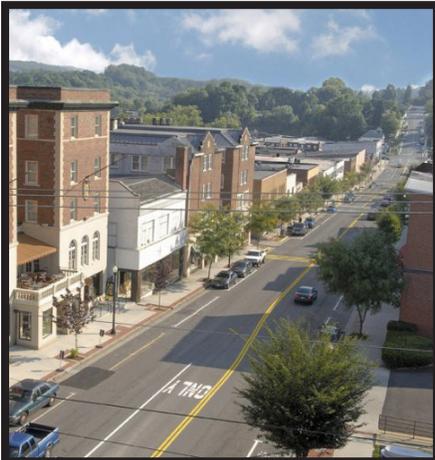
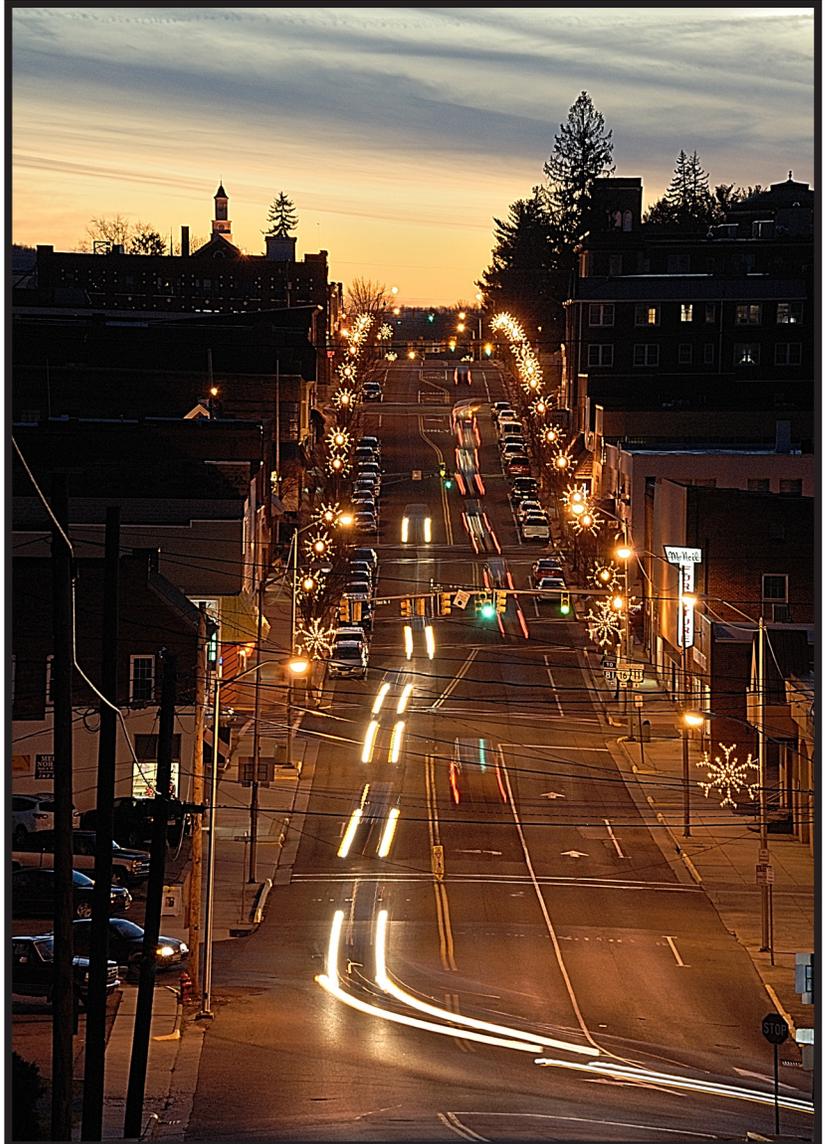




# Town of Marion

## Zoning Ordinance



**Adopted: March 2, 2015**

### Town Council

Mayor - David P. Helms • Vice Mayor - Dr. James L. Gates  
Larry Carter • Suzanne Jennings • Jim Barker • Bill Weaver • Tricia Spencer • Jim Owens

# ZONING ORDINANCE OF THE TOWN OF MARION, VIRGINIA

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Amended:	Oct. 7, 2004	Amended:	March 2, 2015

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## Certification of Adoption

I certify that the following has been duly adopted to the requirements of the Virginia Code:

<b>W.W. Scott, Jr., Mayor</b>	<b>July 19, 1982</b>
<b>Marshall E. Guy, Mayor</b>	<b>December 7, 1992</b>
<b>David P. Helms, Mayor</b>	<b>October 7, 2004</b>
<b>David P. Helms, Mayor</b>	<b>March 2, 2015</b>

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## OVERALL PURPOSE AND INTENT

This ordinance shall serve the broad public purpose of promoting the health, safety and general welfare of the Inhabitants of the Town of Marion, Virginia. To these ends, this ordinance is designed to guide and encourage the orderly, safe, and efficient physical growth and development of the town through regulations concerned with the uses of land and the uses and location of buildings and structures situated or to be situated thereon.

Further and in accordance with the provisions of Section 15.2-2280 through Section 15.2-2327 of the Code of Virginia 1950, as amended, this ordinance together with the Official Zoning Map, shall act to establish districts throughout the Town and there within regulate the following:

- a) The use of land, buildings, structures and other premises for business, industrial, residential, flood plain and other specific uses;
- b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures.
- c) The areas and dimensions of land, water, and all spaces to be occupied by buildings, structures and uses, and of courts, yards and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots bases on whether a public or community water supply or sewer system is available and used; and
- d) The excavation or mining of soil and other natural resources.

More specifically, for the purpose of promoting the health, safety and general welfare of the public, this ordinance is designed, a) to provide for adequate light, air, convenience of access and safety from fire, flood, and other dangers; b) to reduce or prevent congestion in the public streets; c) to facilitate the creation of a convenient, attractive, and harmonious community; d) To expedite the provisions of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewage, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; e) to protect against destruction and encroachment upon historic areas; and f) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers.

A **Zoning Permit** is required when the applicant is seeking to build, reconstruct, enlarge or alter a structure.

A **Rezoning** request by the applicant is submitted when there is a change of use of the property. Rezoning includes review by the Planning Commission and a recommendation from the Commission to the Town Council. The Town Council schedules a joint public hearing with the Planning Commission to consider the rezoning request.

A **Special Use Permit** is issued by the Town Council for varied use in a certain zone. It also requires a public hearing.

A **Variance Request** is considered and determined by the Board of Zoning Appeals. It also requires a public hearing.

**ARTICLE 1  
ADMINISTRATION**

**1.1 Administration**

This ordinance shall be enforced by the Administrator, who may be any appointed or elected official who is by formal resolution designated to the position by the Town Council. The Administrator may serve with or without compensation as determined by the Town Council.

Before a zoning permit shall be issued or construction commenced on any permitted or special use in a district, a set of plans, in sufficient detail to show the operations and processes of the proposed use, shall be submitted to the Zoning Administrator for review. The Administrator may refer these plans to the Planning Commission for their recommendation. Modification of the plans may be required.

**1.2 Planning Commission**

a) The Planning Commission shall consist of seven members, appointed by the town council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. The town council may require each member of the planning commission to take an oath of office.

b) One member of the planning commission may be a member of the town council, and one member may be a member of the administrative branch of government of the town. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the town council, at the first regular meeting of each year, appoints others to serve as their representatives. The remaining members of the commission shall serve for staggered terms of four years, divided equally or as nearly equal as possible between the membership. The town council may establish different terms of office for subsequent appointments, including terms of office that are concurrent with those of the council. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in the office.

**1.3 Appeals**

All questions arising in connection with the administration of this ordinance shall be presented first to the Administrator or other duly constituted authority, as the case may be, and such question shall be presented to the Board of Zoning Appeals only on appeal from the Administrator or other duly constituted authority and from the decision of the Board of Zoning Appeals recourses may then be had to the courts, as provided by law. The duties of the Council in connection with this ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the endorsement thereof, but the procedure for determining such questions shall be as hereinbefore set out in this section; and the duties of the Council in connection with this ordinance shall be only the duty of considering and passing upon any proposed amendment or appeal or this title, as provided by law.

**1.4 The Board of Zoning Appeals**

**1.4-01** This board consisting of five (5) members shall be appointed by the Circuit Court of Smyth County, Virginia. The board shall serve without pay other than the traveling

expenses. Appointments for vacancies occurring otherwise than by expiration of term shall, in all cases, be for the un-expired term.

**1.4-02 The term of office shall be for five (5) years, except that one term expire each year for the first five (5) members appointed. One (1) of the five (5) appointed members shall be an active member of the Planning Commission. The Administrator shall serve as secretary to the board without vote. (State Code Section 15.2-2308)**

**1.4-03** Members shall be removed for cause by the Circuit Court of Smyth County upon written charges and after a public hearing.

**1.4-04** Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

**1.4-05** The board shall choose annually its own chairman and in his absence, an acting chairman.

**1.4-06** The Administrator shall serve as Secretary of the Board, prepare minutes of meetings, keep all records and conduct official correspondence.

**1.4-07** In the absence of the Administrator at any meeting, the Board shall appoint some other person, who may or may not be a member of the Board, to prepare the minutes thereof.

## **1.5 Rules and Regulations**

The Board of Zoning Appeals shall adopt such rules and regulation as it may consider necessary.

**1.5-01** The meetings of the Board shall be held at the call of its chairman and at such times as the Board may determine.

**1.5-02** The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

**1.5-03** All meetings of the board shall be open to the public.

**1.5-04** The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or falling to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Town Manager's office and shall be a public record.

**1.5-05** A quorum shall be a majority of the quorum of the members present.

**1.5-06** A majority vote of the quorum of the members present of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

## **1.6 Appeals to the Board of Zoning Appeals**

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction acting under this ordinance. Such appeal

shall be made within fifteen (15) days after the entry of the decision appealed from, by filing with the official or board concerned and with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof; and, by paying the advertising fee to the Town of Marion, seventy-five (\$75.00) dollars, at the time of filing the notice of appeal. The official concerned shall immediately transmit to the Board all the paper constituting the record upon which the action appealed from was taken.

### **1.7 Public Hearings**

The Board of Zoning Appeals shall fix a reasonable time for the appeal (State Code of Virginia, Section 15.2-2312), and give public notice thereof by publication in a newspaper of general circulation in the jurisdiction. Such notice shall appear once a week for two (2) weeks successive weeks, meaning not less than six (6) days nor more than twenty-one (21) days after the second advertisement appears in the newspaper (State Code of Virginia, Section 15.2-2204). The advertisement shall contain a reference to the place or places within the town where copies of the proposed plans, ordinances or amendments may be examined. Due notice shall be given according to State Code of Virginia, Section 15.2-2204. At the hearing any person may appear in person, by agent or by attorney.

### **1.8 Board of Zoning Appeals shall have the Following Powers**

To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance. Variances in the regulations may be granted when a property owner:

- 1.8-01** Can show that his property was acquired in good faith and where by reason of the exceptional topographical features, narrowness, shallowness, or shape of a specific piece of property he is entitled to a variance.
- 1.8-02** Can show that the strict application of the terms of the ordinance would actually prohibit or unreasonably restrict the use of the property.
- 1.8-03** Can satisfy the Board, upon the evidence heard by it that the granting of such variation will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the owner. All adjustments granted shall be in harmony with the intended spirit and purpose of this Article and the ordinance.
- 1.8-04** Reverse or affirm wholly or partly, or modify the order, requirement, decision or determination appealed from or
- 1.8-05** Make such order, requirement, decision or determination as ought to be made.

#### **Appeal may be made by:**

- 1.8-06** Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals or
- 1.8-07** Any taxpayer, officer, department, board or bureau of the jurisdiction. They may present to the appropriate court a petition duly verified, and specifying the grounds on which he or they are aggrieved. If the position is presented by the governing body, the governing body shall be a party to the suit. The court may, likewise, admit as a part to the suit, any person, who, if the decision had been adverse, would have been authorized under this

article to present a petition in the first instance. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the Board.

### **1.9 Violation and Penalty**

All departments, officials and public employees of this jurisdiction that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

Any person, firm or corporation whether as principal, agent, employed or otherwise violating, causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to two hundred and fifty (\$250.00) dollars. Such person, firm or corporation shall be deemed to be guilty of a separate offense of each and every day during which any portion of any violation of this ordinance is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

### **1.10 Amendments**

The Council may from time to time on its own motion or petitions, after public notice and hearing, amend, supplement, or change the regulations and districts established by this ordinance. Every proposed amendment, supplement or change shall be referred by the Council to the Planning Commission for report before the public hearing provided for herein.

The application to amend, supplement, or change the regulations and districts classification shall be made by the property owner or designated agent, and with exhibits as may be required by the Council. Advertising cost of seventy-five (\$75.00) dollars shall be paid by the property owner or his agent prior to publication of Notice of Public Hearing. Notice of the Public Hearing shall be in accordance with Section 15.2-2204, of the Code of Virginia, 1950 as amended.

**ARTICLE 2**  
**ESTABLISHMENTS OF DISTRICTS – PROVISIONS OF OFFICIAL ZONING MAP**

**2.1 Establishments of Districts**

For the purpose of this ordinance, the Incorporated areas of the Town of Marion, Virginia, are hereby divided into the following districts.

Residential Single Family	R-1
Residential Single Family	R-2
Res. Single Family “Combining District”	R2-MH
Residential Multi-Family	R-3
Residential Manufactured Home	R-4
Commercial Limited	C-L
Commercial General	C-G
Commercial Downtown	C-D
Industrial General	I-G
Medical Arts	M-A
Flood Plain	F-P
Cell Tower	C-T
Historic District	See Article 20 Definitions

**2.2 Provisions of Official Zoning Map**

**2.2-01** Incorporation of Maps: The boundaries and locations of each of these districts are hereby established as shown on the map entitled “Official Zoning Map of the Town of Marion, Virginia.” The Zoning Map and all notations, amendments, and other information thereon are hereby made a part of this ordinance, the same as if such information set forth on the map were all fully described and set out herein.

**2.2-02** Identification or Alteration of the Official Zoning Map: The Official Zoning Map shall be identified by the town seal and the signature of the Mayor under the following words: “This is to certify that this map is the Official Zoning Map of the Town of Marion,” together with the adoption date of this ordinance.

All changes made in district boundaries or other matters shown on the Official Zoning map must be in accordance with the provisions of this ordinance and the Code of Virginia 1950, as amended, and shall be entered on the official zoning map promptly after the amendment has been approved by the Town Council. No amendment to this ordinance that involves a change on the Official Zoning Map shall become effective until such change has been recorded on the map. A brief statement shall be included describing the nature of the change.

