended; and (3) in specific cases, making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law regarding determinations of rights accruing under Section 15.2-2307 of the Code of Virginia.

(C) The administrator may be authorized to grant a maximum of a ten (10) percent, or a maximum of a one (1) foot variance (whichever is less) from any building setback requirement contained in the zoning ordinance if the administrator finds in writing that: (1) the strict application of the ordinance would produce undue hardship; (2) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (3) the authorization of the variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the variance. Prior to the granting of a variance, the administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within 21 days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision.

Section 600-102 Planning Commission Powers, Duties And Composition

The Planning Commission, previously established by the Board of Supervisors by separate ordinances may be amended from time to time, shall have the right to exercise all of the powers and duties authorized by Section 15.2, Chapter 22 of the Code of Virginia, as amended.

Section 600-104 Zoning Permits

(A) A zoning permit shall be required for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use, except as listed below:

1. Patios
2. Fences
3. Any agriculturally related structures that would be exempt from the State Building Code. These shall include, but are not limited to, barns, agricultural-related product storage facilities such as silos, or other such structures.
4. Any other structure, square footage of which, is below threshold for which a building permit would be required.

(B) It shall be the responsibility of the applicant to provide any information necessary for the administrator to determine that the proposed use, building, or structure complies with all provisions of this ordinance.

(C) For any use, building, or structure requiring an approved site plan, no zoning permit shall be issued, until such time as a site plan is submitted, reviewed and approved in accordance with Section 500-200 of this ordinance.

(D) For uses or structures not requiring an approved site plan, the administrator shall determine, in accordance with this ordinance, the type of information necessary to review the permit. At a minimum, a concept plan shall be required meeting the standards established by the administrator.

(E) All zoning permits issued shall be valid for a period of six months, unless the structure, use or activity for which the permit was issued has commenced. The administrator may reissue any expired permit provided the structure, use and or activity complies with all applicable provisions of the ordinance at the time of re-issuance.

(F) The administrator shall have the authority to approve the form and content of zoning permit applications.

(G) However, no zoning permit shall be required for any agriculturally related structures that are an exception listed in the Building Code. These shall include but not be limited to barns, silos, woodsheds, livestock housing, etc.

Section 600-106 Building Permits; Relation To Zoning

(A) No building permit for the extension, erection, or alteration of any building or structure shall be issued before an application has been made and a zoning permit has been issued or a determination has been made by the zoning administrator that a permit is not necessary. No new or modified building or structure shall be occupied or used, or any new land use established until a certificate of zoning compliance has been issued by the county.

Section 600-108 Certificates Of Zoning Compliance

(A) A certificate of zoning compliance shall be required for any of the following:

1. Occupancy or use of a building that has been hereafter erected, enlarged, or structurally altered.
2. Change in the use or occupancy of an existing building.
3. Occupancy or change in the use of vacant land except for agricultural uses not involving structures.
4. Any change in a nonconforming use, or any alteration of a nonconforming building or structure.

(B) No such occupancy, use, or change in use shall take place until a certificate of zoning compliance has been issued by the county. Such certificate shall certify that the building or the proposed use, or the use of land complies with the provisions of this ordinance.

(C) If a certificate of zoning compliance is denied by the county, the county shall notify the owner or owner's agent of the denial. Said notice shall state the reasons for the denial, and the specific actions required on the part of the owner before the certificate of zoning compliance can be issued. If a certificate application is not acted upon by the zoning administrator within sixty (60) days it shall be deemed denied for purposes of appeal.

Section 600-110 Temporary or Partial Certificates of Zoning Compliance

(A) When a building, structure, or property must be occupied or used prior to the completion of all improvements required by this ordinance, the county may issue a temporary or partial certificate of zoning compliance for the property, upon the request of the owner or owner's agent. Temporary or partial certificates of zoning compliance shall be valid for a period not to exceed eight months, during which time, all improvements required by this ordinance must be made.

