

# ZONING ORDINANCE & SUBDIVISION REGULATIONS

## **Town of Wise**

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ZONING ORDINANCE  
TOWN OF WISE, VIRGINIA

WHEREAS, by act of the General Assembly of Virginia as provided in Title 15, Code of Virginia, 1950, and amendments thereto, authorizing the governing body of every municipality to classify the territory under its jurisdiction into districts and to regulate, restrict, permit, prohibit and determine the use of lands, buildings, structures, and other premises for agricultural, business, industrial, residential, flood plain and other specific uses; the size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures; the areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in sizes of lots based on whether a public or community water supply or sewer system is available and used; the excavation or mining of soil or other natural resources; and to provide for amendments and changes therein; to require municipal planning commissions to perform certain duties with reference thereto; to permit the appointment and prescribe the powers and duties of municipal boards of zoning appeals; and to provide methods for enforcement of this ordinance and penalties for the violation thereof.

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

ARTICLE 1  
TITLE, APPLICATION, PURPOSE, INTERPRETATION

Section 1. Title

This ordinance shall be known as the Zoning Ordinance for Wise, Virginia.

Section 2. Application

This Ordinance shall apply to the incorporated territory of Wise, Virginia. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions hereof or provisions of State Law which may affect the applicability of this Ordinance.

Section 3. Purpose

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

convenience of access and of traffic and circulation of people and goods, for the appropriate use and occupancy of buildings, for healthful and convenient distribution of population, for protection against overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, or loss of life, health, or property from fire, flood, panic or other dangers, to encourage good civic design and arrangement to facilitate the creation of a convenient, attractive and harmonious community, and for adequate public utilities, public services and facilities, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. They have been made with reasonable consideration, among other things, for the existing use and character of property, the Comprehensive Plan, to the character of the district and its peculiar suitability for particular uses, to trends of growth or change, and with a view to conserving natural resources and the value of land and buildings and encouraging the most appropriate use of land throughout the incorporated territory of Wise, Virginia.

#### Section 4. Interpretation

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

ARTICLE 2  
DISTRICTS AND DISTRICT MAPS

Section 1. Establishment of Districts

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

R-A	Low Density Residence District
R-B	Medium Density Residence District
R-C	Mobile Home Residence District
B-1	Neighborhood Business District
B-2	General Business District
I-L	Limited Industrial District
I-G	General Industrial District

Section 2. Establishment of District Map

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

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

Section 3. Periodic Review

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

#### Section 4. Interpretation of District Boundaries

1. A district name, letter or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name, letter or letter-number combination extend throughout the whole area in the town bounded by the district boundary lines within which such name, letter or letter-number combination is shown or indicated, except as otherwise provided by this section.
2. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules apply:
  - a. In cases where a boundary line is given a position within a road, street or alley, navigable or non-navigable stream, it shall be deemed to be in the center of the right-of-way of the road, street, alley, or stream, and if the actual location of such road, street, alley, or stream varies slightly from the location as shown on the district map, then the actual location shall control.
  - b. In cases where a boundary line is shown as being located a specific distance from a road or street line or other physical feature, this distance shall control.
  - c. Where the district boundaries are shown on the Zoning District Maps to approximately coincide with lot lines or town limit line, the lot lines or town limit line shall be construed to be the district boundary line unless otherwise indicated.
  - d. In cases where district boundaries as shown on the Zoning District Maps do not coincide or approximately coincide with road or street lines, alley lines or lot lines, and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the map.
  - e. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, such property shall be classified R-A Low Density Residence District until changed by amendment.

#### Section 5. Interim Zoning of Annexation Areas

Pursuant to Section 15.1-491(b) of the Code of Virginia 1950, as amended, all land which shall come into the territorial jurisdictions of the Town shall be classified R-A Low Density Residence District for such reasonable time until changed by amendment, in order to provide for reasonable, orderly interim regulation of use and development of land within the said annexation area.



ARTICLE 3  
GENERAL PROVISIONS

Section 1. Conformance with Regulations Required

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

Section 2. Location of a Lot Required

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

Section 3. Street Frontage Required

No lot shall be used in whole or in part for dwelling purposes unless such lot abuts upon a street in accordance with the minimum street frontage requirements of this Ordinance. No lot or parcel of land abutting the terminus of a public street shall be deemed to comply with street frontage requirements unless such lot abuts on an approved permanent cul-de-sac.

Section 4. Encroachment; Reduction of Lot Area

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

Section 5. Accessory Buildings; Prior Construction and Use

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

Section 6. Uses Not Permitted Are Prohibited

For the purposes of this Ordinance, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.

ARTICLE 5  
NONCONFORMING USES

Section 1. Nonconforming Use May Be Continued

Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof. Except as provided in this Article, such nonconforming use may not be enlarged, extended, reconstructed or structurally altered except in compliance with the provisions of this Ordinance.

Section 2. Change of Nonconforming Use

If no structural alterations are made, a nonconforming use of land or of a building may be changed to another nonconforming use of the same or of a more restricted classification. Removal and replacement of a nonconforming mobile home shall be permitted as a change of use under this section if said replacement is completed within 60 days of the removal. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

Section 3. Extension of Use Within Existing Building

The nonconforming use of a building may be hereafter extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of the enactment of this Ordinance.

Section 4. Buildings Nonconforming in Height, Yard Area, or Bulk

A building nonconforming only as to height, yard areas, or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect. The nonconforming status of such building as to height, yard areas, or bulk shall not be affected by a discontinuance of internal use.

Section 5. Discontinuance of Nonconforming Use

No building or portion thereof used in whole or in part for a nonconforming use in a residence district which remains idle or unused for a continuous period of two years, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

Section 6. Destruction of a Nonconforming Use

No building which has been damaged by any cause whatsoever to the extent of more than fifty (50) percent of the fair market value of the building, immediately prior to damage, shall be restored, repaired, or replaced, and used except in conformity with the regulations of this Ordinance unless such restoration, repair or replacement and use is approved as a special exception by the Board of Zoning Appeals under Article 7. If a building is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve months of the date of such damage.

### Section 7. Intermittent Use

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

### Section 8. Existence of a Nonconforming Use

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

### Section 9. Nonconforming Lots

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was lawfully of record prior to the application of zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to area, frontage, and dimensions of lots, the owner of such lot may nevertheless erect a single-family dwelling or make other improvements on the lot; provided such dwelling or improvements conform in all other respects to applicable zoning and health regulations and restrictions.

### Section 10. Nonconforming Lots - Eminent Domain

A lot of record or structure which, solely as a result of an eminent domain proceeding, no longer conforms to the requirements of these regulations and restrictions as to area, frontage, and dimensions of lots or yards, shall not be deemed a nonconforming lot or structure for the purpose of this Ordinance.

### Section 11. Nonconforming Signs

In a residential district where any sign does not comply with the provisions of this Ordinance, such sign and any supporting structures may be maintained but shall not be replaced, reconstructed, moved, structurally altered, or relighted except in compliance with the provisions of this Ordinance and may continue in use unless subject to removal under other provisions of this Ordinance. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status. In any district supporting structures for nonconforming signs may continue in use for a conforming sign if said support structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs.