No changes of any kind shall be made on the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change shall be considered a violation of this ordinance and punishable as a misdemeanor.

The Official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of areas within the corporate limits, regardless of other purported copies of the Official Zoning Map that may be in existence.

### **ARTICLE 3 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map, the following rules apply.

- 3.1-01** Boundaries indicated as approximately following the center lines of streets, roads, or alleys shall be interpreted as following such center lines.
- 3.1-02** Boundaries indicated as approximately following platted lot lines shall be interpreted as such lot lines.
- 3.1-03** Boundaries indicated as approximately following corporate limits shall be interpreted as following such corporate limits.
- 3.1-04** Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the tracks.
- 3.1-05** Boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be interpreted as following such center lines, and in the event of a change in the course of a body of water, shall be interpreted as moving with the actual center line.
- 3.1-06** Boundaries indicated as parallel to or extension of features indicated above shall be so interpreted. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 3.1-07** Where natural or man-made features actually existing differ with those shown on the Official Zoning Map, the Planning Commission shall determine the district boundary.
- 3.1-08** Where a district boundary line divides a lot that was in single ownership at the time of passage of this ordinance, the Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.
- 3.1-09** Uses not specifically named but compatible with other permitted uses and the requirements of this ordinance may be permitted after review by the Zoning Administrator or the Planning Commission.

**ARTICLE 4**  
**APPLICATION OF DISTRICT REGULATIONS**

**4.1 Zoning Affects All Buildings, Structures, Land and Uses**

No building, structure, or land shall hereafter be used or occupied, and no building, or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered in any way unless in conformity with all the regulations specified in this zoning ordinance for the district in which it is located.

**4.2 Zoning Permits**

**4.2-01** Buildings or structures shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the Administrator.

**4.2-02** The Planning Commission may request a review of the zoning permit approved by the Administrator in order to determine if the proposed use is in accordance with the regulations for the district in which the construction is located.

**4.2-03** Each application for a zoning permit shall be accompanied by a drawing that describes the property in detail with the tax map number included. The drawing shall show the size and shape of the lot on which the proposed use of the building or land, and the location of such building or use with respect to the property lines of the lot and to the right-of-way of any street or highway adjoining the lot. Any other information that the administrator may deem necessary for consideration of the application may be required. If the use of the proposed building is in conformity with the provisions of this ordinance a permit shall be issued to the applicant by the Administrator.

**4.3 Certificate of Occupancy**

Land may be used or occupied, and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the County Building Inspector. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit.

**4.4 Relationship of Building to Lot**

Every building hereafter constructed or moved shall be located on a lot, and in no case shall there be more than one principal residential building and its accessory buildings on a lot except as otherwise provided in this ordinance.

**4.5 Residence Location**

No building to be used as a residence shall be constructed on any lot unless such lot abuts on a street at least thirty (30) feet of width or unless there is a perpetual unobstructed easement or access to such a street.

#### **4.6 Existing Lots of Insufficient Size**

**4.6-01** In any district in which single-family dwellings are permitted, a single-family dwelling and incidental accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and/or width that are generally applicable in the district, provided that yard dimensions of the lot shall conform to the regulations for the district in which the lot is located.

**4.6-02** If two or more lots or combinations of lots with continuous frontage in a single ownership are of record at the time of the passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area, the lands involved shall be considered an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements of this ordinance.

#### **4.7 Integrity of Required Open Space**

**4.7-01** No part of a yard or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with the ordinance shall be included as part of the area or space similarly required for any other building.

**4.7-02** No yard or lot existing at the time of passage of this ordinance shall be reduced in size below the minimum area required by this ordinance. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein.

#### **4.8 Structures Permitted Above The Height Line**

The height limitations contained herein shall not apply to spires, belfries, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

#### **4.9 Fences and Obstructions to Vision**

**4.9-01** On any corner lot in a residential district, there shall be no building, fence, planting, or obstruction to vision more than three (3) feet higher than curb level with the area formed by a straight line connecting two points, one in each street line, fifty (50) feet distance from the intersection of the two street lines. Shrubbery or other planting within this area shall be kept trimmed to keep this requirement.

**4.9-02** In any Residential District, no fence or wall more than three and one-half (3 ½) feet high may be erected between the setback building line and the street on which the lot faces. No fence or wall more than eight (8) feet high may be erected within any Residential District. Fences for recreational purposes (swimming pools, tennis courts, etc.) are exempt.

#### **4.10 Widening of Highways and Streets**

Whenever there shall be plans (**6 year plan**) in existence, approved by either the State Department of Highways or by the governing body, for the widening of any street or highway within the town, the Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way for such proposed street or highway widening.

#### **4.11 Uses Not Provided For**

If, in any district established under this ordinance, a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission that shall make its recommendation within thirty (30) days to the Town Council.

#### **4.12 Validation**

Should any article, clause, section, subsection or provision of this zoning ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall affect only that part of the ordinance declared to be invalid or unconstitutional.

#### **4.13 Fees**

All fees connected with the administration of this ordinance will be established by the Town Council in the annual budget of the Town of Marion.

## **ARTICLE 5 NON-CONFORMING USES**

### **5.1 Applicability**

The provisions of this article apply to all uses that are not permitted within the districts in which they are located.

### **5.2 Continuation**

**5.2-01** Any non-conforming use that existed lawfully at the time of enactment of this ordinance, or any use that shall become non-conforming upon enactment of this ordinance and subsequent amendments may be continued subject to the provisions of this article.

**5.2-02** If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

**5.2-03** If any non-conforming use, structure, or activity is discontinued for a period exceeding one (1) year, after the enactment of this ordinance, such use shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

**5.2-04** Temporary seasonal non-conforming uses that have been in continual (**seasonal**) operation for a period of at least two (2) years prior to the effective date of this ordinance shall be permitted.

**5.2-05** The construction or use of a non-conforming building or land area for which a permit was legally issued prior to the effective date of this ordinance may proceed, provided such building is completed within one (1) year, or such land use established within thirty (30) days after the effective date of this ordinance.

**5.2-06** Whenever the boundaries of a district are changed, any use of land or buildings that become non-conforming as a result of such change shall become subject to the provisions of this ordinance.

### **5.3 Restoration or Replacement**

**5.3-01** If a nonconforming structure or activity is destroyed or damaged in any manner to an extent not exceeding fifty (50) percent of its replacement value (as determined by the building inspector and zoning administrator), it may be repaired or rebuilt and as used before, provided such construction or repair is started within one year and completed within eighteen (18) months from the date of the partial destruction.

**5.3-02** If a nonconforming residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged

greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

**5.3-03** Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home. However it must comply with 5.3-06 herein below.

- 5.3-04** An owner occupied residential structure located within any zoning district may be rebuilt regardless of the extent of destruction, provided the yards or open spaces around such structure are not reduced below those existing before the destruction without a variance required from the Board of Zoning Appeals.
- 5.3-05** The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to nonconforming use.
- 5.3-06** A landowner or homeowner may remove a valid nonconforming manufactured home from a mobile or manufactured home park and replace that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace the existing mobile or manufactured home with a manufactured home seven (7) years old or newer from the present date, either single or multi-section, that meets the current HUD manufactured housing code. From the date of removal of the mobile or manufactured home for replacement, the owner shall have forty five (45) days to obtain a certificate of occupancy from the building inspection official for the replacement of the newer mobile or manufactured home. If the owner fails to obtain a certificate of occupancy from the building inspection official within the forty five (45) day period, the non-conforming use is no longer permitted. Any such replacement home shall retain the valid nonconforming status of the prior home.

#### **5.4 Expansion or Enlargement**

- 5.4-04** A nonconforming structure to be expanded or enlarged shall conform with the provisions of this article.
- 5.4-05** A nonconforming activity may be extended throughout any part of a structure that was arranged and designed for such activity at the time of enactment of this ordinance.
- 5.4-06** A building containing a nonconforming use shall not be enlarged, extended, reconstructed or moved, except in changing the use of the building to a permitted use.
- 5.4-07** Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used when the requirements of setback, side and rear yards are met without a variance required from the Board of Zoning Appeals.
- 5.4-08** The nonconforming use of land, not involving a building or structure, shall not be expanded beyond the area it occupied on the effective date of this ordinance.

**ARTICLE 6**  
**RESIDENTIAL SINGLE FAMILY (OR R-1) DISTRICT REGULATIONS**

**6.1 Statement of Intent**

This district is composed of certain quiet low density; single-family residential areas plus certain open areas where similar development would be appropriate in accordance with a comprehensive and well considered plan. These regulations are designed to stabilize and protect essential characteristics of the district; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial nature.

Within a R-1 residential district, buildings or structures may be erected, constructed, reconstructed, moved or structurally altered only in compliance with the regulations hereinafter set forth, including the Current edition of the Virginia Construction Code.

**6.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**6.3 Accessory Uses and Structures**

See Appendix A

**6.4 Uses and Structures Permitted By Special Use Permit**

See Appendix A

**6.5 Area Regulations**

**6.5-01** For residential lots containing or intended to contain a single-family dwelling and whence public water and sewer service is available, the minimum lot area in this district shall be 14,000 square feet.

**6.5-02** For residential lots containing or intended to contain a single-family dwelling and where either public water and/or sewer service is not available, the minimum lot area shall be determined through consultation between the zoning administrator and the local health offices. (Reference: Subdivision ordinance of the Town of Marion, Section 11.9-1)

**6.5-03** No requirement for other permitted uses, however, all uses shall conform to all other provisions of these regulations.

**6.6 Building Setback Regulations**

Within the R-1 district, structures of principal permitted uses, structures of permitted accessory uses and all structures and uses allowed under a special use permit shall conform to the following setback regulations.

**6.6-01** No structure of a principal use shall be located less than twenty-five (25) feet from any street right-of-way which is fifty (50) feet or greater in width, or less than fifty (50) feet from the centerline or any street right-of-way which is less than fifty (50) feet in width.

**6.6-02** No structure of a permitted accessory use shall be permitted to locate except in rear yards only. However, garages or other accessory structures attached to the main structure of the principal use shall be permitted up to the established setback line described under this article.

**6.6-03** Setbacks for uses or structures permitted under a Special Use Permit shall conform wherever possible with the established setback for permitted principal uses and structures.

**6.6-04** No house of any type, however, shall be required to set back from a street right-of-way a distance greater than the setback line observed by the two existing houses located on the immediately adjoining lots on either side which is further removed from the street right-of-way, or if only one of such lots is occupied, the setback line is observed by such existing structure.

**6.6-05** The setback line (which is measured along the front of a lot) for corner lots shall be the shortest of the two sided adjoining a street right-of-way consistent with the neighborhood.

## **6.7 Lot Frontage Required**

The minimum required lot frontage for all lots containing or intended to contain any permitted or special uses shall be ninety (90) feet measured at the setback line.

## **6.8 Yard Requirements**

**6.8-01** Side yard requirements – the minimum side yard for any permitted principal use, or special use in this district shall be ten (10) feet measured at the setback line and the total width of the two required side yards shall be a minimum of twenty-five (25) percent of the lot width at the setback line. The side yard on the side facing the street of a corner lot shall conform with 6.6-01. Accessory buildings or structures shall not be located closer than five feet to any side property lines.

**6.8-02** Rear yard requirements – the minimum rear yard for any permitted principal use, or special use in this district shall be twenty-five (25) feet. Any accessory building or structure shall be located no closer than five (5) feet to the rear of the property line.

## **6.9 Building and Structure Height Regulations**

Buildings and structures located in this district may be erected up to thirty-five (35) feet or two (2) stories in height in grade, except that:

**6.9-01** The height limit for dwellings may be increased up to forty-five (45) feet from grade, or to a maximum of three stories provided the required side and rear yards are increased by one foot for each foot of building height over thirty-five (35) feet.

**6.9-02** A church may be erected to a height of sixty (60) feet from grade provided that the required front, side and rear yards shall be increased one foot for each foot in building height over thirty-five (35) feet.

**6.9-03** Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. **See Cell Tower Ordinance, Article 19.**

**6.9-04** All accessory buildings or structures shall be less than the main building in height.

**6.10 Off-Street Parking Requirements**

Reference Article 16

**6.11 Sign Regulations**

Reference Article 17

**ARTICLE 7**  
**RESIDENTIAL SINGLE FAMILY (OR R-2) DISTRICT REGULATIONS**

**7.1 Statement of Intent**

The district is composed of certain medium concentrations of residential areas plus certain open areas where similar development would be appropriate in accordance with a comprehensive and well considered plan. These regulations are designed to stabilize and protect the essential characteristics of the district and to promote and encourage insofar as compatible with the intensity of land use, a suitable environment for single family residential units and family life.

Within a R-2 residential district, buildings or structures may be erected, constructed, reconstructed, moved, or structurally altered only in compliance with the regulations hereinafter set forth, including the Current edition of the Virginia Construction Code.

**7.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**7.3 Accessory Uses and Structures Permitted**

See Appendix A

**7.4 Uses and Structures Permitted by Special Use Permit**

See Appendix A

**7.5 Area Regulations**

**7.5-01** For residential lots containing or intending to contain a single-family dwelling/R2 and where public water and sewer service is available, the minimum lot area in this district shall be 7,500 square feet.

**7.5-02** For residential lots containing or intended to contain a single family dwelling/R2 and where public water and/or sewer service is not available, the minimum lot area shall be determined through consultation between the zoning administrator and the local health offices. (Reference: subdivision ordinance of the Town of Marion, Section 11.9-1)

**7.5-03** No requirement for other permitted uses, however, all uses shall conform to all other provisions of these regulations.

**7.6 Building Setback Regulations**

Within the R-2 district, structures of principal permitted uses, structure, of permitted accessory uses and all structures and uses allowed under a special use permit shall conform to the following setback regulations.

**7.6-01** No structure of a principal use shall be located less than twenty-five (25) feet from any street right-of-way which is fifty (50) feet or greater in width, or less than fifty (50) feet from the center line of any street right-of-way which is less than fifty (50) feet in width.

**7.6-02** No structure of a permitted accessory use shall be permitted to locate except in rear yards only. However, garages or other accessory structures attached to the main structure of the principal use shall be permitted up to the established setback line described under this article, Section 7.6-01 of the area of rear yard.

**7.6-03** Setbacks for uses or structures permitted under a Special Use Permit shall conform with the established setback for permitted principal uses and structures.