(B) The county shall not issue a temporary or partial certificate of zoning compliance unless:

1. The site and building is in a safe and useable condition, free from conditions that might endanger the health, safety or welfare of persons using the site.
2. The owner or authorized agent provides the county a performance guarantee guaranteeing completion of all required improvements. This guarantee shall be payable to the county in an amount determined by the county to be sufficient to complete with all required improvements within eight months of the issuance of the temporary or partial certificate of zoning compliance.
3. The performance guarantee may be in the form of a corporate surety bond, cash, irrevocable letter of credit, or other instrument approved by the county.
4. The administrator may waive the performance guarantee if the value of the uncompleted improvements is less than one thousand (\$1000) dollars.
5. The administrator shall have the authority to grant an extension to the temporary or partial certificate of zoning compliance, provided all performance guarantees remain in effect.

Section 600-112 Fees

(A) Administrative review fees for all permits and procedures specified in this ordinance shall be established by the Board of Supervisors by resolution.

Section 600-114 Enforcement

(A) The administrator shall have the responsibility for enforcing the provisions of this ordinance, and may, as necessary, solicit the assistance of other local and state officials and agencies to assist with this enforcement.

(B) Violators of the provisions of this ordinance shall be notified in writing of observed violations. The administrator shall state, in the written notice, the nature of the violation, the date that the violation was observed, and the remedy or remedies necessary to correct the violation. A reasonable time period will be established for the correction of the violation.

(C) If the administrator is not able to obtain compliance with these provisions, civil and or criminal procedures may be initiated in accordance with Virginia law and procedures.

Section 600-116 Penalties

(A) Pursuant to Section 15.2-2286 (5) of the Code of Virginia, any violation of any provision of this ordinance shall be a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$1000.00.

Section 600-118 Civil Penalties

(A) Any owner of a building or premises where a violation of any provisions of this ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be punishable by a civil penalty.

(B) Any violation of the following scheduled provisions of this ordinance shall be subject to a civil penalty in an amount and timing not to exceed that authorized by Section 15.2-2209 of the Code of Virginia, as amended. The Board of Supervisors shall establish the amount of the civil penalty.

List Schedule of Violations Subject To Civil Penalties

1. (Reserved)

2. (Reserved)

(C) Each day during which a violation is found to exist shall be a separate offense. However, the same violation arising from the same operative set of facts may be charged not more than once in a sixty (60) day period, and the total civil penalties from a series of such violations arising from the same set of operative facts shall not exceed five thousand dollars (\$5,000.00)

(D) The issuance of a civil penalty for a particular violation of the zoning ordinance pursuant to this section shall be in lieu of criminal sanctions except when such violation results in injury to any person or persons.

(E) The administrator, or the administrator's designee, may issue a civil summons for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offence charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

(F) If a person charged with a scheduled 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 for by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

(G) No provision herein shall be construed to allow the imposition of civil penalties for (1) activities related to land development or (2) for violation of any provision of a local ordinance relating to the posting of signs on public property or public rights-of-way.

(H) The imposition of penalties shall not prohibit the administrator from seeking a court ordered injunction to remedy any violation of this ordinance.

Section 600-120 Amendments To Ordinance

(A) Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Board of Supervisors may, by ordinance, amend, supplement, or change these regulations, district boundaries, or classifications of property. Any such amendments may be initiated by:

1. Resolution of the Board of Supervisors, or;
2. Resolution of the Planning Commission, or;
3. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property which is the subject of the proposed zoning map amendment. Any petition submitted shall be in writing and shall be addressed to the Board of Supervisors.
4. Any person may submit suggestions for zoning ordinance text amendments to the administrator. The administrator shall forward these requests to the Planning Commission for their review. The Planning Commission shall be under no obligation to schedule a public hearing on any such amendment request, except that the Board of Supervisors may direct the Commission to hold a public hearing on any text amendment request.

(B) The administrator shall establish a schedule for the receipt of amendment applications. The administrator shall also establish and maintain the amendment application materials. These application materials shall, at a minimum, include any information the administrator deems necessary for the county staff, Planning Commission and Board of Supervisors to adequately evaluate the amendment request. A concept plan shall accompany all map amendment requests. The administrator shall establish minimum standards for concept plans.