### Section 12. Nonconforming Dwellings in Business and Industrial Districts

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

ARTICLE 6  
SUPPLEMENTARY REGULATIONS

Section 1. Off-Street Parking Requirements

1.1 Specific Requirements by Use

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, accessory off-street parking spaces shall be provided as follows:

<u>Use or Use Category</u>	<u>Off-Street Parking Spaces Required</u>
Single-family or two-family dwelling	1 per dwelling unit
Townhouse	2 per dwelling unit
Multiple-family dwelling, three or more dwelling units:	
Apartments for the elderly	0.5 per dwelling unit
Efficiency apartments	One per dwelling unit
One or more bedroom apartments	1.5 per dwelling unit
Roomers	One for each roomer
Church, temple, synagogue, or similar place of assembly	1 per 5 seats or bench seating spaces (seats in main auditorium)
College or high school	1 per 5 seats or bench seating spaces (seats in main auditorium, gymnasium or field house only, whichever is larger) or one for each 5 students, whichever is greater
Elementary, junior high, or nursery school	1 per 10 seats in main assembly room or 2 per classroom, whichever is greater
Private club without sleeping rooms	1 per 5 members or 1 for each 400 square feet of floor area, whichever is greater
Public library, museum, art gallery, or community center	10 per use plus 1 additional space for each 300 square feet of floor area in excess of 1,000 square feet
Private clubs, fraternities, sororities, and lodges, with sleeping rooms	2 per 3 sleeping rooms or suites or 1 per 5 active members, whichever is greater

Sanitarium, convalescent home, home for the aged, or similar institution	1 per 3 patient beds
Motel, motor hotel, motor lodge, hotel, or tourist court	5 spaces plus 1 per sleeping room or suite
Rooming, boarding, or lodging house	1 per sleeping room
Hospital	2 per patient bed
Hospital, veterinary	1 per 400 square feet of floor area; 4 spaces minimum
Office or office building (other than medical), post office, studio	1 per 400 square feet of floor area, 3 spaces minimum
Medical offices or clinic	1 per 200 square feet of floor area; 10 spaces minimum for a clinic
Funeral home	1 per 50 square feet of floor area excluding storage and work area, 30 spaces minimum
Restaurant or other establishment for consumption of food or beverages inside a building on the premises	1 per 100 square feet of floor area, 3 spaces minimum
Restaurant, drive-in	1 per 100 square feet of floor area, 10 spaces minimum
Retail store or personal service establishment and banks	1 per 200 square feet of floor area; retail food stores over 4,000 square feet: 1 per 100 square feet of floor area
Automobile service station	3 for each service bay
Furniture or appliance store, machinery, equipment, and automobile and boat sales and service	1 per 300 square feet of floor area; 2 spaces minimum. Automobile sales and service, 10 minimum
Auditorium, theatre, gymnasium, stadium, arena, or convention hall	1 per 4 seats or seating spaces
Bowling alley	5 per lane
Food storage locker	1 per 200 square feet customer service area

Amusement place, dance hall, skating rink, swimming pool, or exhibition hall, without fixed seats	1 per 100 square feet of floor area. Does not apply to accessory uses.
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting station	1 per 2 employees on premises; auditorium for broadcasting station requires space as above
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse, or similar establishment	1 per 2 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry

1.2 Interpretation of Specific Requirements

1. The parking requirements above are in addition to waiting spaces or stacking spaces necessary for the operation of drive-in or drive-through facilities. Waiting spaces on the premises must be adequate to avoid obstruction of traffic on the public way.
2. The parking requirements above are in addition to space for storage of trucks, campers, recreation vehicles, or other similar vehicles used in connection with any use.
3. The parking requirements in this Article do not limit the parking requirements contained in the district regulations.
4. The parking requirements in this Article do not limit special requirements which may be imposed approval of a conditional use or special exception.
5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
7. The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.
8. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

9. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Article for an increase in parking spaces of 10 percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than 10 percent of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of 10 percent or more.

### 1.3 Joint Use and Off-Site Facilities

1. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building or other nonresidential building served. For the purpose of this requirement, land used for employee parking but located immediately across a street or alley from the building or use served shall be considered as located on the same lot.
2. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence.

### 1.4 Design Standards

1. Minimum Space Area. For the purpose of these regulations, an off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet (18 feet deep and 9 feet wide minimum), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
2. Entrances and Exits. Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the Virginia Department of Highways and Transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall not be located within 50 feet of a street intersection or be greater than 50 feet in width. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

3. Drainage and Maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and shall be paved in accordance with an approved plan or in accordance with applicable Town specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee.
4. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged, installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in a Residential District or 30 feet in a Business District.
5. Design in General. All parking lots shall be arranged for functional efficiency and convenience and in general shall be designed to present a pleasing appearance so as to reduce adverse impact on surrounding public or private property.



Section 2. Off-Street Loading Requirements

2.1 Specific Requirements By Use

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted, for the uses listed below, when such buildings contain the floor areas specified, accessory off-street loading spaces shall be provided as required below or as required in subsequent sections of this Article.

<u>Use or Use Category</u>	<u>Floor Area in Square Feet</u>	<u>Loading Spaces Required</u>
Retail store, department store, restaurant, wholesale house, warehouse, general service, manufacturing, or industrial establishment	2,000-10,000	One
	10,000-20,000	Two
	20,000-40,000	Three
	40,000-60,000	Four
	Each 50,000 over 60,000	One Additional
Apartment building, motel, hotel, offices or office building, hospital or similar institutions, or places or public assembly	5,000-10,000	One
	10,000-100,000	Two
	100,000-200,000	Three
	Each 100,000 over 20,000	One Additional
Funeral home or mortuary	2,500-4,000	One
	4,000-6,000	Two
	Each 10,000 over 6,000	One Additional

2.2 Interpretation of Specific Requirements

1. The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in the district regulations.
2. The loading space requirements in this Article do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use or special exception.

2.3 Mixed Uses in One Building

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

2.4 Design Standards

1. Minimum Size. For the purpose of these regulations a loading space is a space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.
2. Loading Space for Funeral Homes. Loading spaces for a funeral home may be reduced in size to 10 by 25 feet and vertical clearance reduced to eight feet.
3. Entrances and Exits. Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approved directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

### Section 3. General Sign Regulations

#### 3.1 Sign Definitions

For the purpose of this section, certain terms and words pertaining to signs are hereby defined. The general rules of construction contained in Article 11 are applicable to these definitions.

1. Sign. An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land, rock, tree, or other natural object and which directs attention to a product, place, activity, person, institution, or business.
2. Sign Area. That area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area; for other signs with more than one face, each side shall be included in a computation of sign area. The area of a cylindrical or spherical sign shall be computed by multiplying one-half of the circumference by the height of the sign.
3. Accessory Sign. A sign relating only to uses of the premises on which the sign is located, or products sold on the premises on which the sign is located, or indicating the name or address of a building or the occupants or management of a building on the premises where the sign is located.
4. Detached Sign. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.
5. Double-Faced Sign. A sign with two parallel, or nearly parallel, faces, back to back, and located not more than 24 inches from each other.
6. Flashing Sign. An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. A clock or thermometer or similar instrument with moving hands or a sign which has letters or numbers which change at intervals of not less than five seconds shall not be considered a flashing sign.
7. Flat Sign. Any sign attached to, and erected parallel to the face of, or erected or painted on the outside wall of, a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.