**7.6-04** No house of any type, however, shall be required to set back from a street right-of-way a distance greater than the setback line observed by the two existing structures located on the immediately adjoining lots on either side which is further removed from the street right-of-way, or if only one of such lots is occupied, the setback line observed by such existing structure.

**7.6-05** The setback line for corner lots shall be the shortest of the two sides adjoining a street right-of-way consistent with the neighborhood.

## **7.7 Lot Frontage Required**

The minimum required lot frontage for all lots containing or intended to contain any permitted or special uses shall be seventy-five (75) feet measured at the setback line.

## **7.8 Yard Requirements**

**7.8-01** Side yard requirements – the minimum side yard for any permitted principal use, or special use in this district shall be ten (10) feet and the total width of the two required side yards shall be a minimum of twenty-five (25) feet of the lot width at the setback line. The side yard on the side facing the street of a corner lot shall conform with 7.6-01. Accessory buildings or structures shall not be located closer than five feet to the rear of the property line.

**7.8-02** Rear yard requirements – the minimum rear yard for any permitted principal use, or special use in this district shall be twenty-five (25) feet. An accessory building or structure shall be located no closer than five feet to the rear of the property line.

## **7.9 Building and Structure Height Regulations**

Buildings and structures located in this district may be erected up to thirty-five (35) feet or two stories in height from grade, except that:

**7.9-01** The height limit for dwellings may be increased up to forty-five (45) feet from grade, or to a maximum of three stories provided the required side and rear yards are increased by one foot for each foot of building height over thirty-five (35) feet.

**7.9-02** A public or semi-public such as school, church, or library may be erected to a height of sixty (60) feet from grade provided that the required front side and rear yards shall be increased one foot for each foot in building height over thirty-five (35) feet.

**7.9-03** Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. **See Cell Tower Ordinance, Article 19.**

**7.9-04** All accessory buildings or structures shall be less than the main building in height.

**7.10 Off-Street Parking Requirements**

Reference Article 16

**7.11 Sign Regulations**

Reference Article 17

**ARTICLE 7A**  
**RESIDENTIAL SINGLE FAMILY “COMBINING DISTRICT”**  
**MANUFACTURED HOME(R2-MH) DISTRICT REGULATIONS**

**7A.1 Statement of Intent**

This district is composed of certain medium concentrations of residential areas plus certain open areas where similar development would be appropriate in accordance with a comprehensive and well considered plan. These regulations are designed to stabilize and protect the essential characteristics of the district and to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for single family residential units and family life.

Within R2-MH residential district, buildings and structures may be site built or may be manufactured units in compliance with the regulations hereinafter set forth.

Within R2-MH residential district, buildings or structures may be erected, constructed, reconstructed, moved or structurally altered only in compliance with the regulations hereinafter set forth.

**7A.2 Principal Uses and Structures Permitted by Right-See Appendix A**

**7A.3 Accessory Uses and Structures Permitted-See Appendix A**

**7A.4 Uses and Structures Permitted by Special Use Permit-See Appendix A**

**7A.5 Area Regulations-Same as Article 7.5**

**7A.6 Building Setback Regulations-Same as Article 7.6**

**7A.7 Lot Frontage Required-Same as Article 7.7**

**7A.8 Yard Requirements-Same as Article 7.8**

**7A.9 Building and Structure Regulations**

- a) Site built homes shall be constructed in compliance with the current edition of the Virginia Construction Code.
- b) Manufactured Unit shall be doublewide Manufactured home constructed after July 1, 1976 that meets or exceeds the Manufactured Home Construction and Safety Standards promulgated by the U.S. Department of Housing and Urban Development.
- c) The roof of the Manufactured home shall be constructed of conventional type roofing for site built homes such as fiberglass shingles, asphalt shingles, metal roof or wood shakes and have a minimum “A” pitched roof of 2.5 inches in 12 inches.
- d) Manufactured homes shall have a minimum width of 23 feet and 1100 square feet of living floor space.
- e) Manufactured homes shall be mounted on a permanent masonry foundation with axles and tow assembly removed.
- f) Manufactured homes shall have all of the under structure concealed by continuous skirting of the exact same material as the exterior siding on the structure, or be of masonry.
- g) Exterior siding shall be comparable to that of a conventional type homes.
- h) Buildings and structures located in this district may be erected up to 35 feet or two stories in height from grade.

- 7A.9-01** Same as Article 7.9-01
- 7A.9-02** Same as Article 7.9-02
- 7A.9-03** Same as Article 7.9-03
- 7A.9-04** Same as Article 7.9-04

**7A.9-05 Site Inspections**

The Zoning Administrator shall inspect the site and surrounding area to ensure compatibility of manufactured home in relation to surrounding area.

**7A.10 Off-Street Parking Requirements-Reference Article 16**

**7A.11 Sign Regulations-Reference Article 17**

Adopted December 7, 1992

**ARTICLE 8**  
**RESIDENTIAL MULTI-FAMILY (OR R-3) DISTRICT REGULATIONS**

**8.1 Statement of Intent**

This district is composed of certain higher concentrations of residential uses or areas where such development would be appropriate in accordance with a comprehensive and well considered plan. These regulations are intended to provide a broadened range of available housing choices within the context of protecting and promoting a suitable environment for family life. These regulations are further intended to prohibit activities that would serve to diminish the residential characteristics of the district but to allow those commercial uses that would protect, serve and augment residential needs.

In addition, provisions are established for apartment districts with the purpose and intent of providing for and regulating the bulk and spacing of apartment building developments in relation to the land, to adjoining properties and to one another.

Within an R-3 residential district, buildings or structures may be erected, constructed, reconstructed, moved, or structurally altered only in compliance with the regulations hereinafter set forth, including the Current edition of the Virginia Construction Code.

**8.2 Principle Uses and Structures Permitted by Right**

See Appendix A

**8.3 Accessory Uses and Structures Permitted**

See Appendix A

**8.4 Uses and Structures Permitted by Special Use Permit**

See Appendix A

**8.5 Area Regulations**

**8.5-01** For residential lots containing or intended to contain a single family dwelling and whence public water and sewer service is available, the minimum lot area in this district shall be ten thousand (10,000) square feet.

**8.5-02** For residential lots containing or intended to contain a single family dwelling and where either public water and/or sewer service is not available, the minimum lot area shall be determined through consultation between the zoning administrator and the local health offices. (Reference: subdivision ordinance of the Town of Marion, Section 11.9-1)

**8.5-03** For lots containing or intended to contain multi-family units the lot area should be based on the following:

First Dwelling Unit	Second Dwelling Unit
7,500 sq. ft.	2,000 sq. ft.
Additional Dwellings	
2,000 sq. ft.	

**8.5-04** Special regulations pertaining to townhouses and/or row houses are contained in this article. See 8.10

**8.5-05** All uses shall conform to all other applicable provisions of these regulations.

## **8.6 Building Setback Regulations**

Within the multi-family (MF) district, structures of principal permitted uses, structures of permitted accessory uses shall conform to the following setback regulations: (see also 8.5-03)

**8.6-01** No structure of a principal use shall be located less than twenty-five (25) feet from any street right-of-way which is fifty (50) feet or greater in width, or less than forty (40) feet from the center line of any street right-of-way less than fifty (50) feet in width.

**8.6-02** No structure of a permitted accessory use shall be permitted to locate except in rear yards only. However, garages or other accessory structures attached to the main structure of the principal use shall be permitted up to the established setback line described under this article.

**8.6-03** Setbacks for uses or structures permitted under a Special Use Permit shall conform with the established setback for permitted principal uses and structures.

**8.6-04** No structure of any type, however, shall be required to set back from a street right-of-way a distance greater than the setback line observed by two existing structures located on the immediately adjoining lots on either side which is further removed from the street right-of-way, or if only one of such lots is occupied, the setback line observed by such existing structure.

**8.6-05** The setback line for corner lots shall be measured on the shortest of the two sides adjoining a street right-of-way.

## **8.7 Lot Frontage Required**

**8.7-01** The minimum required lot frontage for all lots containing or intended to contain any permitted or special uses shall be twenty (20) feet measured at the setback line.

**8.7-02** Corner lots shall be required to have a minimum lot frontage measured at the setback line of the twenty-five (25) feet.

## **8.8 Yard Requirements**

### **8.8-01 Side Yard Requirements**

There shall be a side yard along each side of each building and the sum of the widths of the two side yards shall not be less than twenty-five (25) percent of the width of the lot. The least width of any such side yard shall be ten (10) percent of the width of the lot, provided that no such side yard shall be less than ten (10) feet in width.

Minimum side yards for multi-story buildings. Same as one or two stories except that four (4) additional feet shall be added to each of the side yards so determined for each full story of building height in excess of two stories.

Minimum side yards for townhouses and row houses and multi-family dwellings in group housing projects. The end buildings in a townhouse building shall have a side yard of at least fifteen (15) feet in width.

#### **8.8-02 Rear Yard Requirements**

The minimum rear yard for any permitted principal use, or special use in this district shall be twenty-five (25) feet. An accessory building or structure shall be located no closer than five (5) feet to the rear of the property line.

### **8.9 Building and Structure Height Regulations**

**8.9-01** Buildings and structures located in this district may be erected up to fifty-five (55) feet or to a maximum of four stories, provided that required side and rear yards are increased by one foot for each foot of the building over forty-five (45) feet.

**8.9-02** A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade provided that the required front, side and rear yards shall be increased one foot for each foot in building height over thirty-five (35) feet.

**8.9-03** Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt.

**8.9-04** All accessory buildings or structures shall be less than the main building in height.

### **8.10 Special Regulations Pertaining to Townhouses and/or Row houses**

For purposes of this article, a townhouse project shall be defined as a land development project consisting of at least one (1) townhouse structure as defined in 8.10-01 and all open space and amenities thereon, if any.

**8.10-01** A townhouse structure shall be defined as a main structure consisting of at least three (3) horizontally attached single family dwelling units for the purpose of occupancy and for ownership, designed and constructed so as to allow for the sale of individual dwellings, including the lot and appurtenances thereon.

**8.10-02** A townhouse unit shall be defined as an individual attached single-family residence within a townhouse structure as defined in Section 8.10-01.

**8.10-03** A townhouse structure shall consist of no more than eight (8) townhouse units.

**8.10-04** Individual property lines shall run from the street through the center of the common party wall(s) if attached interior unit(s) and continue to the rear lot line. The lots, utilities, and other improvements to each townhouse unit shall be

designed to permit individual and separate ownership of each lot and dwelling unit thereon.

**8.10-05** No townhouse project or portion thereof to be located in district R-3 shall have an overall site density greater than one townhouse unit per four thousand (4,000) square feet of gross site area.

**8.10-06** Setback requirements for townhouse structures shall conform to the established setback regulations of the R-3 district.

**8.10-07** A lot occupied by a townhouse unit shall contain not less than two thousand (2,000) square feet.

**8.10-08** Lot frontage, measured at the setback line for individual townhouse units shall have an average minimum width of twenty (20) feet for a townhouse structure but in no case shall the frontage for a townhouse unit be less than sixteen (16) feet. Lot width for end units shall be adequate to provide side and rear yards as required by Section 8.8.

### **8.11 Architectural Treatment of Townhouses**

The facades of each unit of a townhouse structure shall be varied by changing front yard depth and utilizing variations in materials for design, so that no more than three (3) abutting townhouse units have the same front yard depth or the same or essentially the same architectural treatment of facades and roof lines.

**8.11-01** Each townhouse unit shall have an unencumbered access from a dedicated public street.

**8.11-02** Townhouse projects shall have provisions for at least two vehicular off-street parking spaces for each townhouse unit.

**8.11-03** Townhouse units shall be separated by a common party wall designed to meet the fire protection requirements as set forth in the Current edition of the Virginia Construction Code, as amended.

**8.11-04** In any townhouse project resulting in the creation of any open space and amenities thereon, broadly defined, the maintenance and upkeep of such areas and elements shall be provided for by an arrangement acceptable to the town and in compliance with this article or applicable state statutes.

**8.11-05** In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act that is applicable the project shall conform to the requirements of the Act.

**8.11-06** In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act is not applicable the developer shall meet the following requirements:

- a) Establish a nonprofit entity according to the provisions of the Virginia Nonstock Corporation Act, Section 13.1-203 through Section 13.1-295 of the Code of Virginia 1950, as amended, whose membership shall be all

individuals or corporations owning residential property within the townhouse project and whose purpose shall be to hold title in fee simple to, and be responsible for the maintenance and upkeep of, such open space.

- b) Hold title to and be responsible for such open space until such time as conveyance to such a nonprofit entity occurs. Such conveyance shall occur when at least 75 percent of the townhouse units in the approved development have been sold, and
- c) Provide proper agreements and covenants running with the land and in favor of the citizens of Marion, requiring membership in such a nonprofit entity. Such agreements and covenants shall include, among other things, that any assessments, charges and cost of maintenance of the open space shall constitute a pro rata lien and dignity only to taxes and bona-fide duly recorded first and second mortgages or deeds of trust on the townhouse lot. Covenants shall also prohibit the denuding, disturbing or defacing of said open space without prior approval of the town Council after recommendation by the Planning Commission.

The administrator shall notify the Virginia Real Estate Commission in writing requesting their determination as to the applicability of the Condominium Act of all proposed townhouse projects involving open space and amenities.

**8.11-07** All open space shown on the approved site plan is binding as to location and use proposed.

#### **8.12 Site Plan Review**

The intent of the site plan review is to provide for a review of:

- 1) The project's compatibility with its environment and with other land uses and buildings in the surrounding area;
- 2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
- 3) The quantity, quality, use, and size and type of the project's open space, and the plans for maintenance and upkeep of said open space;
- 4) The quantity, quality, use, size and type of the project's recreational elements,
- 5) The impacts upon the existing natural environment;
- 6) The proposed landscaping improvements; and
- 7) The project's compliance with this ordinance and other applicable ordinance of the town and state.
- 8) Curb & Gutter Plan
- 9) Trash Enclosures Plan
- 10) Lighting Plan

**8.12-01** The site plan review shall act to fulfill the preliminary plat review requirements of the subdivision ordinance. Administrative procedures for the site plan review shall be the same as the review procedures of the subdivision ordinance.

**8.12-02** In addition to the required content of preliminary and final plats as required by the subdivision ordinance, the following shall be submitted for site plan review.