(C) The administrator shall not accept any amendment application for a lot or parcel that does not comply with the minimum lot area, width, or frontage requirements of the requested zoning district. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the administrator shall thereafter accept the amendment application for the consideration of the Planning Commission and Board of Supervisors.

(D) If the Board of Supervisors denies any amendment application submitted for its review, or the application is withdrawn after Board of Supervisors consideration, the county shall not consider substantially the same application for the same property within one year of the Board

of Supervisors action. The administrator shall have the authority to determine whether new applications submitted within this one year period are substantially the same. In making any such determination the administrator shall have the authority to consider any items pertaining to the proposed use or development of the site such as, but not limited to, the uses proposed, densities, access, building locations, and overall site design.

Section 600-120.01 Commission Study And Action

(A) All proposed amendments to the zoning ordinance shall be referred by the Board of Supervisors to the Planning Commission for study and recommendation. The Planning Commission shall study proposals to determine:

1. Whether the proposed amendment conforms to the general guidelines and policies contained in the county's comprehensive plan.
2. The relationship of the proposed amendment to the purposes of the general planning program of the county, with appropriate consideration as to whether the change will further the purposes of this ordinance and the general welfare of the entire community.
3. The need and justification for the change.
4. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property, surrounding property, and on public services and facilities. In addition, the Planning Commission shall consider the appropriateness of the property for the proposed change as related to the purposes set forth at the beginning of each district classification.

(B) Prior to making any recommendation to the Board of Supervisors on a proposed amendment to the zoning ordinance, the Planning Commission shall advertise and hold a public hearing in accordance with the provisions of Section 15.2-2204 of the Code of Virginia, as amended.

(C) The Planning Commission shall review the proposed amendment and report its findings and recommendations to the Board of Supervisors along with any appropriate explanatory materials within 100 days after the first Planning Commission meeting after the proposed zoning ordinance amendment is referred to the Commission. Failure of the Planning Commission to report to the Board of Supervisors shall be deemed a recommendation of approval. If the Commission does not report within the prescribed time, the Board of Supervisors may act on the amendment without the recommendation of the Planning Commission.

(D) Any recommendation of the Planning Commission shall be deemed advisory, and shall not be binding on the Board of Supervisors.

Section 600-120.03 Board of Supervisors Study and Action

(A) Before enacting any proposed amendment to the zoning ordinance, the Board of Supervisors shall hold a public hearing as required by Section 15.2-2204, with public notice as required by Section 15.2-2204 and Section 15.2-2285 of the Code of Virginia, as amended. The Board of Supervisors may hold a joint public hearing with the Commission. After holding this hearing, the Board of Supervisors may make appropriate changes to the proposed amendment; 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 notice as required by Section 15.2 – 2204

(B) The Clerk of the Board of Supervisors shall transmit to the administrator official notice of any Board of Supervisors action modifying the zoning ordinance. The administrator shall thereafter have the responsibility to make any necessary and appropriate changes to the zoning ordinance text or map.

Section 600-120.05 Posting of Property

(A) The county shall require that properties proposed for public hearing before the Commission or Board of Zoning Appeals, under the requirements of this ordinance, shall be posted with a notice announcing the nature of the request, and the date, time and place of the public hearing. This posting requirement shall be in addition to the public hearing and notice requirements imposed by Section 15.2-2204 of the Code of Virginia.

(B) The county shall prepare the notice of hearing and shall either (1) post said notice on the property or properties that are the subject of the hearing or, (2) provide said notice to the property owner or the property owner's authorized agent for posting on the property. The posting shall be accomplished at least ten days before the date of the proposed public hearing. The administrator shall determine the number of notices required to meet the intent of this section. All notices posted shall be clearly visible from abutting rights-of-way.

(C) The unauthorized removal or damage of the notices prior to the advertised public hearing, due to weather or legitimate vandalism, shall not violate the public notice intent of this section.