8. General Advertising Sign. Any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations.
9. Illuminated Sign. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.
10. Indirectly Illuminated Sign. A sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself, or a sign of translucent non-transparent material illuminated from within but with no exposed or exterior bulbs, tubes, or other light source.
11. Projecting Sign. A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term projecting sign includes a marquee sign.
12. Sign, Height. The vertical distance from the street grade or the average lot grade at the front setback line, whichever produces the greater vertical distance, to the highest point of the sign.

### 3.2 General Requirements. All Signs

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this Ordinance:

1. No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this Article and in these regulations, until a permit has been issued by the Administrator. Before any permit is issued, an application especially provided by the Administrator shall be filed, together with two sets of drawings and/or specifications (one to be returned to the applicant) as may be necessary to fully advise and acquaint the Administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, the number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. All signs which are electrically illuminated shall require a separate electrical permit and inspection. All signs shall be erected on or before the expiration of 30 days from the date of issuance of the permit; otherwise, the permit shall become null and void and a new permit shall be required. Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises. Fees for sign permits shall be in accordance with the schedule adopted by ordinance, a copy of which is maintained in the office of the Administrator.
2. Structural and safety features and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is found to be in compliance

with all the requirements of this Ordinance and applicable technical codes.

3. The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code:
  - a. Official traffic signs or sign structures and provisional warning signs or sign structures, when erected or required to be erected by a governmental agency, and temporary signs indicating danger.
  - b. Changing of the copy on a bulletin board, poster board, display encasement, or marquee.
  - c. Temporary, non-illuminated paper signs in show windows in a business district.
  -  d. Temporary non-illuminated election campaign signs.
  - e. Temporary non-illuminated signs, not more than six square feet in area, advertising real estate for sale or lease or announcing contemplated improvements of real estate, and located on the premises, one such sign for each street frontage.
  - f. Temporary non-illuminated signs not more than 16 square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.
  - g. Non-illuminated signs warning trespassers or announcing property as posted.
  -  h. Temporary non-illuminated portable signs, not exceeding six square feet in area, in a business or industrial district, one for each 50 feet of street frontage. (All portable signs shall be included in the measurement of permitted sign area.)
  - i. Sign on a truck, bus, or other vehicle, while in use in the normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
  
4. The Administrator, upon application, as required in Section 3.2 of this Article, may issue temporary permits for the following signs and displays for a period of not exceeding 30 days, when in his opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property:
  - a. Signs advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting, sponsored by a governmental, civic or charitable organization.

- b. Special decorative displays used for holidays, public demonstrations, or promotion for non-partisan civic purposes.
  - c. Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.
5. Pennants, banners, streamers, and all other fluttering, spinning or similar type signs and advertising devices are prohibited except for national flags and flags of political subdivisions of the United States, and except for flags of bona fide civic, charitable, fraternal, and welfare organizations, provided that during nationally recognized holiday periods, or during a special civic event, pennants, banners, streamers and other fluttering, spinning, or similar type advertising devices pertaining to said periods or events may be displayed by temporary permit as provided above in this Article, and further provided that the Administrator may approve special flags and flag poles when, in his opinion, they form an integral design feature of a building or group of buildings and not an ordinary advertising device.
6. No flashing signs shall be permitted in any district.
7. No sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building and no projecting sign shall extend over or above the roof line or parapet wall of a building.
8. Applications for unusual signs or displays which give rise to questions of interpretation of these regulations may be referred by the Administrator to the Board of Zoning Appeals for the purpose of interpretation by the Board and recommendation for action on the application by the Administrator. If, in the opinion of the Board, the application is not adequately covered by these regulations, the Board may make recommendations for amendment of this Ordinance.
9. No sign shall be constructed, erected, used, operated, or maintained which:
  - a. Displays intermittent lights resembling, or seeming to resemble, the flashing lights customarily associated with danger or such as are customarily used by police, fire, or ambulance vehicles, or for navigation purposes.
  - b. Is so located and so illuminated as to provide a background of colored lights blending with traffic signal lights to the extent of confusing a motorist when viewed from normal approaching position of a vehicle at a distance of 25 to 300 feet.
10. Permitted signs for a nonconforming business or industrial use in a residence district shall consist of those signs permitted in the B-1 Neighborhood Business District.

11. Except as otherwise specifically provided in these regulations, all signs shall be subject to the provisions of Article 5 governing nonconforming uses.
12. Except as otherwise provided, these regulations shall be interpreted to permit one sign of each permitted type, in accordance with applicable regulations, for each street frontage, for each permitted use on the premises. For the purpose of this regulation, sign "types" are flat, detached, and projecting signs, or special purpose signs specifically listed in the district regulations.
13. Except as otherwise provided, any sign may be a flat, detached, or projecting sign, and, except as otherwise provided, no detached sign shall exceed a height of 15 feet.
14. Signs of permitted types and sign area may be placed on front walls or on walls of buildings other than the front except that signs may not be placed on side or rear walls facing, and within 100 feet of, a Residential District.
15. Unless otherwise specified in these regulations, all signs shall comply with the yard requirements of the district in which they are located, provided that one sign, accessory or otherwise, may occupy required yards in a district where such sign is permitted by these regulations, if such sign is not more than 50 square feet in area, and other requirements of these regulations are complied with.
16. Portable signs, on wheels, carriages, or on fixed supports shall be considered as detached signs and shall be included in any measurement of permitted sign area whether or not a permit is required.
17. No sign, portable or otherwise, is to be placed or located to conflict with the vision clearance or other requirements of this ordinance or applicable traffic ordinances.

No signs shall be attached to trees, utility poles, or any other unapproved supporting structure.

No signs shall project over public right-of-way without express permission of the Town Council except for permitted flat signs which may so project not more than 18 inches.

20. The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Administrator.
21. All signs shall be maintained in good condition and appearance. After due notice has been given as provided below, the Administrator may cause to be removed any sign which shows gross neglect or becomes

dilapidated, or which by reason of a change in occupancy no longer relates to a use conducted on the property.



22. The Administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within 30 days after receiving written notice of violation from the Administrator. Removal of a sign by the Administrator shall not affect any proceedings instituted prior to removal of such sign.



Section 4. Supplementary Height, Area, and Bulk Regulations

4.1 Reference to Virginia Condominium Act

1. Nothing in this Ordinance shall be interpreted to prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this Ordinance which would permit a physically identical project or development under a different form of ownership.
2. All condominium projects or developments hereafter constructed shall comply with the provisions of this Ordinance, including the requirements for approval of site plans. Whenever an existing project or development is to be converted to condominium ownership involving certain land areas to be held as common elements, limited or otherwise, a site plan shall be filed showing the extent and ownership of such holdings. Nothing in this requirement shall be interpreted to abridge any rights said project or development may hold as a nonconforming use.
3. Any declaration of restrictions to be filed in connection with any project covered by the provisions of this Ordinance shall comply in all respects with the provisions of the Virginia Condominium Act not in direct conflict with the requirements of this Ordinance.

4.2 Lot Area

1. Requirements for lot area per family do not apply to dormitories, fraternities, sororities, and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms or apartments.
2. Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge or tourist home or rooms in a rooming, boarding or lodging house.

4.3 Yards and Open Space Generally

1. Every part of a required yard shall be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.
2. More than one main building may be located upon a lot or tract in the following instances:
  - a. Institutional buildings.
  - b. Public or semi-public buildings.