- 1) Existing zoning and zoning district boundaries on the property to be developed and on immediately adjacent properties;

- 2) The boundaries of the property involved, all existing property lines, setback lines, existing streets, buildings, water courses, and other existing physical features in or adjoining the project;
- 3) Topography of the project area to contour intervals two feet.
- 4) The location of all proposed buildings and structures, accessory and main, showing the number of stories and height, dwelling type, outside dimensions and main excavations by proposed use;
- 5) The proposed location and character of non-residential uses, accessory and main buildings;
- 6) The proposed location, dimensions and use of all proposed open space, other amenities and improvements, if any, and suitable documentation of ownership and responsibility for such open space;
- 7) The proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatment of points of conflict;
- 8) The proposed treatment of the site's periphery including materials and techniques to be used as screens, fences, and/or walls;
- 9) The location and screening materials for solid waste containers and other outdoor trash receptacles;
- 10) The proposed location, dimensions and treatment of required off-street parking facilities for each individual townhouse unit or structure;
- 11) A tabulation of total number of acres in the project and the percentage and acreage thereof proposed to be allocated to townhouse units, and non-residential uses, off-street parking, open space, streets, and other reservations;
- 12) A tabulation of the total number of dwelling units by type in the project and the overall project density in dwelling units per gross acre; and
- 13) A schedule exhibiting the time frame for project development and completion.

### **8.13 Off-Street Parking Requirements**

Reference Article 16

### **8.14 Sign Regulations**

Reference Article 17

**ARTICLE 9  
RESIDENTIAL MAUNFACTURED HOME  
(MOBILE HOME) (R-4) DISTRICT REGULATIONS**

**9.1 Statement of Intent**

The purpose of this district is to allow manufactured homes and or (mobile homes) as a permitted use in several existing mobile home (manufactured home) parks to afford a proper setting for such uses and a proper relation to other land uses.

**9.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**9.3 Accessory Uses and Structures Permitted**

See Appendix A

**9.4 Uses and Structures Permitted by Special Use Permit**

See Appendix A

**9.5 Area Regulation**

For lots containing or intended to contain a single manufactured home (mobile home) unit the minimum lot area shall be 7,260 square feet, or no more than six units per acre.

**9.6 Building Setback Regulating**

Within the R-4 Manufactured Home (Mobile Home) District, structures of principle permitted uses, structures or permitted accessory uses and all structures and uses allowed under a special use permit shall conform to the following setback regulations:

**9.6-01** No structure of a principal use shall be located less than twenty-five (25) feet from any street right-of-way which is fifty (50)feet or greater in width, or less than fifty (50) feet from the centerline of any street right-of-way which is less than fifty (50) feet in width.

**9.6-02** The setback line for corner lots shall be measured on the shortest of the two sides adjoining street right-of-way.

**9.7 Yard Requirements**

**9.7-01 Side Yard Requirements** – The minimum side yard for any permitted principal use, or special use, in this district shall be at least fifteen (15) feet from the manufactured home (mobile home) stand to the property line. Accessory buildings or structures shall be located no closer than five feet to any side property lines.

**9.7-02 Rear-Yard Requirements** – The minimum rear yard for any permitted principal use or special use shall be twenty-five (25) feet from the manufactured home (mobile home) stand to the property line. Accessory buildings or structures shall be located no closer than five (5) feet to the rear property line.

## **9.8 Manufactured Home (Mobile Home) Pad**

The objective of the stand requirement is to provide for practical placement on and removal from the lot of the manufactured home (mobile home) and retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings.

**9.8-01** The stands should be individually designed to fit the dimensions of the manufactured home (mobile home) that will be accommodated. The stand should be so located on the manufactured home (mobile home) lot that the proper clearances can be maintained between the manufactured home (mobile home) and other structures.

**9.8-02** There shall be a longitudinal gradient of 0% - 5% and an adequate crown or cross gradient for surface drainage.

**9.8-03** Appropriate material, such as a concrete or crushed and compacted rock, shall be used for the pad. This material shall be properly placed, graded, and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons.

**9.8-04** Underpinning that complies with the current edition of the Virginia Construction Code.

**9.8-05** The minimum distance between mobile homes is twenty five (25) feet.

## **9.9 Site Plan Review**

The intent of the site plan review is to provide for a review of:

- 1) The project's compatibility with its environment and with other land uses and buildings in the surrounding area;
- 2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
- 3) The quantity, quality, use, and size and type of the project's open space, and the plans for maintenance and upkeep of said open space;
- 4) The quantity, quality, use, size and type of the project's recreational elements,
- 5) The impacts upon the existing natural environment;
- 6) The proposed landscaping improvements; and
- 7) The project's compliance with this ordinance and other applicable ordinance of the town and state.
- 8) Curb & Gutter Plan
- 9) Trash Enclosures Plan
- 10) Lighting Plan

**ARTICLE 10**  
**COMMERCIAL –LIMITED OR (C-L) DISTRICT REGULATIONS**

**10.1 Statement of Intent**

The purpose of this district is to provide for service type retail business uses, office uses of a limited size and open areas where similar development would be appropriate which are primarily designed to serve local needs. The intent, further, is to provide for a transitional district between residential and other business districts of a more sensitive nature.

**10.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**10.3 Permitted Accessory Uses**

See Appendix A

**10.4 Minimum Lot Requirements**

Within the CL District there is no minimum lot size. However, lot size shall be adequate to provide the yard space required by this article.

**10.5 Maximum Percent of Lot Coverage**

The total ground area covered by the principal building and all accessory buildings shall not exceed forty-five (45) percent of the lot area.

**10.6 Building Setback Regulations**

Buildings shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the centerline of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line.”

**10.7 Required Lot Frontage**

No minimum lot frontage is required in the CL District. However, all lots shall border a public right-of-way and have adequate width to provide the yard space required by this article.

**10.8 Yard Requirements**

**10.8-01 Side Yard Requirements**– The minimum width of the side yard shall be ten (10) percent of the lot width at the setback line, and the total width of the two side yards shall be a minimum of twenty-five (25) percent of the setback line.

**10.8-02 Rear Yard Requirements**– Each main building shall have a minimum rear yard of twenty-five (25) feet.

**10.8-03 Privacy Buffer** A privacy buffer consisting of landscaping or fence shall be established by the Zoning Administrator and maintained by the owner.

**10.8-04** Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two fronting on streets or as determined by the Zoning Administrator.

**10.8-05** The side yard facing the side street shall be twenty-five (25) feet or more for both main and accessory buildings

## **10.9 Building and Structures Height Regulations**

**10.9-01** The height limitations are a maximum of two (2) stories.

## **10.10 Minimum Off-Street Parking**

Refer to Article 16

## **10.11 Signs**

Refer to Article 17

## **10.12 Lighting and Screening**

Refer to Article 18

**ARTICLE 11**  
**COMMERCIAL- GENERAL (C-G)**

**11.1 Statement of Intent**

The district comprises commercial uses of a general nature and open areas where similar development would be appropriate, according to a comprehensive plan. The district is designed to accommodate a medium concentration of those commercial activities that primarily serve the town as a whole as well as its general market area. Further, this district is established to provide for businesses of this type not located in the downtown area of the town but front on or have direct access to major arterial roadways. In addition, the regulations are designed to encourage the clustering of those commercial uses so as to reduce traffic congestion on major arterials.

**11.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**11.3 Permitted Accessory Uses**

See Appendix A

**11.4 Area Regulations**

None, except for permitted uses utilizing individual sewage disposal systems. The required area for any such use shall be approved by the health department.

**11.5 Setback Regulations**

Buildings shall be located ten (10) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or thirty-five (35) feet or more from the centerline of any street right of way which is less than fifty (50) feet in width. This shall be known as the setback line.

**11.6 Frontage Requirements**

None

**11.7 Yard Regulations**

The minimum side yard adjoining or adjacent to a residential district shall be thirty (30) feet, and off-street parking shall be in accordance with the provisions contained herein.

**11.7-01 Privacy Buffer** – A privacy buffer consisting of landscaping or fence shall be established by the Zoning Administrator and maintained by the owner.

**11.8 Building and Structure Height Regulations**

Buildings may be erected up to forty-five (45) feet in height except that:

**11.8-01** The height limit may be increased up to fifty-five (55) feet or to a maximum of four stories provided there are two side yards, each of which is ten (10) percent or more of the lot width plus one foot or more of side yard for each additional foot of building height over forty-five (45) feet.

**11.8-02** All accessory buildings shall be less than the main building in height.

**11.9 Minimum Off-Street Parking** Reference Article 16

**11.10 Signs** Reference Article 17

**ARTICLE 12**  
**COMMERCIAL-DOWNTOWN (CD) DISTRICT REGULATIONS**

**12.1 Statement of Intent**

This district comprises those commercial activities and public institutions that are primarily designed for, rely on, and cater to pedestrian patronage. As designated by the official zoning map, this district encompasses that area of the town established as the main commercial or downtown area. The intent of these regulations is to stabilize and strengthen the function of this area and result in an aesthetically pleasing environment for shopping and outdoor gathering. Further, the intent of these provisions is to instill a greater sense of community within the town by maintaining the viability of this downtown district.

**12.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**12.3 Uses Permitted by Special Use Permits**

See Appendix A

**12.4 Area Regulations**

None, except for permitted uses utilizing individual sewage disposal systems. The required area for any such use shall be approved by the health department.

**12.5 Setback Regulations**

None

**12.6 Frontage Requirements**

None

**12.7 Yard Requirements**

The minimum side yard adjoining to a residential district shall be fifteen (15) feet and off-street parking shall be in accordance with the provisions of this ordinance.

**12.8 Building and Structure Height Regulations**

Building may be erected up to forty-five (45) feet in height except that: the height limit may be increased up to five (5) stories if the structure is equipped with an automatic fire suppression system.

**12.9 Minimum Off-Street Parking**

Reference Article 16

**12.10 Signs**

Reference Article 17

**ARTICLE 13**  
**INDUSTRIAL-GENERAL (IG) DISTRICT REGULATIONS**

**13.1 Statement of Intent**

This district comprises industrial uses of a general nature in medium to high concentrations and open areas where such activities would be appropriate from the standpoint of sound planning criteria. The intent of this article is to locate this district near railroad or major access routes to provide ease of access to such uses without undue adverse impact on residential and commercial areas. Further, the intent is to separate these uses from those of a residential nature by prohibiting uses from this district.

**13.2 Principal Uses and Structures Permitted by Right**

See Appendix A

**13.3 Uses Permitted with Special Use Permit**

See Appendix A

**13.4 Requirements for Permitted Uses**

**13.4-01** Before a zoning permit shall be issued or construction commenced on any permitted or special use in this district, a set of plans, in sufficient detail to show the operations and processes of the proposed use, shall be submitted to the Zoning Administrator for review. The Administrator may refer these plans to the Planning Commission for their recommendation. Modification of the plans may be required.

**13.4-02** Landscaping may be required with any established or required front setback area. The plans and execution must take into consideration fire hazards. Landscaping may be permitted up to a height of three (3) feet, within fifty (50) feet from the corner of any intersection.

**13.4-03** Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts and for off-street parking of vehicles incidental to the industry, its employees and clients.

**13.4-04** The Administrator shall act on any application within thirty (30) days after receiving the application.

**13.5 Area Regulations**

**13.5-01** Minimum Lot Size – There is no minimum lot size in the Industrial General (I-G) District. However, the lot must be of sufficient size to meet the setback and yard requirements set forth in this article.

**13.5-02** Maximum Lot Coverage – The maximum lot coverage for all structures, including accessory structures, shall not exceed seventy-five (75) percent of the total lot area.

**13.6 Building Setback Regulation**

Buildings, or portions of buildings, shall be located at least fifty (50) feet from the center line of all interior streets, and at least seventy-five (75) feet from the centerline of all primary and secondary highways.

### **13.7 Required Lot Frontage**

None

### **13.8 Yard Requirements**

**13.8-01 Side Yards Requirements** – Side Yards shall be a minimum of fifty (50) feet where the lot adjoins a residential district. For all other lots within the I-G District, the minimum side yard shall be twenty-five (25) feet.

**13.8-02 Rear Yards Requirements**– Rear yards shall be a minimum of fifty (50) feet where the lot adjoins a residential district. For all other lots within the I-G District the minimum rear yard shall be twenty-five (25) feet.

**13.8-03 Privacy Buffer**-A privacy buffer consisting of landscaping or fence shall be established by the Zoning Administrator and maintained by the owner.

### **13.9 Building and Structure Height Regulations**

**13.9-01** Buildings and structures located in this district may be erected up to forty-five (45) feet. For buildings over forty-five (45) feet in height, approval shall be obtained from the administrator, and the required side and rear yards must be increased by one foot for each foot of building over forty-five (45) feet. An automatic fire suppression system will be required for any structure over forty-five (45) feet in height.

**13.9-02** Church spires, belfries, cooling towers, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt.

**13.9-03** All accessory buildings or structures shall be less than the main building in height.

### **13.10 Signs**

Refer to Article 17 of this ordinance.

### **13.11 Minimum Off-Street Parking**

Refer to Article 16 of this ordinance.

## **ARTICLE 14 MEDICAL ARTS**

### **14.1 Statement of Intent**

This district consists of structures and uses which are necessary for the provision of short- and long-term health care to people. The interpretation of health care for the purposes of this district will include public and private providers of mental and physical health care.

### **14.2 Principal Uses and Structures Permitted by Right**

See Appendix A

### **14.3 Accessory Uses and Structures Permitted**

See Appendix A

### **14.4 Uses and Structures Permitted by Special Use Permit**

See Appendix A

### **14.5 Area Regulations**

None, except that the structures used for group residential purposes shall comply with the R-3 District area, setback, yard, and frontage regulations.

### **14.6 Building Setback Regulations**

Within the M-A District, structures of principal permitted uses, structures of permitted accessory uses and all structures and uses allowed under a special use permit shall conform to the following setback regulations:

**14.6-01** No structure of a principal permitted use shall be located less than twenty-five (25) feet from any street right-of-way which is fifty (50) feet or greater in width, or less than fifty (50) feet from the center line of any street right-of-way which is less than fifty (50) feet in width.

### **14.7 Lot Frontage Required**

None

### **14.8 Yard Requirements**

**14.8-01 Side Yard Requirements**-Side yards shall be a minimum of fifty (50) feet where

the lot adjoins a residential district. For all other lots within the M-A District, the minimum side yard shall be twenty-five (25) feet.

**14.8-02 Rear Yard Requirements**-Rear yards shall be a minimum of fifty (50) feet where the lot adjoins residential district. For all other lots within the M-A District, the minimum rear yard shall be twenty-five (25) feet.

**14.8-03 Privacy Buffer**-A privacy buffer between Medical Arts and any adjacent Residential District R1,R2 and R3 consisting of landscaping or fence shall be established by the Zoning Administrator and maintained by the owner.