Section 600-122 Conditional Zoning

(A) In accordance with the authority granted to the county per Section 15.2-2297 of the Code of Virginia, as amended, the owner of property for which a zoning map amendment is requested, may voluntarily proffer in writing reasonable conditions that are in addition to the regulations of the requested zoning district. All proffered conditions must be signed by the owner of the property.

(B) The county's acceptance of proffered conditions shall be in accordance with the procedures and standards contained in Section 15.2-2297 of the Code of Virginia.

(C) All conditions proffered by the owner shall meet the following standards:

1. The rezoning itself must give rise for the need for the conditions.

2. The conditions shall have a reasonable relation to the rezoning.
3. The conditions shall not include a cash contribution to the locality.
4. The conditions must not provide for mandatory dedications for public facilities not otherwise provided for in 15.2-2241 of the Code of Virginia.
5. The conditions must not require the mandatory creation of a property owner's association under Chapter 26 Title 55 of the Code of Virginia.
6. The conditions must not include payment for, or construction of, offsite improvements except those provided for in Section 15.2-2241 of the Code of Virginia.
7. All conditions proffered shall relate to the physical development or operation of the property.
8. All such conditions shall be in accordance with the comprehensive plan.

(D) All such conditions must be submitted to the county, in writing, before the start of the Board of Supervisors public hearing.

(E) The Commission and Board of Supervisors shall not be obligated to accept any or all of the conditions proffered by the owner.

Section 600-122.01 Enforcement of Conditions

(A) The administrator shall have the authority on behalf of the Board of Supervisors to administer and enforce conditions accepted as part of any approved zoning map amendment. This authority shall include:

1. The ordering in writing of the remedy of any non-compliance with such conditions.
2. The bringing of legal action to insure compliance with such conditions

(B) Failure of a property owner to meet all conditions accepted by the Board of Supervisors shall constitute cause to deny approval of a site plan, or deny issuance of a building permit, zoning permit or certificate of zoning compliance, as may be appropriate.

Section 600-122.03 Records of Conditions

(A) The zoning map shall show, by an appropriate symbol, the existence of conditions on those properties for which conditions have been accepted. The administrator shall keep an index of those properties and conditions. The index shall provide for ready access to the ordinance creating the conditions.

Section 600-122.05 Review of Administrators Decisions

(A) Any person aggrieved by a decision of the administrator pursuant to the provisions of Section 600-122 may petition the Board of Zoning Appeals for a review of the decision of the administrator. All such petitions, stating the nature of the grievance, shall be filed with the administrator within thirty days of the date of the decision for which a review is sought.

Section 600-122.07 Amendments of Conditions

(A) Any request by an applicant to amend conditions that were voluntarily proffered and accepted by the Board of Supervisors shall be considered a new amendment to the zoning ordinance and shall be reviewed pursuant to the provisions of Section 600-120.

Section 600-124 Special Exception Permits

(A) The procedures and standards contained in this section shall apply to all uses specifically permitted as special exceptions in the district regulations found elsewhere in this ordinance.

(B) Special exceptions are hereby established in recognition that in addition to uses permitted by right, certain uses may, depending on their scale, design, location and conditions imposed by the Board of Supervisors, be compatible with existing and future land uses in the district.

(C) The review and subsequent approval or disapproval of a special exception permit, shall be considered a legislative act, and shall be governed by the procedures thereof.

Section 600-124.01 General Standards

(A) The administrator shall not accept any special exception permit application for any lot or acreage that does not meet the minimum size, width and/or frontage requirements of the district where the use is proposed. In addition, the administrator shall not accept any special exception application for a lot or acreage that does not meet the minimum size, width and/or frontage requirements of any applicable use and design standards for the use as listed in Article III of this ordinance. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the administrator shall thereafter accept the special exception permit application for consideration by the Commission and Board of Supervisors.

(B) No special exception permit shall be issued by the Board of Supervisors unless the Board of Supervisors shall find that in addition to conformity with any applicable standards contained in Article IV Use and Design Standards, the proposed special exception shall conform to the following general standards. These standards shall be met either by the proposal as submitted and thereafter revised by the applicant, or by the proposal as modified or amended as part of the review of the application by the Commission or Board of Supervisors.