- c. Multiple-family dwellings or condominiums under approved site plans.
- d. Convalescent or nursing homes and homes for the aged.
- e. Commercial and industrial buildings under approved site plans.

The provisions of this exception shall not be construed to allow the location or erection of any building or portion of a building outside of the buildable area of the lot.

3. Where a lot is of such unusual configuration that none of the provisions of this Ordinance regarding yards and open spaces apply precisely, the Administrator may use his discretion to apply an interpretation which most nearly meets the requirements of this Ordinance; and where by reason of difficult or unusual topography an improved building site may be achieved by a minor modification of yard space requirements (up to 1.5 feet) such modification may be approved by the Administrator; provided, however, that this section does not give the Administrator any power to grant exceptions or variances reserved to the Board of Zoning Appeals under Article 7.

#### 4.4 Front Yards

1. Where an official line has been established by an officially adopted detailed plan on file with the Administrator for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
2. On through lots the required front yard shall be provided on each street.
3. Telephone booths and bus shelters, when permitted by district regulations, may be located in a required front yard.
4. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front yard not more than six feet.
5. Where the street frontage in a block, or within 400 feet of the lot in question, is partially built up, the minimum front yard for a new building shall be the average of the existing front yards on either side thereof in the same block with a variation of five feet permitted; provided, however, that except as provided in development standards for specific uses no front yard in a residential district shall be less than 10 feet or need to be more than 50 feet under this provision. Where 40 percent or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.

4.5 Side Yards

1. Open, unenclosed porches, platforms, or paved terraces, not covered by roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the side yard not more than six feet.
2. For the purpose of the side yard regulations, a group of office, business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.

4.6 Rear Yards

Open or lattice-enclosed fire escapes, outside stairways and balconies and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.

4.7 Accessory Buildings and Structures

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
2. Filling station pumps and pump islands, with or without a canopy may occupy the required yards; provided, however, that they are not less than 10 feet from street lines.
3. Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided they are not located closer than six feet to a rear lot line or 10 feet to an interior side lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls.
4. Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than five feet to any lot line.

Section 5. Site Plan Review Required for Certain Uses

5.1 For the purposes of assuring careful use of difficult topography and good arrangement, appearance, function, and harmony with surroundings and adjacent uses and the objectives of the Comprehensive Plan, and compliance with the requirements of these regulations, site plans for the following major uses shall be submitted and reviewed in accordance with the requirements and procedures of Article 10:

1. Uses permitted by approval as a Conditional Use.
2. Mobile home parks or subdivisions.
3. Multiple-family dwellings.
4. Townhouses or attached two-family dwellings.
5. Churches, temples, and synagogues.
6. Drive-in facilities, all types.
7. Automobile service stations.
8. Hotels, motels, or motor lodges.
9. Shopping centers.
10. Business buildings, office buildings, commercial buildings, or industrial buildings, if such buildings are to contain more than 5,000 square feet of floor area.
11. Any parking lot or parking facility which is to contain more than 10 spaces.
12. All uses which utilize common facilities such as entrances and exits, parking and loading facilities.
13. Any use noted as subject to site plan review.

Unless specifically stated to the contrary, a use noted as subject to site plan review shall be subject to administrative site plan review by the Planning Commission under the provisions of Article 10. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of Article 10 and the requirements of the subdivision regulations.

TELECOM

ORDINANCE NO. 10, 2002

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WISE, VIRGINIA AMENDING ARTICLE SIX OF THE ZONING ORDINANCE AND SUBDIVISION REGULATIONS OF THE TOWN OF WISE TO INCLUDE SECTION SIX ENTITLED "TELECOMMUNICATIONS STRUCTURES"**

WHEREAS, Pursuant to the provisions of Article 9 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise as amended to-date, the Planning Commission of the Town of Wise, Virginia has drafted a proposed amendment to Article 6 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise to include regulations for telecommunications structures; and

WHEREAS, at a regularly-scheduled meeting of the Wise Planning Commission on August 5, 2002 said draft was presented and reviewed; and

WHEREAS, the Wise Planning Commission, after notice as required by statute, held a public hearing on said draft amendment during a regularly-scheduled meeting on September 4, 2002, and adopted PC Resolution No. 5, 2002, recommending that the Wise Town Council approve said Zoning Ordinance Amendment; and

WHEREAS, the Wise Town Council held a public hearing on Tuesday, September 24, 2002 at 7:00 p.m. in Council Chambers of the Wise Municipal Building at 501 West Main Street for the purpose of consideration of an amendment to Article 6 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise to include Section Six entitled "Telecommunications Structures"; and

WHEREAS, notice of the time, date, and place of said public hearing was advertised as provided by statute in The Coalfield Progress, a newspaper of general circulation in the Town of Wise, Virginia; and

WHEREAS, after careful consideration of all testimony offered, the Wise Town Council wishes to amend Article 6 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise to include regulations for telecommunications structures.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED AS FOLLOWS:**

That Article 6 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise, Virginia be amended and reenacted to include Section 6 entitled "Telecommunications Structures" as attached hereto and labeled Exhibit "A".

VOTING "AYE": Clifton Carson, Luther Adkins, Jarrad Addison,

Erra Sutherland, Caynor Smith, Jr.

VOTING "NAY": \_\_\_\_\_

ABSENT: \_\_\_\_\_

ADOPTED AND EFFECTIVE this the 24th day of September, 2002.

TOWN OF WISE  
Clifton Carson  
Mayor

ATTEST:  
Rolinn M. Bryant  
Clerk of Council

## Exhibit "A"

### Section 6. Telecommunications Structures

6.1 Purpose and Goals: The purpose of this ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this ordinance are to:

- A. protect residential areas and land uses from potential adverse impacts of towers and antennas;
- B. encourage the location of towers in non-residential areas;
- C. minimize the total number of towers throughout the community;
- D. strongly encourage the joint use of new and existing tower sites as primary option rather than construction of additional single-use towers;
- E. encourage users of towers and antennas to locate them to the extent possible, in areas where the adverse impact on the community is minimal;
- F. encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- G. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- H. consider the public health and safety of communication towers;
- I. avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

6.2 Definitions:

For the purpose of this section, certain terms and words pertaining to telecommunications structures are hereby defined. The general rules of construction contained in Article 11 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise are applicable to these definitions.

- A. **Antenna.** An exterior communications receiving and/or broadcasting device mounted on a tower, building or independent communications structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- B. **Communications Monopole.** A single, self-supporting pole for the erection of communication antenna(s) and not exceeding one-third of the height of the main structure above a roof support or 70 feet in total height including any communications antenna(s).
- C. **Communications Structure.** Any structure intended or utilized for supporting communications receiving and/or broadcasting devices. This term shall include monopoles and towers.
- D. **Communications Tower.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- E. **FAA.** Federal Aviation Administration.
- F. **FCC.** Federal Communications Commission.
- G. **Height.** When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- H. **Preexisting Towers and Preexisting Antennas.** Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- I. **Stealth Technology.** A man-made tree, clock tower, bell steeple, light pole, and similar alternative-design mounting structure that camouflages or conceals the presence of communications antennas, monopoles, or towers.