### **14.9 Building and Structure Height Regulations**

Buildings and structures located in this district may be erected up to five stories from grade except that the setback line shall be established according to a formula of one foot for each foot in building height over thirty-five (35) feet above grade.

#### **14.10 Off-Street Parking Requirements**

Reference Article 16

#### **14.11 Sign Regulations**

Reference Article 17

#### **14.12 Site Plan Review**

The intent of the site plan review is to provide for staff review of:

- 1) The project's compatibility with its environmental and with other land uses and buildings in the surrounding area;
- 2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
- 3) The quantity, quality, use, size and type of the project's open space, and the plans for maintenance and upkeep of said open space;
- 4) The impacts upon existing natural environment;
- 5) The proposed landscaping improvements; and
- 6) The project's compliance with this ordinance and other applicable ordinances of the town and state;
- 7) Curb and gutter plan;
- 8) Trash enclosures plan.
- 9) Lighting plan

**ARTICLE 15  
FLOOD PLAIN DISTRICT (OVERLAY)**

**ARTICLE I - GENERAL PROVISIONS**

**15.1-01 – Statutory Authorization and Purpose** [44 CFR 59.22(a)(2)]

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 – 2280

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- A. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

**15.1-02 - Applicability**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Marion and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the Town of Marion by FEMA.

**15.1-03 - Compliance and Liability**

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and

regulations which apply to uses within the jurisdiction of this ordinance.

- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of the Town of Marion or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**15.1-04 – Records** [44 CFR 59.22(a)(9)(iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

**15.1-05 - Abrogation and Greater Restrictions** [44 CFR 60.1(b)]

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

**15.1-06 - Severability**

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

**15.1-07 - Penalty for Violations** [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or zoning administrator or any authorized employee of the Town of Marion shall be guilty of the appropriate violation and subject to the penalties therefore.

**ARTICLE II - ADMINISTRATION**

**15.2-01 - Designation of the Floodplain Administrator** [44 CFR 59.22(b)]

The (Zoning Administrator or Town Engineer) is hereby appointed to administer and implement these regulations and is referred to herein as the Zoning Administrator or Town Engineer. The Zoning Administrator or Town Engineer may:

- (A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Town of Marion's Zoning Administrator or Town Engineer under the direction of the Town Manager of the Town of Marion.
- (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(C) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

**15.2-02 - Duties and Responsibilities of the Zoning Administrator or Town Engineer (Floodplain Administrator)** [44 CFR 60.3]

The duties and responsibilities of the Zoning Administrator or Town Engineer (Floodplain Administrator) shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- (E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- (F) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (G) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- (I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses

prepared by or for the Town of Marion, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(M) Administer the requirements related to proposed work on existing buildings:

1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Undertake, as determined appropriate by the Zoning Administrator or Town Engineer (Floodplain Administrator) due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(O) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Marion have been modified and:

(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these

regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(P) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(Q) It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

#### **15.2-03 - Use and Interpretation of FIRMs** [44 CFR 60.3]

The Zoning Administrator or Town Engineer (Floodplain Administrator) shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(2) Are one foot above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 1.5(C) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

#### **15.2-04 - Jurisdictional Boundary Changes** [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

#### **15.2-05 - District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the Town of Marion where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

#### **15.2-06 - Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator or Town Engineer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

#### **15.2-07 – Submitting Technical Data** [44 CFR 65.3]

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

#### **15.2-08 – Letters of Map Revision**

When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision.

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*

### **ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS**

#### **15.3-01 - Description of Special Flood Hazard Districts** [44 CFR 59.1, 60.3]

##### **A. Basis of Districts**

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the Town of Marion prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated **August 2, 2012**, and any subsequent revisions or amendments thereto.

The Town of Marion may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Town of Marion’s Town Engineer’s office.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 6 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator or Town Engineer (Floodplain Administrator).

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Marion’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III Section 15.3-01 (A) (1) a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 15.4.

- b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

2. The **AE or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an

AE or AH zone [44 CFR 60.3(c)]:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Marion.

Development activities in Zones A and AE or AH, on the Town of Marion's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Town of Marion's endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator or Town Engineer (Floodplain Administrator).

The Zoning Administrator or Town Engineer (Floodplain Administrator) reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to one foot above the base flood level (to one foot above the base flood elevation). During the permitting process, the Zoning Administrator or Town Engineer (Floodplain Administrator) shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

### **15.3-02 - Overlay Concept**

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

## **ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]**

### **15.4-01 – Permit and Application Requirements**

#### **A. Permit Requirement**

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Marion Zoning Ordinance and Floodplain Ordinance Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

#### **B. Site Plans and Permit Applications**

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.

2. The elevation of the lowest floor (including basement)
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

#### **15.4-02 - General Standards**

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

**15.4-03 - Elevation and Construction Standards** [44 CFR 60.3]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 15.3-01 (A) (3), the following provisions shall apply:

- A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A and AE with detailed base flood elevations shall have the lowest floor, including basement, elevated to one foot above the base flood elevation or level.

- B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to one foot above the base flood level. Buildings located in all A, and AE, zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

- C. Space Below the Lowest Floor

In zones A, and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 15.4 -01, Section 15.4 -02 and Section 15.4 -03.
2. All recreational vehicles placed on sites must either
  - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
  - b. meet all the requirements for manufactured homes in Article 15.4 -03(D)(1).

#### **15.4-04 - Standards for Subdivision Proposals**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

#### **15.5 – EXISTING STRUCTURES IN FLOODPLAIN AREAS**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

#### **15.6 - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]**

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in

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

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

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

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

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

## **GLOSSARY** [44 CFR 59.1]

- A. Appurtenant or accessory structure - Accessory structures not to exceed 200 sq. ft.
- B. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- C. Base flood elevation - The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 15.3 -01. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is one hundred (100) year flood or 1% annual chance flood.

- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Coastal A Zone - Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- H. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain,

- I. which may impede or alter the flow capacity of a floodplain.
- J. Existing construction - structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”
- K. Flood or flooding -
  - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from
    - a. the overflow of inland or tidal waters; or,
    - b. the unusual and rapid accumulation or runoff of surface waters from any source.
    - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
  - 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- L. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- M. Flood Insurance Study (FIS) – a report by FEMA that examines, evaluates and

determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

- N. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- O. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- P. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- Q. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.
- R. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- S. Historic structure - Any structure that is
1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  3. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
    - a. by an approved state program as determined by the Secretary of the Interior; or,
    - b. directly by the Secretary of the Interior in states without approved programs.
- T. Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to

determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

- U. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a Land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

- V. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- W. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- X. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- Y. New construction - For the purposes of determining insurance rates, structures for which

the “start of construction” commenced on or after May 17, 1989 and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- Z. Post-FIRM structures - A structure for which construction or substantial improvement occurred after May 17, 1989.
- AA. Pre-FIRM structures - A structure for which construction or substantial improvement occurred on or before May 17, 1989.
- BB. Recreational vehicle - A vehicle which is
1. built on a single chassis;
  2. 400 square feet or less when measured at the largest horizontal projection;
  3. designed to be self-propelled or permanently towable by a light duty truck; and,
  4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- CC. Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.
- DD. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- EE. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 15.3 -03 of this ordinance.
- FF. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

GG. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

2. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

II. Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 15.3-01, Section 15.4-01, Section 15.4-02, Section 15.4-03, Section 15.4-04 and Section 15.5 is presumed to be in violation until such time as that documentation is provided.

JJ. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**ARTICLE 16**  
**MINIMUM OFF-STREET PARKING REQUIREMENTS**

**16.1 Off-Street Parking Requirements**

**16.1-01** Permanent off-street parking space in the amount specified by this ordinance shall be provided at the time of the erection of any building, or at the time any building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use or occupancy to another.

**16.1-02** An off-street parking space shall consist of an area adequate for parking an automobile of standard dimensions with room for opening door on both sides, and with maneuvering on any public street, alley or sidewalk. Spaces shall be so arranged that any automobile may be moved without moving another except in the case of parking for occupants or employees.

**16.1-03** All off-street parking spaces and related access areas shall be graded, improved, and maintained in a manner permitting safe and convenient use under normal weather conditions, so as to avoid the adverse effects on neighboring property as a result of dust or drainage. Minimum width of driveways shall be eight (8) feet.

**16.1-04** Required off-street parking areas for ten (10) or more automobiles shall have individual spaces marked.

**16.1-05** Required parking space shall be on the same lot as the main building if the building is a dwelling, in the case of buildings other than dwellings, spaces may be located as far away as four hundred (400) feet. The Central Business District shall be exempt from this requirement.

**16.1-06** Required parking spaces shall be maintained in connection with the buildings that they are to serve and in the manner indicated by the minimum requirements of off-street parking and space regulations.

**16.1-07** Space shall be provided for the loading and unloading of trucks and commercial vehicles serving commercial buildings.

**16.2 Barriers Required**

**16.2-01** Curbs, walls, fences or similar devices shall be located along the perimeter of parking lots and garages, except at entrances and exits. Such barriers shall be designed and located to prevent parked vehicles from extending beyond property lines or parking lots and garages and to protect public right-of-way and adjoining properties from drainage.

**16.2-02** When commercial parking lots adjoin land zoned for residential use, there shall be an privacy buffer consisting of fence and/or landscaping that shall be approved by the zoning administrator and maintained by the commercial property owner.

**16.2-03** Every parcel of land to be used as a public parking area shall be surfaced with asphalt, concrete or any hard surface approved by the Administrator. Any lights used to illumine said parking area shall be arranged as to reflect light away from any residential district.

**16.3 Schedule of Off-Street Parking Requirements**

<b>Types of Uses</b>	<b>Standards</b>
All establishments indicated by an asterisk (*)	One space for each employee on the largest shift.
Apartment Use	Two spaces for each dwelling unit
Automobile repair and/or sales	One space for each 200 feet of gross floor area
Banks	One space for each 200 feet of gross floor area
*Bus terminals and railroad passenger stations	One space for each four seats
Drive-in windows for banks, fast food restaurants and similar in-car services	Storage space for five vehicles for each window plus space required by use
Day nurseries, day care centers and pre-school	One space for each 10 children in attendance
Fast food restaurants	One space for each 50 square feet of gross floor area
General or professional office building, clinic, or other building not used for retailing or wholesaling of merchandise	One space for each 200 square feet of floor area
Golf Course	18-hole golf course must have a minimum of 50 spaces
*Hospital, convalescent home, or sanitarium	One space for each two beds
*Hotel	One space for each rental unit plus one additional space for each handicap space
Liquor stores	At least 30 parking spaces
Manufactured Home	Two spaces per unit
Mobile Home	Two spaces per unit

*Post Office	One space for each 400 feet of gross floor space
Public of private secondary schools, college, or trade school, without students in residence	Ten spaces for each classroom and provisions should be made for private drop off & pickup separate from bus loading & unloading. This will be approved by the Administrator.
Restaurant, night club, tavern, or lounge	One space for each four seats plus staff.
Retail store, service store, or shop	One space for each 200 feet of gross floor area
Room renting, boarding houses, and bed and breakfast	One space for each room rented or boarder in addition to the normal requirements of the dwelling unit
Shopping center	Four spaces for each 1,000 square feet of gross leasable floor space
Swimming pool, neighborhood recreation center, or similar use	A minimum of 20 spaces
Skating rink, bowling alley, dance hall or similar indoor or outdoor commercial recreation use	One space for each 150 square feet of gross floor area
Theatre, auditorium, assembly hall, church, stadium, funeral home, gymnasium, fraternal order or lodge, or similar use	One space for each four fixed seats in the largest assembly room or for each 40 square feet of floor area available for the accommodation of moveable seats in the assembly hall
*Tourist home, motel, motor court	One space for each rental unit plus 1 additional space for each handicap space.
Town Houses	Two spaces per unit
*Wholesale, manufacturing, or industrial uses	One space for each 150 square feet of gross floor area devoted to customer service

## **ARTICLE 17**

### **SIGN & OUTDOOR ADVERTISING**

The purpose of this Article is to protect the health, safety, property and welfare of the citizens of the Town of Marion by establishing standards for the structural design, placement, size, and maintenance of all signs and outdoor advertising structures in the Town. Furthermore, it is the purpose of the regulations, standards and criteria of this chapter to permit and encourage the design of signs which are responsive to the needs of the public in locating a business establishment by identification, address and product and/or services information.

Recent economic development of the Town has resulted in a significant increase in the number of businesses located within the corporate boundaries, with a marked increase in the number of and size of signage related to those businesses. This proliferation of signs has resulted in a reduced effectiveness of individual signs. As the size and intensity of signs increase without thoughtful regard to quality and placement, the impact of individual sign can be diminished.

Additionally, without effective controls on the use of signs, and their shapes, motion, colors, illumination and their insistent and distracting demand for attention can be injurious to property values of both business and residential areas of the Town, and may seriously detract from the enjoyment and pleasure of the natural beauty of the Town.

It is also recognized that businesses have a right to identify themselves and that this contributes to the economic well being of the community. However, it is felt that this right can be exercised in such a way as to bring benefit to the public without adversely affecting the economic welfare of businesses. The responsible regulation of signs may, in fact improve business opportunity as a result of the increased attractiveness of the Town's environment.

#### **17.1-01 ADMINISTRATION, ENFORCEMENT, AND SIGN REMOVAL.**

##### **A. Permit application**

The application for a sign permit shall be filed with the Administrator on forms furnished by the Town. The application shall be filed with the building inspector on forms furnished by the Town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the Administrator may require to insure compliance with the ordinance of the Town. The Marion Planning Commission shall determine any questions concerning the conformity of a sign.

**B. Fee for sign permits.**

- a) For all signs valued at greater than \$\_\_\_\_\_, the fee shall be \$\_\_\_\_\_.
- b) Outdoor advertising structures, \$\_\_\_\_\_ per new sign, and \$\_\_\_\_\_ annual renewal fee.

*Note: It is the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.*

**C. Nullification**

- a) A sign permit shall become null and void if the work for which the issued permit has not begun within a period of six months after the date of the permit.
- b) In the event that construction cannot be commenced within the six (6) month period, a written request for an additional six (6) month period, may be submitted to the Administrator

**D. Variances**

- a) Except for instances relating to signs or sign structure location or proposed to be located on or over public property, any person who has been ordered by the Administrator to incur an expense for the alteration or removal of a sign may appeal to the Board of Zoning Appeals. The Board of Zoning Appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of the ordinance.
- b) In the granting of a variance, the Board of Zoning Appeals shall limit the area of said signs, which in its opinion is reasonable in keeping with the provisions of this Article.
- c) The Board of Zoning Appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the Administrator or other official in carrying out or enforcing any provision of this Article.
- d) The Board of Zoning Appeals shall hear and decide applications for variance by reasons of exceptional topographical conditions, practical difficulties, or undue hardships caused by the strict application of the ordinance for additional signs, sign area, sign height and sign location.