1. The proposal as submitted or modified shall generally conform to the latest comprehensive plan of Tazewell County.
2. The proposal as submitted or modified shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impacts shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In

considering impacts, consideration shall be given to the timing of the operation, site design, access, screening, and or other matters that might be regulated to mitigate adverse impacts.

Section 600-124.03 Application Requirements

(A) An application for a special exception permit may be initiated by:

1. Resolution of the Board of Supervisors;
2. Motion of the Planning Commission;
3. Petition of the owner, owner's agent, or contract purchaser with the owner's written approval.

(B) Applicants shall provide at the time of application, information and or data to demonstrate that the proposed use will be in harmony with the purposes of the specific zoning district in which it will be located. The applicant shall also have the responsibility to demonstrate that the proposed use will have minimum adverse impact on adjoining property and the surrounding neighborhood.

(C) All applications shall show the nature and extent of the proposed use and development. If phased development is envisioned, all phases shall be shown at the time of the original application.

(D) The administrator shall establish and maintain special exception permit application materials. At a minimum, these materials shall require the submittal of a concept plan. Concept plans shall be developed to standards established by the administrator.

Section 600-124.05 Review and Action

(A) County staff shall review all applications submitted. This review shall evaluate the proposal against the county's comprehensive plan and any specific or general standards for the use. The staff shall make a report of its findings and transmit the report to the Commission.

(B) The Planning Commission shall review and make recommendations to the Board of Supervisors concerning the approval or disapproval of any special exception permit. No such recommendation shall be made until after a public hearing is held in accordance with Section 15.2- 2204 of the Code of Virginia, as amended. Posting of the property announcing the public hearing shall be done in accordance with Section 600-120.05 of this ordinance.

The Planning Commission shall base its recommendation upon the review of submitted application materials, specific and general criteria contained in this ordinance, public comment received at the public hearing, and the information and evaluation of the county staff. In making a recommendation to the Board of Supervisors, the Planning Commission may recommend any conditions necessary to insure that the proposal is compatible with the surrounding neighborhood and community. However, any such conditions shall relate to the design, scale,

use or operation of the proposed special exception. Where, warranted, any such conditions may exceed specific standards found elsewhere in this ordinance.

(C) The Board of Supervisors may grant or deny any application for a special exception permit. No such action shall be taken until the Board of Supervisors receives the recommendation of the Planning Commission and a Board of Supervisors public hearing is held in accordance with Section 15.2- 2204 of the Code of Virginia, as amended.

In approving any special exception permit, the Board of Supervisors, may require and attach any conditions necessary to insure that the proposal is compatible with the surrounding neighborhood and community. However, any such conditions shall relate to the design, scale, use or operation of the proposed special exception. Where, warranted, any such conditions may exceed specific standards found elsewhere in this ordinance.

Section 600-124.07 Time Limitations

(A) The Commission shall make a recommendation and report its findings to the Board of Supervisors within 100 days from the date that the proposed special exception permit application is referred to the Planning Commission. Failure of the Planning Commission to report to the Board of Supervisors within 100 days shall be deemed a recommendation of approval, and the Board of Supervisors may act on the application without a recommendation from the Planning Commission.

Section 600-126 Non-Conforming Uses And Structures, Generally

(A) Within the zoning districts established by this ordinance, or by future amendments which may be adopted, or by legitimate and legal actions taken by the Board of Supervisors or other governmental agency, there exist lots, parcels, structures, uses of land and structures, and characteristics of site design and/or use which were lawful before this ordinance was adopted or amended, but which would be prohibited under the terms of this ordinance or future amendment. Such structures uses and characteristics, or any combination thereof, are considered nonconformities, and are hereby declared by the Board of Supervisors to be inconsistent with the character of the districts in which they occur.

(B) Nonconformities are permitted to remain until removed, discontinued, or changed to conform to the provisions of this ordinance. It is the intent of this ordinance that the continuance of nonconformities should not be indefinite, and that the nonconforming structures, uses, or characteristics, should gradually be removed.