## 6.2 Applicability.

- A. **New Towers and Antennas.** All new towers or antennas in the Town of Wise shall be subject to these regulations, except as provided in 6.2.B. through 6.2.D. inclusive.
- B. **Amateur Radio Station Operators/Receive Only Antennas.** This ordinance shall not govern any tower, or the installation of any antenna, that is under fifty (50) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. **Preexisting Towers or Antennas.** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the State and Federal Requirements and Building Codes and Safety Standards Sections of this ordinance.
- D. **AM Array.** For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurement for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

## 6.3 General Requirements.

- A. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. **Lot Size.** For purposes of determining whether the installation of tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. **Painting.** Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FCC or FAA be painted a neutral color so as to reduce visual obtrusion.



- D. **Accessory Buildings.** At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- E. **Installation on Existing Structure.** If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- F. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Commission and/or Town Council may review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- G. **No advertising or signs of any type shall be allowed on any monopole or tower.**
- H. **Satellite and microwave dishes attached to monopoles shall not exceed two feet in diameter and six feet in diameter when attached to towers.**
- I. **Stealth technology may be required as appropriate.**

- 6.4 **State or Federal Requirements.** All monopoles or towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate monopoles or towers. A statement of compliance must be submitted to the Zoning Administrator by the owner. If such standards and regulations are changed, then the owners of the monopoles or towers governed by this ordinance shall bring such structures into compliance with such revised standards within six (6) months of effective date of such standards or regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring monopoles or towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the monopole or tower at the owner's expense.
- 6.5 **Building Codes and Safety Standards.** To ensure the structural integrity of monopoles or towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state, and local building codes and regulations and the applicable standards for towers that are published by the Electronic Industries

Association as amended from time to time. A statement of compliance must be submitted to the Zoning Administrator by the owner. If, upon inspection by the Zoning Administrator or his designated representative, the Administrator concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring tower into compliance within thirty (30) days shall constitute grounds for removal of the tower or antenna at the owner's expense.

- 6.6 **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
- 6.7 **Permitted Uses.** Telecommunications structures to include monopoles and towers, with related unmanned equipment building(s) shall be permitted in any zoning district on property owned or controlled by the Town of Wise provided a license or lease authorizing such antenna or tower has been approved, subject to obtaining a zoning and use permit as provided herein; and in all zoning districts as conditional uses, subject to conditional use requirements and limitations set forth Article 8 of the Zoning Ordinance and Subdivision Regulations of the Town of Wise, as amended from time to time.
- 6.8 **Accessory Uses.** Locating towers and antennas on existing structures may be approved, subject to administrative review by the Zoning Administrator for compliance with the following:
- A. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or business district.
  - B. Locating antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
    - 1. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:
      - i. The antenna does not extend more than thirty (30) feet above the highest point of the structure;
      - ii. The antenna complies with all applicable FCC and FAA regulations; and

iii. The antenna complies with all applicable building codes.

2. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

- a. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
- b. Height – An existing tower may be modified or rebuilt to a taller height only one time per communication tower, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna. The additional height shall not require an additional distance separation. The tower's premodification height shall be used to calculate such distance separations.
- c. Onsite location – A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers. The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Zoning Administrator.

6.9 Information Required – All uses. The following information is required by the applicant for both permitted and conditional uses. This information is required in addition to the applicable information required for Conditional Uses found in Article 8 of the Zoning Ordinance and Subdivision Regulations for the Town of Wise, as amended from time to time.

- A. Each applicant requesting a zoning and use permit for a new monopole or tower shall submit ten (10) copies of a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, height requirements, setbacks, drives, parking, fencing, landscaping, easements, adjacent uses, and other information deemed necessary to assess compliance with the regulations of this ordinance.**
- B. Legal description of the parent tract and leased parcel (if applicable).**
- C. The applicant shall provide copies of its collocation policy.**
- D. A licensed professional engineer primarily experienced with the design and operation of communication towers and antennas shall certify at the time of application that the Nonionizing electromagnetic radiation (NIER) emitted from the facility will not result in a level of exposure at any point beyond the property line of the facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the federal government or by the American National Standards Institute. Exceptions to this requirement may be authorized by the Administrator for low power transmission facilities such as two-way radio, telephone (cellular and VHF), microwave, government communication equipment and similar type transmitters.**
- E. All towers shall be designed to collapse within the lot lines or lease area, whichever is larger in case of structural failure.**
- F. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town of Wise have been obtained and shall file a copy of all required franchises with the Administrator.**

6.10 The Planning Commission shall consider the following factors in determining whether to issue a conditional use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby. These factors are in addition to those described in Article 8 – Conditional Uses of the Zoning Ordinance and Subdivision Regulations of the Town of Wise, as amended from time to time:

- A. Height of the proposed tower
- B. Proximity of the tower to residential structures and residential district boundaries
- C. Nature of uses on adjacent and nearby properties
- D. Surrounding topography
- E. Surrounding tree coverage and foliage
- F. Proposed ingress and egress

6.11 Security fencing. Monopoles or towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anti-climbing device.

6.12 Landscaping. Monopole or tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from the adjacent property. The standard buffer shall consist of a landscaping strip of at least four feet wide outside the perimeter of the compound. Existing mature tree growth and natural land form on the site shall be preserved to the maximum extent possible. In locations where the visual impact of the monopole or tower would be minimal, the landscaping requirement may be reduced or waived by Planning Commission or Town Council.

6.13 Buildings or Other Equipment Storage.

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas which are mounted on structures or rooftops shall be located on the ground and shall not be located on the roof of the structure. The equipment and storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In commercial or industrial districts the equipment cabinet or in structure shall meet minimum setback and yard requirements for

the zoning district in which the structure is to be located. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.

- C. **Antennas Located on Towers.** The related unmanned equipment structure shall meet the minimum setback and yard requirements for primary structures in the zoning district in which located.
- D. **Modification of Building Size Requirements.** The requirements may be modified by the Planning Commission in the case of uses permitted by conditional use to encourage collocation.

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**6.14 Removal of abandoned monopoles or towers.** Any monopole or tower, that is not operational for a continuous period of 90 days shall be considered abandoned, and the owner of such monopole or tower shall remove same within 90 days of receipt of notice from the Building Official or Town Manager notifying the owner of such removal requirement. Removal includes the removal of the monopole or tower, all subterranean tower and fence footers, underground cables and support buildings. The buildings may remain with the approval of the landowner. If there are two or more users of a single monopole or tower, then this provision shall not become effective until all users cease using the monopole or tower. If the monopole or tower is not removed per this section, the Town may require the landowner to have it removed at the landowner's expense. In all cases, the site shall be returned as closely as possible to its original condition.

**6.15 Applicant Responsibility.** Any applicant for communications structures to be located on property owned by the Town of Wise assumes responsibility for such structures and indemnifies and saves harmless the Town of Wise from any and all damages, judgments, costs, or expenses which the Town may incur by reason of the removal or the causing to be removed any monopole or tower. Any applicant for communications structures on property belonging to the Town of Wise shall enter into contract with the Town for such location of structures.

**6.16 Change of Ownership.** Upon the transfer of ownership of any tower or lot upon which such a structure has been erected, the tower permittee shall notify the Town of Wise of the transfer in writing within thirty days. Notification must include the name, address, phone number and contact person for the new owner of said tower or lot.

- 6.17 **Speculative Towers.** Speculative construction of towers will not be permitted. Firms desiring to construct such towers will have a firm user commitment.
- 6.18 **Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.
- 6.19 **Repealer.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.
- 6.20 **Effective Date.** This Ordinance shall take effect 9/24/02.