#### **E. Inspection by Administrator**

The Zoning Administrator is empowered to enter or inspect any building, structure or premises in the Town, upon which, or in connection with which a sign, as defined by this code, is located, for the purpose of inspection of the sign, its structural and electrical connections, and to insure compliance with the provisions of this code. Such inspections shall be carried out during business hours, unless an emergency exists.

#### **F. Sign Abandonment**

Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

#### **G. Violation – Penalty**

- a) *The violation of or failure to comply with any (excluding signs cited in 17.1.03) provision of this Article is declared to be unlawful.*
- b) Any person violating any provision of this Article shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$ \_\_\_\_\_ for each offense. Each day such violation shall constitute a separated offense.

## **17.1-02 DEFINITIONS**

### **Awning**

A structure made of cloth, metal or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

### **Banner**

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

### **Canopy, Service Station**

A structure made of metal, aluminum, or other material intended to be free standing or affixed to a building that serves as an overhang intended to shield persons from the elements while using the service station.

### **Grade**

The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

### **Out-parcel**

A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use such as, but not limited to banks, savings and loans, dry cleaners, service stations, vehicle repair garages, offices, restaurants, retail establishments, or a combination of uses thereof.

### **Parapet**

That portion of a building wall or false front that extends above the roofline.

### **Premises**

A parcel of real property with a separate and distinct number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out-parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of these regulations.

### **Roofline**

The highest point of a flat roof and mansard roof and the highest point of a pitched roof, excluding any cupola, chimneys or other minor projections.

### **Setback, Sign**

The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member which ever is nearest to the property line or right-of-way.

### **Sight Distance Triangle**

The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway), each point being 75 feet from the intersection along a major thoroughfare and 35 feet along a

minor thoroughfare from the intersection, and the two intersection right-of-way lines (or a right-of-way line and a driveway).

**Sign**

Any object, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design symbols, fixtures, colors, illumination, or projected images. The term “sign” does not include the flag or emblem of any nation, organization of nations, state, political subdivision thereof, or any fraternal, religious or civic organization; works of art which in no way identify a product or business; scoreboards located on athletic fields; or religious symbols.

**Sign, Advertising**

A sign, other than a directional sign which directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than other premises where the sign is located. Any advertising sign allowed under this Ordinance may display either a commercial or non-commercial copy.

**Sign, Arm**

A sign whose face is suspended from a support arm at a right angle from a ground-mounted pier, pillar, column, or pole. The face of such sign shall not be more than three (3) feet from the ground.

**Sign, Bulletin Board**

Any sign erected by a charitable, educational or religious institution or a public body, which is erected upon the same property as said institution for the purpose of announcing events which are held on the premises.

**Sign, Campaign or Election**

A sign that advertises a candidate or issue to be voted upon a definite election day.

**Sign, Canopy or Awning**

A sign attached to or painted or printed onto a canopy or awning. For the purposes of the Ordinance, the permitted size of a canopy will be calculated on the basis on the size of the building wall to which the canopy is attached. It will for measuring purposes, will be considered a wall sign.

**Sign, Construction**

A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

**Sign, Directional**

A sign fronting on a road containing only the name of the principal use shall not be visible to the motorist at the location at which the sign is placed.

**Sign, Directory**

A sign on which the names and locations of occupants or the use of a building or property is identified.

**Sign, Flashing**

A sign that uses an intermittent or flashing light source or windblown and/or mechanical reflective material to attract attention.

**Sign, Free-standing**

Any sign that is not affixed to a building and is securely and permanently mounted in the ground. Such sign may include a ground, pole or monument sign.

**Sign, Government**

Any temporary or permanent sign erected and maintained for any government purposes other than signs placed on the premises of a publicly owned building, structure or other land use, designed to identify public and land use. Examples of government signs include speed limit signs, Town limit signs, street name signs. Conversely, a sign placed on a public building such as a library, school or public safety building which identifies said building, shall not be considered a government sign.

**Sign, Ground Mounted**

Any sign which extends from the ground or which has supports which places the bottom thereof less than two (2) feet from the ground directly beneath the sign.

**Sign, Identification**

A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

**Sign, Incidental**

A sign used in conjunction with equipment or other functional elements for a use or operation. These shall include, but not be limited to drive through windows menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

**Signs, Instructional**

An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance," "exit," "parking," "one way," or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

**Sign, Lighted**

A sign illuminated by only light cast upon the sign from an external light source.

**Sign, Logo**

A sign used the Virginia Department of Transportation on limited access roadways to direct motorists to nearby businesses and services. NOTE: These are replacing billboards on interstate highways.

**Sign, Luminous**

A sign illuminated through the use of phosphorescent or luminescent paint or materials.

**Sign, Monument**

A non-metallic sign in which the bottom of the sign is flush with the ground and the vertical dimension is greater than the horizontal dimension.

**Sign, Off-Premises**

A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided on the premises where the sign is located.

**Sign, On-Premises**

A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided on the premises where the sign is located.

**Sign, Pole**

A detached sign erected and maintained on a free-standing frame, mast, or pole, and not attached including ground-mounted signs. The bottom of such signs shall be greater than three (3) feet from the ground directly beneath the sign.

**Sign, Portable**

A sign not permanently attached to the ground or other permanent structure, including those signs which may be transported to the site on wheels or a truck; signs constructed as or converted to an A or T-frame sign; or umbrellas used for advertising purposes. Such sign, whether or not bolted to the ground, shall nonetheless be deemed to be a “portable sign.”

**Sign, Projecting**

Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported by the wall on which the sign is mounted.

**Sign, Public Interest**

A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as “Warning” and “No Trespassing” signs.

**Sign, Real Estate**

A sign that is used to offer sale, lease, or rent the premises upon which such sign is placed.

**Sign, Roof**

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

**Sign, Temporary**

An attached “on-premise” sign, with a 30-day maximum display period, and applies to seasonal or brief activities, such as, but is not limited to, summer camps, horse shows,

sales, promotions and auctions and short-term announcement, message, or advertisement or for land or building sale.

**Sign, Vehicular**

Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity on the same or nearby property and road vehicle is not used in the normal day-to-day operations of said business. For purposes of the Ordinance vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other transportation purposes.

**Sign, Wall**

Any sign directly attached to an exterior wall of a building or dependent upon building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which it is placed. Signs directly painted on walls shall be considered wall signs.

**17.1-03 EXCLUSIONS**

The following shall be excluded from the regulations of this Article:

A. Any advertising structure or sign which was lawfully erected and maintained prior to the adoption of this ordinance shall be allowed to remain as a non-conforming sign. Any sign damaged to the extent that it represents a public hazard as determined by the Administrator shall be removed immediately. Signs advertising a business which changes ownership must be removed within ninety (90) days of the date of said change of ownership.

B. Official governmental signs, such as but not limited to traffic or similar regulatory signs.

C. Identification signs, not to exceed six (6) square feet in surface area, bearing only addresses or names of occupants of the premises and located on privately owned property.

D. Signs displayed for the direction or convenience of the public, including signs which identify restrooms, and the location of public telephones, public entrances, freight entrances or the like, provided that such signs do not exceed a total surface area of three (3) square feet per sign on any lot or parcel.

E. Memorial signs or bulletin boards.

F. Yard sale signs and the like, provided that such signs shall not be attached on any way to utility poles, meters posts or trees within any public street right-of-way. No person shall put up any notice upon any building, wall, fence or other property of another person without having first obtained the

consent of the owner or lessee of such property. The maximum time limit for the display of such signs is three (3) consecutive days.

- G. Signs on the inside of store windows, except those sign specified in *17.1-04 - C & H* of this Article, which shall not be so excluded.
- H. “No trespassing,” “no dumping,” “no parking,” “towing” and other similar signs not exceeding two (2) square feet.
- I. Signs displayed during the months of November and December for the purpose of selling Christmas trees and other holiday vegetation and accessory items.
- J. Signs used for election purposes may only be located on private property Outside of the public right-of-way.
- K. “A” Frame Sign-1 (one) allowed per business, 2’ x 18” size limit. Displayed during business hours only. For Commercial Downtown a sign must be placed so that the sign does not impede pedestrian walkway.
- L. Off-Premise Signs- Any non-profit, Church or Public Organization may place off-premise banner or off-premise sign advertising an event no more than 30 days before that event, following written permission from the Town Manager. The organization must formally petition the Town Manager for that permission. These signs or banners must be removed five days after the event.

#### **17.1-04 PROHIBITED SIGNS**

The following signs are prohibited in the Town:

- A. Portable signs.
- B. A sign which imitates or approximates an official highway sign or carries the **STOP** or **DANGER**, or any sign which obscures a sign displayed by public authority for the purpose of giving traffic instruction or direction or other public information.
- C. A sign which displays flashing or intermittent lights or lights of changing degrees of intensity; however, time and weather informational signs, traffic signals, railroad crossing signals and other official warning or regulatory signs are excluded.
- D. A sign, which obstructs any window or door opening, used as a means of emergency egress.

- E. A sign in a public right-of-way that interferes with the use of that right-of-way. Any sign existing or allowed in a public right-of-way may be ordered removed by the Administrator upon thirty (30) days notice if the use of the right-of-way is changed to require the sign removal or if the public right-of-way is to be used for any public purposes inconsistent with the existence of the sign.
- F. A sign or illumination that causes any glare into or upon any building or land other than the building and land to which the sign is necessary.
- G. A sign that violates any provision of any federal or state law relative to outdoor advertising.
- H. Moving signs, rotational beacons, and flashing sidewalk signs outlining structures and used to attract attention for commercial purposes.
- I. A sign affixed to a vehicle, to which in such a manner that the carrying of such sign or signs is no longer incidental to the vehicle's primary purpose, but becomes a primary purpose in itself.
- J. Billboards.
- K. Signs that project more than fifteen (15) inches over any publicly maintained sidewalk.
- L. Any non-conforming sign that advertises a business, which is no longer operating at the site.

**17.1-05 SIGN PERMITS**

- A. Any sign not in existence and in place on the date of this Amendment of the Zoning Ordinance shall hereafter be displayed, and no sign existing on that date shall be enlarged, relocated, changed or modified until a sign permit for the same has been obtained in accordance with this section and all applicable regulations of the Zoning Ordinance. The maintenance, repair or restoration of non-conforming signs must be in accordance with *17.1-06-B* under a permit issued in accordance with this section.
- B. Applicants for sign permits shall provide the following information:
  - 1) A detailed scale drawing of the sign showing all dimensions.
  - 2) Accurate plot plan drawn to scale showing location of the sign on the site. Such plan shall show location of all uses on the site, including but not limited to structures, parking areas, driveways, green areas, walkways and roadways.

- 3) Survey of the parcel on which the sign is to be placed (this may be waived for attached signs).
- 4) Statement signed by the permit applicant as to the number and size of existing on-site signs.
- 5) Application for attached signs shall include a floor plan showing dimensions and layout of the building.
- 6) Information as may be required by the Zoning Administrator.
- 7) Other appropriate information relative to the sign and its location.
- 8) Signs of a height greater than six (6) feet and within ten (10) feet of current or proposed right-of-way lines shall require a letter of no objection from the electric power company to ensure current and future compliance to applicable codes and to protect the safety of the public.
- 9) Fees for sign permits shall be fixed/adjusted periodically by the governing body.
- 10) A sign permit shall become null and void if the work for which the permits was issued has not been completed with a period of sixty (60) days.

#### 17.1-06 NON-CONFORMING SIGNS

- A. Except where otherwise provided, in cases, where signs existing as of the date of the amending of this chapter exceed the total allowable sign area for the subject parcel, no additional signs shall be permitted thereon.
- B. All non-conforming signs may be maintained in such a manner as to ***not increase*** the degree of nonconformity. A non-conformity sign may be repaired, provided that it has not been damaged in excess of fifty percent (50%) of its replacement value.

The procedure for determining the percentage of damage will be determined by requiring the owner to obtain quotes from a sign company on the cost to replace and the cost to repair the sign. Any freestanding non-conforming sign which does not exceed current requirements for height, size or setback by more than fifty percent (50%) may be modified so long as the proposed modification brings the non-conforming sign into conformity with the provisions of the section in terms of size, height, or setback.

***\*A permit shall be required for the repair or modification of any non-conforming sign.***

**17.1-07 DAMAGED OR UNSAFE SIGNS**

The Zoning Administrator shall require the immediate repair or removal of any sign or sign structure, which has been damaged, or has deteriorated so as to become a public hazard. Such a sign or sign structure may be restored to its original condition with thirty (30) days of the order to remove the hazard, and if the sign is non-conforming, such restoration shall be in accordance with *17.1-06 / Non-conforming signs.*

**17.1-08 GENERAL PROVISIONS**

Signs shall be permitted which are in accordance with:

- A. The general provisions of this Article.
- B. The district sign regulations of this chapter for the district in which such signs are located.
- C. All applicable provisions of the building code of Smyth County, as adopted and all amendments thereto to *Current edition of the Virginia Construction Code.*
- D. All applicable provisions of the Virginia Department of Transportation sign regulations.

**17.1-09 RESIDENTIAL DISTRICTS**

<b>RESIDENTIAL DISTRICT PERMITTED SIGN SIZE</b>		
<b>PERMITTED SIGNS</b>	<b>PERMIT REQUIRED</b>	<b>MAXIMUM SIZE OF TOTAL SIGNAGE (SQUARE FEET)</b>
REAL ESTATE*	NO	6
POLITICAL*	NO	6

*\*NOTE THESE MAY BE FREESTANDING SIGNS*

**17.1-10 COMMERCIAL DOWNTOWN DISTRICT**

The following permitted sign sizes shall apply in the Commercial Downtown District:

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**COMMERCIAL DOWNTOWN DISTRICT  
PERMITTED SIGN SIZE**

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PERMITTED SIGNS	PERMIT REQUIRED	MAXIMUM SIZE OF TOTAL SIGNAGE (SQUARE FEET)
REAL ESTATE <sup>1</sup>	NO	FOR ESTABLISHMENTS WITH A LOT WIDTH LESS THAN 30 FEET, A MAXIMUM OF 15 SQ. FT.; FOR ALL OTHERS, A MAXIMUM OF 1 SQ. FT. FOR EACH LINEAR FOOT, NOT TO EXCEED 100 SQ. FT. OF SIGN AREA.
CONSTRUCTION <sup>2</sup>	YES	32
PROFESSIONAL	YES	20
TEMPORARY	YES	20
DIRECTIONAL	NO	3
IDENTIFICATION	YES	15
PUBLIC SERVICE	YES	15
LOCATION	YES	3

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<sup>1</sup>NOTE THESE MAY BE FREESTANDING SIGNS.