(C) Nothing shall be construed to grant conforming status to uses or structures that existed as legal nonconforming uses prior to the adoption of this ordinance, or amendment thereto, unless such uses or structures now conform to all applicable provisions of this ordinance.

Section 600-126.01 Nonconformities; Relationship to Vested Rights

(A) Nothing in this ordinance shall impair any vested right. Pursuant to Section 15.2-2307 of the Code of Virginia, a landowner's rights shall be deemed vested and shall not be affected by the subsequent amendment of the zoning ordinance if all of the following occur:

1. The landowner obtains or is the beneficiary of a significant affirmative governmental act.
2. The landowner relies in good faith on a significant affirmative governmental act.
3. The landowner incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

Section 600-126.03 Nonconforming Uses of Buildings, Structures or Land

(A) Where at the effective date of this ordinance or amendments thereto, lawful use exists of buildings, structures, or land, individually or in combination, which use is no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued provided:

1. The use is not discontinued for more than two years.
2. The use is not converted or replaced, in whole or in part by a use permitted in the district regulations.
3. The building or structures containing the nonconforming use are maintained in their then structural condition.

If buildings or structures containing a nonconforming use are enlarged, extended, reconstructed, or structurally altered, or if a nonconforming use of land is enlarged, or expanded in area, the use of the building, structure or land shall legally conform to the regulations of the zoning district in which they are located.

(B) No nonconforming use shall be enlarged, intensified, or increased, nor intensified to occupy a larger structure or building, than was occupied at the effective date of this ordinance.

(C) No nonconforming use shall be moved in whole or in part to any portion of the lot or acreage unoccupied by such use at the time of the adoption or subsequent amendment of this ordinance.

(D) No building or structure conforming to the requirements of this ordinance shall be erected in connection with the nonconforming use of land.

(E) Where nonconforming use status applies to a building or structure, removal of the building or structure, or damage from any cause to an extent of more than fifty percent of replacement cost at the time of damage, shall eliminate the nonconforming status of the building or structure or land.

Section 600-126.05 Nonconforming Buildings and Structures

(A) Where a lawful building or structure exists at the time of the adoption or amendment of this ordinance, which could not be built under the terms of this ordinance, by reasons of

restrictions on area, bulk, lot coverage, height, yards, or other characteristics of the building or structure, or its location on a lot, such building may be continued so long as it remains otherwise lawful provided:

1. No building or structure shall be enlarged in any way which increases or extends its nonconformity.
2. Any building or structure which is damaged by any means to an extent of more than fifty percent of its replacement cost at the time of damage shall be reconstructed only in conformity with the provisions of this ordinance.
3. Any building or structure which is moved for any reason, for any distance, shall thereafter conform to the regulations of the district in which it is located after it is moved.

(B) Any landowner or homeowner may remove a valid nonconforming manufactured home from a manufactured home park and replace that home with another comparable manufactured home that meets the current HUD manufactured housing code.

(C) The owner of any valid nonconforming manufactured home, either single or multi-section not located in a manufactured home park may replace that home with a newer manufactured home, either single or multi-section, that meets the current HUD manufactured home code. Any such replacement home shall retain the valid nonconforming status of the prior home.

Section 600-126.07 Nonconforming Site Designs

(A) If a zoning permit is requested for any type of modification to an existing structure or site, no legal nonconforming site design planned, approved, and constructed prior to the adoption of this ordinance shall be required to comply in full with the provisions of this ordinance. Only those site improvements directly related to, or affected by the modified use, structure or activity, shall be required to comply in full with the provisions of this ordinance.

Section 600-128 Board Of Zoning Appeals

(A) The Tazewell County Board of Zoning Appeals shall consist of seven members, who shall be appointed by the Circuit Court. Composition and terms of office of the BZA shall be in accordance with Section 15.2-2308 of the Code of Virginia, as amended.