## ARTICLE 8 CONDITIONAL USES

### Section 1. Purpose of Conditional Use Procedures

Conditional uses are authorized by the terms of this Ordinance. The purpose of the conditional use procedure is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses either have unusual characteristics, or have characteristics which are different from those of their immediate surroundings, or are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of relationship to the Comprehensive Plan, and possible impact, not only on neighboring properties, but on a large section of the Town, require the exercise of planning judgment on location and site plan. Uses which require conditional use approval also include those public uses, public utility, or public service uses upon which the Planning Commission is required to report following adoption of the Comprehensive Plan under the state enabling statutes, thus facilitating coordination of the purposes of state planning statutes with those of state zoning enabling statutes.

### Section 2. General Guides and Standards

A conditional use should be approved only if it is permitted as a conditional use in the district regulations and only if it is found that the location is appropriate and not in conflict with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are complied with. In approving a conditional use the Town Council may impose such reasonable conditions as it believes necessary to accomplish the objectives of this Ordinance. Unless otherwise specified in this Article or specified as a condition of approval, the height limits, yard spaces, lot area, and sign requirements shall be the same as for other uses in the district in which the proposed conditional use is located.

### Section 3. Procedures, Site Plan Required

The procedures for approval of a conditional use are generally the same as those prescribed for changes and amendments in Article 9, including the public hearing and report by the Planning Commission, and, in addition the procedures and requirements for approval of site plans as set forth in Article 10. The area included in an approved conditional use shall be noted on the Zoning District Map by means of a special symbol.

### Section 4. Existing Conditional Uses

Any use except a mobile home park listed as requiring approval as a conditional use, and which use or mobile home park legally exists at the effective date of the regulations of this Article, shall be considered a nonconforming use unless it has been approved as a conditional use by the Town Council.



**Section 5. Conditional Uses, Specific Guides and Standards**

Approval of conditional uses shall comply with the specific guides and standards for particular uses which are permitted as conditional uses as contained in the district regulations unless there is a specific finding by the Planning Commission approved by the Town Council that compliance with the standard is clearly unnecessary to the purposes of this Ordinance.

ARTICLE 9  
CHANGES AND AMENDMENTS

Section 1. Initiation of Change

The Town Council may, from time to time, amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the Town Council, or by motion of the Planning Commission, or by petition of any property owner addressed to the Town Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning Commission.

Section 2. Report from Planning Commission

Before taking any action on any proposed amendment, supplement, or change, the Town Council shall submit the same to the Planning Commission for its recommendations and report. Failure of the Commission to report 90 days after the first meeting of the Planning Commission after the proposal has been referred to the Planning Commission shall be deemed approval.

Section 3. Notice and Hearing

The Planning Commission shall hold a public hearing thereon, before submitting its report to the Town Council. Notice of public hearings before the Commission shall be given by publishing the time, place, and nature of the hearing once a week for two successive weeks in a newspaper published or having general circulation in the Town, provided that such notice for both the Planning Commission and the Town Council may be published concurrently. The public hearing shall be held not less than six nor more than twenty-one days after final publication. In addition, the Commission shall cause the date, time, place, and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the Commission and a certificate of posting shall become a part of the record of the hearing. The published and posted notices shall contain reference to the place or places within the Town where the plans, ordinances, or amendments may be examined.

Before approving any proposed change or amendment, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed above. The Planning Commission and the Town Council may hold a joint public hearing after public notice as set forth hereinabove. If such joint hearing is held then public notice as set forth above need be given only by the Town Council. If an advertised hearing is continued or deferred, notice shall be repeated for the new hearing.

When a proposed amendment involves a change in the zoning classification of twenty-five or less parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved, and to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected; including those properties which lie in an adjoining jurisdiction. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax

assessment books shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice hereunder shall be charged to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 but less than 500 parcels of land, then, in addition to the advertising as above required, written notice shall be given by the Planning Commission at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance with this requirement, provided that a representative of the Commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the Commission to give written notice to the owner, owners or their agent of any parcel involved.

Whenever the notices required hereby are sent by an agency, department or division of the Town such notices may be sent by first class mail, provided, however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

#### Section 4. Withdrawal of Application

Applications for a change in zoning shall not be allowed to be withdrawn from consideration after first notice of a public hearing thereon has been published.

#### Section 5. Action by the Town Council

The Town Council shall take action on a request for amendment within one year of the date of filing; otherwise the amendment shall be deemed approved. In determining what, if any, amendments to this Ordinance are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire Zoning Plan and integrity and validity of the zoning districts herein described, and to avoid isolated unplanned spot-zoning changes in the Zoning District Map. Any amendments adopted by the Town Council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment or amendments to the zoning plan and Ordinance; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required in Section 3 above.

In determining what, if any, amendments to the text of this Ordinance or the Zoning District Map are to be adopted, the Town Council shall recognize that a certain element of stability is desirable in land use controls and that all citizens have the right to be treated reasonably; at the same time the Council recognizes in adopting this Ordinance that conditions and standards will change, and that no citizen has the right to indefinite continuation of any zoning regulation or classification, and that a citizen, the Planning Commission, or the Town Council may initiate a change which they believe will properly adjust the Zoning Ordinance and District Map to the Comprehensive Plan or changed conditions and standards.

## Section 6. Conditional Zoning

### 6.1 Purpose

Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this section to provide a zoning method as authorized under Sec. 15.1-491, Code of Virginia 1950, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

### 6.2 Proffer in Writing

As a part of a petition for rezoning or amendment of the zoning district map the owner or owners of the property involved may, prior to a public hearing before the Town Council, voluntarily proffer in writing such reasonable conditions, in addition to the regulations provided for the zoning district or districts as herein set forth, as he deems appropriate for the particular case; provided that:

1. the rezoning itself must give rise for the need for the conditions;
2. such conditions shall have a reasonable relation to the rezoning;
3. such conditions shall not include a cash contribution to the Town;
4. such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the subdivision ordinance;
5. such conditions shall not include payment for or construction of off-site improvements except those provided for in the subdivision ordinance;
6. no condition shall be proffered that is not related to the physical development or physical operation of the property; and
7. all such conditions shall be in conformity with the Comprehensive Plan.

For the purpose of this Ordinance, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

### 6.3 Review and Revision of Proffered Conditions

Additional conditions or modified conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Town Council has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.

After the Town Council public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the Planning Commission, then a second public hearing need be held only before the Town Council before the application and the modified conditions can be approved.

Should additional conditions be proffered by the applicant at the time of the public hearing before the Town Council, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Town Council, which hearing may be either separately or jointly held.

### 6.4 Annotation of Zoning District Map

The zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

### 6.5 Enforcement of Conditions

The Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including: (a) the ordering in writing of the remedy of any noncompliance with such conditions; (b) the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a

guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

6.6 Conformity of Development Plans

Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any Town official in the absence of said substantial conformity. For the purpose of this Section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

6.7 Change of Approved Conditions

Once conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. If the amendment concerns an approved site plan, such application shall include the submission requirements for a site plan set forth in Article 8, except that the Zoning Administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

6.8 Review of the Administrator's Decision

Any zoning applicant who is aggrieved by the decision of the Administrator pursuant to the provisions of Section 6.5 above may petition the Town Council for the review of the decision of the Administrator.