<sup>2</sup>SIGN "MAXIMUM SIZE" MAY BE GREATER IF REQUIRED BY FEDERAL & STATE GUIDELINES.

- A. **Location.** All signs, unless otherwise stated, shall be subject to the same setback and yard requirements as other structures.
- B. **Number of signs permitted.** Excluding public service signs, only one (1) sign shall be permitted, exception being, when a corner lot is occupied by a single establishment it shall be allowed up to two (2) signs, as provided in 4.9 / "Fences and Obstructions to Vision" & 17.1-14 / "Signs on Corner Lots."
- C. **Suspended and projecting signs.** Signs of this type shall be no less than eight (8) feet from the ground nor larger than twenty (20) square feet.
- D. The Zoning Administrator must review all sign permits for this district.

**17.1-11 COMMERCIAL GENERAL & COMMERCIAL LIMITED DISTRICTS**

The following permitted sign sizes shall apply in the Commercial General and Commercial Limited Districts:

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**COMMERCIAL GENERAL &  
COMMERCIAL LIMITED DISTRICTS  
PERMITTED SIGN SIZE**

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Permitted Signs	Permit Required	MAXIMUM SIZE OF TOTAL SIGNAGE (SQUARE FEET)
REAL ESTATE <sup>1</sup>	NO	32
BUSINESS	YES	A MAXIMUM OF 1 SQ. FOOT OF SIGN AREA FOR EACH LINEAR FRONT FOOT OF LOT, NOT TO EXCEED 150 SQ. FT. OF SIGN AREA.
CONSTRUCTION <sup>2</sup>	YES	32
IDENTIFICATION	YES	30
TEMPORARY	YES	20
DIRECTIONAL	NO	3
PUBLIC SERVICE*	YES	15
LOCATION*	YES	3

<sup>1</sup>NOTE THESE MAY BE FREESTANDING SIGNS.

<sup>2</sup>SIGN "MAXIMUM SIZE" MAY BE GREATER IF REQUIRED BY FEDERAL & STATE GUIDELINES.

- A. **Freestanding signs.** Freestanding signs up to and including one hundred, fifty feet (150') in height in a corridor one quarter (1/4) mile north and south of the center line of Interstate 81 throughout the corporation limits from the east side to the west side. These signs will be permitted to be erected only on the property of the business that they are advertising. If one quarter (1/4) mile distance splits the property, then all property is considered within the one quarter (1/4) mile distance.
- B. **Determination of available frontage.** Each freestanding sign existing on proposed or proposed for a lot, the double counting of frontage shall not be permitted when determining frontage available for freestanding signs.
- C. **Number of signs permitted.** Excluding public service signs, a maximum of three (3) signs shall be allowed.
- D. **Shopping Center Signs.** Each business is allowed one attached building sign and one portion of a common free-standing sign. If the shopping center has two or more public entrances which are at least 500 feet apart, a second free-standing sign may be permitted if the Administrator finds that an additional sign is necessary, will not represent a visual hazard, and will not detract from the visual quality or character of the area.
- E. **Business selling gasoline.** Businesses selling gasoline will be allowed an additional nine (9) square feet of signage for the purpose of displaying gas prices only.
- F. **Required frontage.** More than one (1) business may be combined to obtain the required frontage for a freestanding sign.
- G. **Maximum Height Requirements.** Maximum height of signs in this district is only allowed to the height of the structure of the business or 25' (feet) which is less.

**17.1-12 Industrial District**

The following permitted sign sizes shall apply in the industrial districts:

<b>INDUSTRIAL DISTRICT PERMITTED SIGN SIZE</b>		
<b>PERMITTED SIGNS</b>	<b>PERMIT REQUIRED</b>	<b>MAXIMUM SIZE OF TOTAL SIGNAGE (SQUARE FEET)</b>
REAL ESTATE <sup>1</sup>	No	32
BUSINESS	YES	FOR ESTABLISHMENT WITH A LOT WIDTH LESS THAN 15 FEET, A MAXIMUM OF 20 SQ. FT.; FOR ALL OTHERS, A MAXIMUM OF 1 SQ. FT. OF SIGN AREA FOR EACH LINEAR FOOT OF LOT, NOT TO EXCEED 150 SQUARE FT. OF SIGN AREA.
CONSTRUCTION <sup>2</sup>	YES	32
IDENTIFICATION	YES	30
TEMPORARY	YES	20
DIRECTIONAL	NO	3
PUBLIC SERVICE*	YES	15
LOCATION	YES	3

<sup>1</sup>NOTE THESE MAY BE FREESTANDING SIGNS.

<sup>2</sup>SIGN "MAXIMUM SIZE" MAY BE GREATER IF REQUIRED BY FEDERAL & STATE GUIDELINES.

- A. **Number of signs permitted.** Excluding public service signs, a maximum of two (2) business signs per establishment shall be allowed.
- B. **Special sign regulations.** All signs must be attached signs, except:
  - 1) Freestanding business signs. A permitted use in this district with at least two hundred (200) feet of street frontage may be served with a freestanding business sign. Such freestanding sign shall not exceed thirty (30) feet in height or one hundred (100) square feet in area.
  - 2) **Industrial parks.** An industrial park in this district shall be permitted one(1)freestanding identification sign. Such freestanding identification sign may list the names of the tenants, as well as the name of the industrial area, its owner and developer. Such signs shall not exceed twenty-five (25) feet in height or one hundred (100) square feet in area.

**17.1-13 SIGN AREA CALCULATION**

Sign area shall be calculated as follows:

- A. **The area of an attached sign,** where the sign consists of words, numbers

of symbols painted on or affixed to a wall, shall be the entire area within a continuous perimeter enclosing the extreme limits of each work, symbol, numeral, and groups of symbols or groups of numerals where the symbols or numbers are meant to be read as a unit. Where there is a symbol that encompasses or partly encompasses the message of the sign, the sign area shall be the entire area within a continuous perimeter enclosing the extreme limits of the symbol.

- B. ***The area of a suspended, attached or projecting sign***, where the letters, numerals or symbols are on a sign surface, which is hung or affixed to a structure, shall be the total area of the hung or affixed surface.
- C. ***The area of a freestanding sign***, shall be the total area of all surfaces, excluding poles, visible from the public right-of-way or other point from which the sign is intended to be viewed. Only one (1) display face shall be measured in computing the total sign area where the sign faces area arranged to be viewed one (1) at a time.

#### **17.1-14 SIGNS ON CORNER LOTS**

- A. On corner lots, the front shall be either:
  - 1) The side fronting the street providing major access; or
  - 2) The side, which the main entrance of the structure faces.
- B. For business or industrial sites, the front shall not be a primary residential street. In cases where the front cannot be determined, the Administrator shall designate the front.
- C. On corner lots where a building or buildings have more than one (1) principal use, sign area shall be allowed for front linear footage as indicated in the district regulations and for one-half (1/2) the side street frontage, provided that:
  - 1) The side street does not front a primary residential area.
  - 2) The sign area as determined by each frontage is placed on the frontage from which it is determined.
  - 3) No freestanding sign shall be displayed on the side street frontage.

#### **17.1-15 RELOCATING OR CHANGING SIGNS**

Any sign that is moved to another location, either on the same or other premises shall require a permit. Additionally, any change in the width, length, height, color, wording materials, illumination or clearance between the bottom of the sign

and the ground, other than authorized in the permit, will require a new permit prior to making any such changes.

#### **17.1-16 ABANDONED SIGNS**

Signs which have been abandoned due to a closing of a business, a change in business name or for any other reason which renders the sign not applicable to the property involved shall be removed by the permit holder or the owner of the property with fourteen (14) days from the action that caused the sign to be considered abandoned.

- 1) A condition of approval for all sign permits shall be that permit holders or owners of the building or premises shall, at his or her own expense, remove all abandoned signs.
- 2) New signs for a building or property on which an abandoned sign is located shall not be approved until the abandoned sign is removed.
- 3) The Zoning Administrator shall determine when a sign is “abandoned.” Notice shall be sent to the permit holder and the property owner prior to administrative action.

#### **17.1-17 MAINTENANCE**

The owner of any sign shall be required to keep such sign properly maintained at all times in accordance with the following standards:

- a. All materials used in the sign shall be kept in good condition, free of holes, rotting, peeling paint and other forms of decay.
- b. If the sign is illuminated, all lighting shall be maintained in working order and meet the standards set forth in the Virginia Uniform Statewide Building Code, as amended.

#### **17.1-18 REMOVAL OF SIGNS**

Any sign which is hereafter unlawfully installed, improperly maintained, or any nonconforming sign shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure or land upon which such sign may be found within ten days after written notification to do so from the administrator. Upon failure to comply with such notice within the time specified herein, the administrator may cause the removal of such sign. Any expenses incident thereto shall be paid by the owner of the building or structure or land upon which such sign is erected and may be collected as statutes permit.

## **17.1-19 CONFLICTING ORDINANCE OF REGULATIONS**

Where this article differs in any manner from the provisions of the Current edition of the Virginia Construction Code, the Town Code or any other ordinance or regulation of the Town, the Ordinance, Code or regulation imposing the greatest restriction upon the use of any sign shall control.

## **ARTICLE 18 SPECIAL USE PERMITS AND CONDITIONAL ZONING**

### **18.1 Special Use Permits and Conditional Zoning**

General Provisions - General requirements are hereby established which shall apply to all applications for special use permits. The Town Council may impose such other restrictions and conditions as may be necessary to reduce or minimize the injurious effect of the special use and insure compatibility with surrounding property. The Council may establish expiration dates for any special use permit as a condition of approval.

### **18.2 Application for Special Use Permit**

The application for a special use permit shall be made by the property owner or designated agent, and filed in writing with the Town Council and shall consist of a regular zoning permit application as well as any information and exhibits as may be required by the Council. Advertising cost of seventy-five (\$75.00) dollars shall be paid by the property owner or his designated agent prior to publication of Notice of Public Hearing. Not more than sixty (60) days after filing such applications, a hearing shall be held on the application. Notice of the public hearing shall be in accordance with Section 15.2-2204, of the Code of Virginia, 1950 as amended.

This ordinance shall be effective on and after 12:01 a.m. July 1, 1983.

### **18.3 General Requirements - A special use permit may be granted provided the Council finds the proposed special use.**

- 18.3-01** Is designed, located, and operated so as the public health, safety, and welfare will be protected.
- 18.3-02** Will not adversely affect other property in the area in which it is located.
- 18.3-03** Conforms to all applicable provisions of this ordinance for the district in which it is to be located.
- 18.3-04** Pursuant to 15.2-2296 through 15.2-2301 the Town may accept as part of a zoning reclassification certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. These provisions shall not be used for the purpose of housing discrimination.

## **ARTICLE 19 CELL TOWERS**

### **19.1 Communication (Telecommunication) Towers**

All towers under Article 19.1 shall be permitted in the new zone created as Zone CT. This zone shall include cellular towers, digital towers and including – but not limited to – a tower or other structure that supports communication equipment, either broadcasting or receiving. This definition does not include television reception antennas and satellite dishes, or amateur radio operators as licensed by the Federal Communication Commission, but includes all others.

**19.2** Communication towers shall be reviewed as special use permit. The permitted use zones shall be IG (Industrial General) and CG (Commercial General) and shown as permitted in other zones as outlined in Appendix A with the exception that the Public Emergency Services shall be exempt from these regulations.

**19.2-1** A minimum of fifty (50) feet setback from any residential district plus two (2) feet setback per one (1) foot of tower height, as measured from the base of the tower. In the case of a tower or structure on a building, the additional setback shall be measured from the base of the building.

**19.2-2** For the purposes of this Section, distances shall be measured in a straight line between the nearest portion of the proposed communication tower lot and the nearest property line of a property zoned to allow residential use, or property with an existing residential use.

**19.2-3** The proposed structure shall not endanger the health and safety of residents, employees or travelers, including, but not limited to, the likelihood of the failure of such structure.

**19.2-4** The proposed tower is located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

**19.2-5** The proposed user has attempted to co-locate on existing towers and structures Especially on any publicly owned and/or operated building, facility, or land, and is willing to allow other users to co-locate on the proposed tower in the future, subject to engineering capabilities of the tower. At the time of permit application, satisfactory evidence shall be submitted that alternative towers, buildings, of other structures are not available for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria, or provide a location free of interface from other communication towers.

**19.2-6** Towers located on existing buildings and structures are preferable to the construction of new towers.

**19.2-7** All towers greater than 100 feet in commercial and industrial areas shall be constructed for future co-location opportunity subject to engineering capabilities of that design.

- 19.2-8** To the extent possible, all new towers proposed for upgrades with new equipment shall employ techniques to hide the towers.
- 19.2-9** All towers which have been abandoned shall be removed within 120 days of The date it is taken out of service, or shall be removed by the Town of Marion as set forth under the provisions of Section 38-1, Town of Marion Code.
- 19.2-10A** site plan, elevation drawings, photographs and other appropriate documentation shall be submitted with the request for special use permit which provide the following information:
- 19.2-10-1** Site plan must include the location of tower(s), guy anchors (if any), transmission building and other accessory uses, parking access, fences and adjacent land use. Landscaping and required buffering shall also be shown in accordance with the Town Engineer.
- 19.2-10-2** Elevation drawings shall clearly show the design of the tower and materials to be used.
- 19.2-10-3** Photographs shall show the proposed site and the immediate area. Submittal of other detailed information, such as topography and aerial view, which supports the request are encouraged at the option of the applicant.
- 19.2-10-4** Landscaping and fencing – landscaping and fencing are to be provided as follows:
- 19.2-10-4a** Eight (8) foot high fencing shall be provided around the tower and any associated building.
- 19.2-10-4b** Around the base of the tower, outside of the fencing, a buffer screen shall be provided and landscaping shall be provided also.
- 19.2-10-5** Towers and structures shall be illuminated only to the extent required by applicable federal or state statute or regulation, not to allow over spillage of lights on to the residential areas.
- 19.2-10-6** No signage is permitted except as is required by applicable state or federal law, rule or regulation; signs for the purpose of identification, warning, emergency function of contact may be placed as required by standard industry practice.
- 19.2-10-7** Communication towers and structures located in commercial and light industrial districts shall be subject to the review and approval by the Marion Planning Commission and the Town of Marion Town of Marion Council.
- 19.2-10-8** Communication towers and structures shall be earth tone colors, except as otherwise required by applicable federal or state statute or regulation.