Section 600-128.01 Powers and Duties

(A) The BZA shall have the power and duty to hear and decide appeals from any written order, requirement, decision, or determination made by any administrative officer in the administration or enforcement of this ordinance. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended.

(B) The BZA shall have the power and duty to authorize upon appeal or original application in specific cases a 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 this ordinance will result in

unnecessary hardship. No such variance shall be granted unless the spirit of the ordinance shall be observed and substantial justice done. To legally grant a variance, the BZA must be presented evidence and make a finding that:

1. A property owner acquired the property in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the adoption of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the property, the strict application of this ordinance would effectively prohibit, or unreasonably restrict the use of the property, or;
2. Due to the condition, situation, or development of immediately adjacent property, the strict application of this ordinance would effectively prohibit, or unreasonably restrict the use of the property, or;
3. That the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

All variances granted must be in harmony with the intended spirit and purpose of this ordinance. Specifically, the BZA must find that the strict application of the ordinance would produce undue hardship. This hardship must not be shared by other properties in the same zoning district and in the same vicinity. The BZA must find that the granting of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. Finally, the BZA must not grant a variance unless it finds that the condition or situation of the property is not so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this ordinance.

No variance request shall be evaluated by the BZA until after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended. In addition, posting of the property shall be required as provided for in Section 600-120.05 of this ordinance.

In granting a variance, the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(C) The BZA shall have the power and duty to hear and decide appeals from any written decision of the administrator. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended.

(D) The BZA shall have the power and duty to hear and decide applications for interpretation of the official zoning map where the administrator believes there is uncertainty as to the location of a district boundary. No such determination shall be made except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended. Any

property owner affected by a determination of the location of the boundary must be notified by first class mail prior to any such determination. After notice and hearing the BZA may interpret the map in such a way to carry out the intent and purpose of this ordinance, however the BZA shall not have the power to change substantially the locations of the district boundaries as established by this ordinance. This authority of the BZA to determine the location of district boundaries shall not be construed as the power to rezone property.

Section 600-128.03 Applications for Variances

(A) Applications for variances may be made by any property owner, tenant, government official, department, or board or bureau of the county. All applications shall be submitted to the administrator in accordance with rules adopted by the BZA. All applications and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the BZA who shall place the application on the agenda to be acted upon by the BZA, within ninety (90) days of the filing of the application. No such application shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended. The administrator may, and at the direction of the Commission shall, transmit notice of the variance application to the Commission, which may send a recommendation to the BZA, or appear as a party at the hearing.

Section 600-128.05 Applications for Appeals

(A) Appeals to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the county 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. Appeals must be made within thirty (30) days after the entry of the decision appealed from by filing with the administrator and with the BZA, a notice of appeal, specifying the grounds thereof. The administrator shall forthwith transmit to the BZA all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrator certifies to the BZA that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed unless a restraining order is granted by the BZA, or by a court of record, on application and on notice to the administrator and for good cause shown.

Section 600-128.07 Procedures for Variances and Appeals

(A) The BZA shall fix a reasonable time for the hearing of an appeal, give public notice thereof, as well as due notice to all parties of interest, and decide the same within ninety (90) days of the filing of the appeal. In exercising its power, the BZA may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination appealed from.

(B) The concurring vote of the majority of the BZA shall be necessary to reverse any order, decision, requirement, or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which the BZA is required to pass under the terms of this ordinance, or to effect any variance from this ordinance.

(C) The BZA shall keep minutes of its proceedings and other official actions which shall be filed in the office of the administrator. All records shall be public records. The chairman of the

BZA, or in his absence, the acting chairman, may administer oaths, and compel the attendance of witnesses.

Section 600-128.09 Certiorari to Review Decision of BZA

(A) Any person jointly or separately aggrieved by any decision of the BZA, or any taxpayer or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved. This petition must be filed within thirty (30) days of the BZA's decision.

(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BZA and on due cause shown, grant a restraining order.

(C) The BZA shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds appealed from and shall be verified.

(D) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

(E) Costs shall not be allowed against the BZA, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BZA is affirmed, and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.