Section 7. Reconsideration, One Year Limitation

Whenever a petition requesting an amendment, supplement, or change has been denied by the Town Council, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

ARTICLE 10  
ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement

It shall be the duty of the Zoning Administrator and such deputies as are appointed by him to enforce the provisions of this Ordinance and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Ordinance. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him any seeming violation in new construction, reconstruction, or land uses.

Section 2. Certificate of Occupancy

- 2.1 No vacant land shall be occupied or used, except for agricultural uses associated with the conduct of a farm, until a certificate of occupancy shall have been issued by the Administrator.
- 2.2 No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, until a certificate of occupancy and compliance shall have been issued by the Zoning Administrator, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
- 2.3 Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within 10 days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Administrator.
- 2.4 A certificate of occupancy may be issued for a part of a building or development or section thereof completed in accord with the terms of this Ordinance even though the entire building or development or section thereof has not been completed.
- 2.5 No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.
- 2.6 A certificate of occupancy shall be required of all nonconforming uses. Application for a certificate of occupancy for nonconforming uses shall be filed with the Administrator within 12 months from the effective date of this Ordinance.
- 2.7 The Administrator may issue a temporary and contingent certificate of occupancy and compliance for a period not to exceed six months where, because of the unusual nature of the uses, a trial period of operation is in his opinion the most appropriate way to determine actual compliance with the terms of this Ordinance.

### Section 3. Permits

- 3.1 No building shall be erected, constructed, altered, moved, converted, extended, or enlarged, without the owner or owners first having obtained a building permit. Such permit shall require conformity with the provisions of this Ordinance. When issued, such permit shall be valid for a period of six months unless a longer period of time is specified thereon in accord with the terms of this Ordinance.
- 3.2 No mobile home or trailer or modular home for any purpose shall be placed for occupancy at any location outside a mobile home park without the owner or owners first having obtained a placement permit therefor from the Administrator. Separate permits shall not be required for each mobile home as authorized in an approved mobile home park or as authorized within the limits of a mobile home park as established prior to the enactment of applicable zoning regulations.
- 3.3 No building permit by the Administrator or other authorized official, lawfully issued prior to the effective date of this Ordinance, or of any amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of this Ordinance, or any such amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and ordinances, rules, and regulations pertaining thereto, and in effect at the time of the issuance of such permit; provided, that all such permits shall expire not later than six months from the effective date of this Ordinance, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

### Section 4. Plans to Accompany Applications for Permits

All applications for building permits shall be accompanied by a drawing or plan in duplicate or as required by the Administrator showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary and required in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings, including the number of families or dwelling units or rental units proposed. A careful record of the original copy of such applications and plans shall be kept in the offices of the Administrator and a duplicate copy shall be kept at the building at all times during construction. In a particular case, the Administrator may waive the requirement for plans when such plan is clearly unnecessary to a decision or the record on the case.

### Section 5. Site Plan Review - Procedures Generally

Where certain uses require review and approval of site plans meeting the requirements of this Ordinance, the procedure for processing site plans varies depending on the agency assigned responsibility for preliminary and final approval as follows:

1. Administrative Site Plan Review to be conducted by the Planning Commission with preliminary and final approval by the Commission.



Unless specifically stated to the contrary, administrative site plan review is intended. An appeal from the Commission's decision may be taken to the Town Council, in which case the decision of the Town Council would be final. Site plans in this category are generally for uses having a more limited area of impact or uses where the basic policy decision regarding general appropriateness of the use has been made by the terms of the district regulations and the remaining responsibility is to insure careful design and compatibility with neighboring conditions in accordance with the terms of the Ordinance.

2. Site Plan Approval by the Town Council after Report by the Planning Commission. These site plans generally cover uses having impact on a substantial area, public and semi-public uses generally covered in the Comprehensive Plan, and uses the appropriateness of which involves a major planning policy decision. Such uses include those listed as conditional uses.

In all cases the review begins with the Administrator. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of this Article and the requirements of the subdivision regulations. Generally, approval is required first for preliminary plans followed by approval of final plans which agree with approved preliminary plans and conditions attached thereto. Where a project is large enough that accomplishment by stages is appropriate the site plan will generally be subject to preliminary and final approval with plans in three forms: 1) general site plan for the overall project, which is called an overall project design; 2) detailed site plans for development units or stages as they are to be developed; 3) detailed engineering drawings for development units or parts thereof as they are to be developed. An overall project design would include generally the same items as specified for preliminary site plans but with detail modified as appropriate to the scale of the project.

## Section 6. Requirements for Site Plans, Content and Form

### 6.1 Preliminary Site Plans

The preliminary site plans shall be clearly drawn to scale as specified below and shall show the following:

1. The proposed title of the project, owner or owners of the land, and name of the engineer, architect, designer, or landscape architect, and the developer.
2. The north point, scale, and date.
3. Location of the project by an insert map at a scale of not less than one inch equals two thousand feet, indicating the scale, the north arrow, and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns, and magisterial districts or other landmarks sufficient to clearly identify the location of the property.

4. Existing zoning and zoning district boundaries and proposed changes in zoning, if any.
5. The boundaries of the property involved, municipal boundaries, the general location of all existing easements and property lines, existing streets, buildings, or waterways, major tree masses and other existing physical features in or adjoining the project.
6. Uses of adjoining properties and names of owners.
7. Topography of the project area with contour intervals of two feet or less, unless waived by the Administrator as clearly unnecessary to review of the project or proposal.
8. The approximate location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures, existing and planned, in or near the project.
9. The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas, (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.
10. The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.
11. Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height of all proposed buildings and structures, accessory and main, or major excavations.
12. Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.
13. General location, height, and material of all fences, walls, screen planting, and landscaping.
14. General location, character, size, height, and orientation of proposed signs.
15. A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross or net as required by district regulations.

The Administrator may establish additional requirements for preliminary site plans, and in special cases, may waive a particular requirement if, in his opinion, the inclusion of that requirement is not essential to a proper decision on the project. Site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. Each plan sheet shall reserve a blank space three inches wide and five inches high for the use of the approving

authority. Site plans shall be prepared to a scale of one inch equals fifty feet, or such other scale as may be approved by the Administrator as appropriate to a particular case.

## 6.2 Final Site Plans

The final site plan or final plat shall comply with all laws, regulations and ordinances governing the approval of subdivisions and in addition shall show the following:

1. All of the features required on the preliminary site plan with sufficiently accurate dimensions, construction specifications and computations to support the issuance of construction permits.
2. All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the County or other utility system.
3. Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the Town indicating the location, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system, and provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
4. Existing topography with two-foot contour intervals or such intervals as approved by the Administrator. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary, but not more than fifty feet apart in both directions.
5. Proposed finished grading by contours supplemented where necessary by spot elevations.

## Section 7. Procedures, Administrative Site Plan Review

- 7.1 When these regulations require site plan review for certain major uses for which Town Council action is not required, including certain major uses as listed in Section 5 of Article 6 and not otherwise listed as conditional uses, five copies of a preliminary site plan for any of the specified uses shall be submitted to the Administrator for review of the plans for compliance with these regulations and the requirements for preliminary site plans and who shall transmit said plans to the Planning Commission for review at the next regular monthly meeting of the Commission if plans are submitted 21 days prior to said meeting.

The applicant is advised to review his plans in general or sketch form with the Administrator prior to drafting for submittal to the Planning Commission.