## **ARTICLE 20 DEFINITIONS**

### **General Provisions**

The following definitions shall apply for the interpretation of this ordinance. The dictionary definition shall apply to all words not defined in this article.

**20.1 Abandonment** – To cease or discontinue a use or activity without the intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, or otherwise improving or re-arranging a facility, or during normal periods of vacation or seasonal closure.

**20.2 Abutting** – Having a common border with or being separated from such a common border by a right-of-way, alley, or easement.

**20.3 Accessory Apartment** - A separate and complete dwelling unit that is contained within the structure of a single-family dwelling unit.

**20.4 Accessory Use or Building** - An activity or structure that is customarily associated with and is incidental and subordinate to a principal activity and/or structure and located on the same lot, except as provided for under the provisions of Article 16, Off-Street Parking Requirements.

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

**20.6 Administrator, The** - The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by Town Council. He may serve with or without compensation and determined by the Council.

**20.7 Aesthetic Zoning** – Zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony. Sometimes called architectural zoning.

**20.8 Alley** - A public way intended to provide only secondary vehicular access to adjoining properties.

**20.9 Alteration** - Any material change in the total floor area, use, adaptability, or external appearance of an existing structure.

**20.10 Antenna** – Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**20.11 Antique Shops** – A place offering primarily antiques for sale. An antique for the purpose 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.

**20.12 Apartment House** - A building used or intended to be used as the residence of three or more families living independently of each other.

**20.13 Attic** - Any story situated wholly or partly within the roof, arranged or built to be used for business, storage or habitation.

**20.14 Automatic Teller Machine** – An automated device that performs banking or financial functions at a location remote from controlling financial institution.

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

**20.16 Bed and Breakfast Inn** – A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

**20.17 Boarding House** - A building other than a hotel or motel where, for compensation, lodging, meals are provided for at least five and up to fourteen non-transient persons. A boarding house is not a home occupation.

**20.18 Buffer Area** – An area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**20.19 Building** - Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or moveable property.

**20.20 Building, Accessory** - See Accessory Use or Building, 20.5.

**20.21 Building, Height** - The vertical distance from the highest point on a structure, excepting any chimney or antenna, to the average ground level of the grade where the walls or other structural elements intersect the ground.

**20.22 Building, Line** – The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

**20.23 Building, Main** - The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use of the lot.

**20.24 Cell Tower District** – This district shall include cellular towers, digital towers and including – but not limited to – a tower or other structure that supports communication equipment, either broadcasting or receiving. This definition does not include television reception, antennas and satellite dishes, or amateur radio operators as licensed by the Federal Communication Commission, but includes all others.

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

**20.26 Central Business District** - The Central Business District (CBD) is the core of a downtown's primary activities. It is an intense use of space devoted as a center for governmental activity, businesses (office, retail trade, consumer services), financial institutions, and cultural

activities, (libraries, theaters, restaurants). Marion's CBD, as delineated in the town's comprehensive plan, generally includes the boundaries of North Lane to South Lane, and Sheffey Street to Commerce Street.

**20.27 Child Care Facility** – (The definition of child care distinguishes among types of child care establishments.)

**1. Family Child Care Home** – A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than six children at one time, including children of the adult provider.

**2. Group Child Care Center, Class A** – A building or structure where care, protection, and supervision are provided, on a regular schedule, at least twice a week to at least seven and no more than 12 children, including children of the adult provider.

**3. Group Child Care Center, Class B** – A building or structure where care, protection, and supervision are provided on a regular schedule, at least twice a week to more than 12 children, including children of the adult provider.

**20.28 Commission, The** - The Planning Commission of the Town of Marion, Virginia.

**20.29 Conditional Zoning** - Conditional zoning means, as part of classifying land within the Town Of Marion into areas and districts, the allowing reasonable conditions governing the use of such property, such conditions being in addition to the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

**20.30 Dairy** - A commercial establishment for the manufacture and sale of dairy products.

**20.31 Development** - Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling grading, excavation, mining, dredging, or drilling operations.

**20.32 Drug Store** – A store where drugs and medical supplies are sold.

**20.33 Dwelling** - Any building that is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, and automobile trailers.

**20.34 Dwelling, Multiple-Family** - A building arranged or designed to be occupied by more than one family.

**20.35 Dwelling, Single Family** - A structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

**20.36 Dwelling, Two-Family** - A building arranged or designed to be occupied by two families, the structure having only two dwelling units.

**20.37 Dwelling Unit** - One or more rooms in a dwelling unit designed for living or sleeping purposes, and having at least one kitchen.

**20.38 Family** - An individual or a group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit.

- 20.39 Finished Ground** – The elevation of the exposed surface of the ground when the proposed structure is completed.
- 20.40 Flood** – A general or temporary inundation of normally dry land areas.
- 20.41 Flood Plain** – (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- 20.42 Floor Area** – The total of the gross area of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of principal accessory buildings or the center lines of party walls separating such buildings or portions thereof.
- 20.43 Frontage** – The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be further away from the street upon which the lot fronts than the building setback lines as defined and required herein.
- 20.44 Garage, Private** – Accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple unit dwelling, the provided garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.
- 20.45 Garage, Public** – A building or a portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor driven vehicles.
- 20.46 Governing Body** – The Council of the Town of Marion, Virginia.
- 20.47 Grade** – For buildings, the front walls of which adjoin the street line or are within twenty feet of same, grade is the elevation of the curb or established curb elevation opposite the center of the front of the building. For buildings, the front walls of which are more than twenty feet from the street line, grade is to be taken as the average elevation of the finished ground along the front of the building.
- 20.48 Guest Room** – A room that is intended, arranged or designed to be occupied by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking.
- 20.49 Historic District** - Governed by Virginia Department of Historic Resources (This is only an honorary designation as designated by the Historic Map which may be viewed at the Municipal Building).
- 20.50 Home Garden** – A garden in a residential district for the production of vegetables, fruits and flowers generally for use and/or consumption by the occupants of the premises.
- 20.51 Home Occupation** – An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display and not more than one person is employed, other than members of the family residing on the premises; professional offices such as medical, dental, legal, engineering and architectural offices conducted within a dwelling by the occupant.

**20.52 Hospital** – An institution rendering medical, surgical, or obstetrical, or convalescent care, including nursing homes, homes for the aged, and sanitariums.

**20.53 Hospital, Special Care** – An institution rendering care primarily for mental or feeble minded patients, epileptics, alcoholics, or drug addicts.

**20.54 Hotel** – A building designed or occupied as the more or less temporary abiding place for fourteen or more individuals who are, for compensation, lodged, with or without meals, and in which provisions is not generally made for cooking in individual rooms or suites.

**20.55 Junk Yard** – The use of any area of land lying within one hundred feet of a public right-of-way or the use of more than two hundred square feet of land area in any location for the storage, keeping or abandonment of junk including scrap metals or other scrap materials. The term “junk yard” shall include the term “automobile graveyard.”

**20.56 Kennel** - A place that requires a business license prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats or other small animals for sale or in return for compensation.

**20.57 Lot** – A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as required by this ordinance, and having frontage on a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

**20.58 Lot, Corner** – A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets unless topography and surrounding development make this impracticable.

**20.59 Lot, Coverage** – The portion of a lot that is covered by a building or any part of a building.

**20.60 Lot, Depth of** – The average horizontal distance between the front and rear lot lines.

**20.61 Lot, Double Frontage** – A lot having front and rear lines abutting streets.

**20.62 Lot, Interior** – Any lot other than a corner lot.

**20.63 Lot of Record** – A lot, a plat of which has been recorded on the Clerk’s Office of the Circuit Court of Smyth County, Virginia.

**20.64 Lot, Width of** – The average horizontal distance between side lots.

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

**20.66 Manufactured Home** – A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling with or without a

permanent foundation, when corrected to the required utilities; and includes the plumbing and heating, air-conditioning, and electrical systems contained in the structure. This definition applies to manufactured housing units built after July 1, 1976 that were constructed in compliance with federal standards that became effective on that date. All manufactured homes in any district other than R-4 and R-2MH, these structures must adhere to the Virginia Industrial Building Code, they shall have axles and towing tongues removed and must have a complete masonry foundation and masonry skirting and the roof of the manufactured home shall be constructed of conventional type roofing for site built homes, such as fiberglass shingles, asphalt shingles or wood shakes and have a minimum “A” pitched roof of 2.5 inches in 12 inches.

**20.67 Methadone and other Controlled Substance Abuse Clinics** - A provider of treatment for persons with opiate addiction through the use of controlled substance, methadone, or other opioid replacements.

**20.68 Mobile Home** – A single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assemble operations, location of jacks or permanent foundations, connection to utilities and the like.

**20.69 Mixed Use** – a land use where more than one classification of land use (residential, commercial, recreational) permitted within a zoning district is combined on or within a structure.

**20.70 Nonconforming Activity** – The otherwise legal use of a building or structure that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to this ordinance.

**20.71 Nonconforming Lot** – An otherwise legal building or structure that does not conform to the requirements of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance, for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

**20.72 Nonconforming Structure** – An otherwise legal building or structure that does not conform to the requirements of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance, for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

**20.73 Off-Street Parking Area** – Space provided for vehicular parking outside the dedicated street right-of-way.

**20.74 One-Hundred Year Flood (Base Flood)** – A flood that, on the average, is likely to occur once every one hundred years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

**20.75 Overlay Zone** –Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two. It usually is employed to deal with specific physical characteristics such as flood plains or steeply sloping areas, but may have other applications as well as development within historic areas or redevelopment areas.

**20.76 Personal Service Establishment:** An establishment primarily engaged in the provision of frequent or recurrent needed individual services generally related to personal needs, such as the care of a person or a person's apparel, or the training and development of a person, including barber shops, beauty shops, nail salons, tanning salons, dressmakers and tailors, shoe repair shops, art or music lessons, and the like, but not including medical services, tattoo parlors, massage parlors or body piercing establishments.

**20.77 Parking Facility --** A parking facility is generally defined as any building, structure, land, right-of-way, equipment or facility used or useful in connection with the construction, enlargement, development, maintenance or operation of any area or building for off-street parking of motor vehicles.

**20.78 Pharmacy –** The art or profession of preparing and dispensing drugs and medicines.

**20.79 Proffer –** To offer

**20.80 Public Water and Sewer Systems –** A water or sewer system owned by a municipality or county, or owned and operated by a private individual or a corporation approved by the Council and properly licensed by the State Corporation Commission.

**20.81 Required Open Space –** Any space required in any front, side, or rear yard as set forth in this ordinance.

**20.82 Restaurant –** Any building in which for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments cafes, tea rooms, confectionary shops or refreshment stands.

**20.83 Retail Stores and Shops –** Buildings for display and sale at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following, which will serve as illustration: drug store, news stand, food store, candy shop, milk dispensary, dry goods store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, beauty parlor, and video stores.

**20.84 Satellite Receiving Earth Stations –** Satellite receiving earth station with surface area of 12 sq. ft. or greater shall be considered as an accessory structure. Such structures shall be mounted in the back yard, and mounted on a concrete base 4 X 4 ft. diam., 12” thick with ½” anchor bolts placed into full depth of concrete. This applies to residential district use only.

**20.85 Setback –** The minimum distance by which any building or structure (exclusive of steps) must be separated from the front lot line.

**20.86 Sign –** Any display of letters, words, numerals, figures, devices, emblems, pictures, or any parts or combination thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one square foot in area is excluded from this definition:

- (1) **Business:** a sign that directs attention to a product, commodity, or service available on the premises.
- (2) **Home Occupation:** a sign directing attention to a product, commodity or service available on the premises, but which product, commodity, or service is clearly a secondary use of the building.
- (3) **General Advertising:** a sign which directs attention to a product, commodity, or service available, other than on the premises, generally throughout the county.
- (4) **Location:** a sign that directs attention to the approximate location of an establishment from which the advertised product may be obtained.
- (5) **Directional:** a directional sign is one which is two square feet or less in area, giving the name only of the firm, or business responsible for the erection of the same. One end of the sign may be pointed, or painted with an arrow, indicating the direction to which attention is called.

**20.87 Sign Structure** – Includes the supports, uprights, bracing and framework of any structures be it single spaced, double spaced, v-type, or otherwise, exhibiting a sign.

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

**20.89 Store** – See Retail Stores and Shops

**20.90 Story** – That portion of a building, other than a basement, included between the surface and any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

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

**20.92 Street** – A publicly maintained right-of-way other than an alley, which affords primary means of access to abutting property. The word “street” shall include the words “road”, “highway”, and “thoroughfare.”

**20.93 Street Line** – The dividing line between a street or road right-of-way and the contiguous property. Where sidewalks exist and the location of the street line is questionable, the side of the sidewalk furthest from the street shall be considered as the street line.

**20.94 Structure** – Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

**20.95 Theater** – A movie theater is a specialized theater for showing movies or motion pictures. The primary structural difference between a theater and a movie theater is the projection screen. However, many movie theaters can be easily adapted for stage performance, and many stages have folding screens for movie projections. Although screen shapes are mostly rectangular, they come in a variety of shapes. Also, some special-purpose multimedia movie theaters use multiple screens (one on each wall face) or the entire ceiling surface, which is sometimes curved or geodesic in shape.

**20.96 Tourist Court, Auto Court, Motel, Cabins, or Motor Lodge** – One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

**20.97 Tourist Home** – A dwelling where only lodging is provided for compensation for up to fourteen persons (in contradistinction to hotels and boarding houses) and open to transients.

**20.98 Variance** – A relaxation of the requirements of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure of size of yards and open spaces.

**20.99 Video Rental Store** – Establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMS, laser discs, electronic games, cassettes, or other electronic media. Sales of film, video tapes, laser discs, CD-ROMS, and electronic merchandise associated with VCR's, video cameras, and electronic games are permitted accessory uses.

**20.100 Wayside Stand, Roadside Stand, Wayside Market** – Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner of his family on their farm.

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

- 1) Front: An open space on the same lot as a building between the front line of the building (exclusive of steps) and the front lot or street line, and extending across the full width of the lot.
- 2) Rear: An open, unoccupied space on the same lot as a building between the rear line of the building (exclusive of steps) and the rear line of the lot, and extending the full width of the lot.
- 3) Side: An open, unoccupied space on the same lot as a building between the side line of the building (exclusive of steps) and the side line of the lot, and extending from the front yard line to the rear yard line.