- 7.2 The Planning Commission shall examine the proposed site plan with respect to the requirements of this Ordinance, with respect to the traffic and circulation

patterns, internal and external, relation to major thoroughfares, utilities, drainage, and community facilities, existing or proposed, surrounding development, existing or future, considerations of topography, flood plains, and the natural environment, the preservation of trees or historic sites, provision for open space, and in general with the objective of insuring a durable, harmonious, and appropriate use of the land in accord with the objectives of the Comprehensive Plan. Except as specified below, no public hearing shall be required. The plans shall be returned to the applicant within 10 days following the Commission meeting as approved, approved subject to conditions, or disapproved. Unless otherwise specified, approval shall be valid for a period of one year prior to issuance of building permits.

- 7.3 If specified conditions are met in revised plans, the Administrator may approve issuance of building permits accordingly, and may approve additional minor changes, if, in the opinion of the Administrator such changes do not substantially affect the original approval or conditions attached thereto. Other changes and amendments may require return of the site plan to the Planning Commission or such other procedures under this Ordinance as the case may require.
- 7.4 The applicant shall submit written proof of notification of all adjoining property owners as to the nature of the proposal and where site plans may be viewed. No site plan shall be approved within five days of any such notice.
- 7.5 In any case where the Administrator is of the opinion that a proposed project subject to administrative site plan review is of such scale and impact that a decision on the site plan should be reached only after a public hearing thereon, the Administrator may schedule such hearing before the Planning Commission in accordance with the procedures and notice specified for such hearings in the rules of the Commission. The applicant shall submit evidence that all adjacent property owners have been notified of the nature, time and place of the public hearing.
- 7.6 Nothing in this section shall be interpreted to permit a grant of a variance or exception to the regulations of this Ordinance or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.

#### Section 8. Appeal from Planning Commission Decision

In any case where the applicant or other party who has a substantial interest in a proposed project is aggrieved by a decision of the Planning Commission regarding a site plan, said applicant or party in interest may file a written Notice of Appeal with the Town Manager who shall place the matter on the agenda of the next regular meeting of the Town Council provided said Appeal is filed within ten working days of the decision. Upon hearing the Appeal, the Town Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission and may take such action as it believes appropriate.

Section 9. Procedures for Approval of Site Plans for Conditional Uses Which Require Approval by the Town Council

- 9.1 Five copies of a preliminary site plan or plans shall be filed with the Town Council through the Administrator. The preliminary site plan shall comply with Section 7 above and the applicable written requirements of Articles 4 and 6, and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Council and the Planning Commission. The Administrator shall forthwith forward the plans and a copy of the application to the Planning Commission.
- 9.2 The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance. Before recommending approval of a site plan, the Planning Commission may make reasonable additional requirements, including, but not limited to, those which may be imposed by the Board of Zoning Appeals under Article 7, and especially requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, screening, accessways, curb cuts, traffic control, height of buildings and setback of buildings, to protect adjoining residentially zoned lots or residential uses. The site plan shall be amended in accord with the requirements of the Planning Commission before being submitted to the Town Council with a recommendation for approval. The Planning Commission shall review the plans and prepare its report within a reasonable time, but in no case longer than 60 days after the first public hearing unless the applicant requests additional time in order to prepare revised plans. The Town Council shall not advertise its public hearing until the report and plans shall have been received from the Planning Commission.
- 9.3 Approval by the Town Council of a preliminary site plan for a conditional use shall be valid for a period of one year. Following preliminary approval by the Council, a final site plan in the form of a final plat shall be prepared and filed. This final plat may be approved by the Administrator and shall comply with the specifications of the Council and the requirements of this Article and applicable laws, regulations, and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed plat.

Section 10. Temporary Site Plans

- 10.1 A temporary site plan may be approved for a proposed development or land use for a period not to exceed one year, where development is in progress and all buildings are of a temporary nature. The drainage, erosion, and sediment control practices, parking, screening, fencing, services, and utility requirements of this Ordinance and this Section may be modified for the purpose of a temporary plan.
- 10.2 Prior to the approval of such temporary site plan a cash bond or letter of credit approved by the Town Attorney, may be required to guarantee that all structures erected under the plan will be removed at the expiration of the period for which the permit was issued.

10.3. Items to be shown on a temporary site plan shall be the same as required for preliminary site plans under Section 7 above except as these may be waived by the Administrator.

Section 11. Amendments and Additions to Site Plans Approved by the Town Council

The procedure for amendment of the boundaries of or the extent of land use for an approved conditional use shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved conditional use, or other site plan approved by the Town Council, may be approved by the Planning Commission at a regular meeting after written reports by the Administrator and without a public hearing, provided such change or amendment:

1. Does not alter a recorded plat,
2. Does not conflict with the specific requirements of this Ordinance,
3. Does not change the general character or content of an approved development plan or use,
4. Has no appreciable effect on adjoining or surrounding property,
5. Does not result in any substantial change of major external access points,
6. Does not increase the approved number of dwelling units or height of buildings, and,
7. Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

Section 12. Revocation of Permits

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this Article except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the Administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

Section 13. Agreement and Bond

Prior to approval of a building permit there shall be executed by the owner or developer, an agreement to construct such required physical improvements as are located within public rights-of-ways or easements, or as are connected to any public facility in form and substance as approved by the Town; and, the Planning Commission may require a bond with surety or conditions acceptable to the Town Attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions, or agencies responsible for such improvements. The aforesaid agreement, bond, or conditions shall be provided for completion of all work covered thereby or for subsequent defects therein, within the time to be determined by the Planning Commission, which time may be extended by the Planning Commission upon written application by the owner or developer, signed by all parties

(including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond hereunder shall be determined by the Town Attorney.

#### Section 14. Approval and Extension

Approval of a site plan submitted under the provisions of this Article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Administrator made within ninety days before the expiration of the approved site plan. The Administrator shall acknowledge the request and shall make a decision regarding the requested extension within thirty days after receipt of the request.

#### Section 15. Right of Developer to Continue Project

Subject to the time limits and conditions specified in this Ordinance, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

#### Section 16. Inspection and Supervision of Improvements

- 16.1 The owner or developer shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by Administrator or Inspectors.
- 16.2 Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the Administrator, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.
- 16.3 The installation of improvements as required in this Article shall in no case serve to bind the Town to accept such improvements for the maintenance, repair, or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

#### Section 17. Filing Fees

- 17.1 All persons, firms, or corporations appealing to the Board of Zoning Appeals, necessitating the publication of notices in the newspaper shall be required to pay, in advance, ~~twenty-five dollars (\$25.00)~~ for expenses relative thereto.
- 17.2 All persons, firms, or corporations applying for conditional uses under the provisions of this Ordinance or applying for an amendment to the Zoning Ordinance or a change in the classification of the district or a portion thereof, necessitating the publication of notices in the newspaper shall be required to pay in advance, ~~seventy-five dollars (\$75.00)~~. No fee shall be required for actions initiated by the Town Council or the Planning Commission.

- 17.3 The payment of such money in advance to the Administrator as specified shall be deemed a condition precedent to the consideration of such appeal, conditional use application or amendment. Fees shall be refunded on written request if an application is withdrawn before publication.

#### Section 18. Violation and Penalties

- 18.1 In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land used in violation of this Ordinance, the Administrator is authorized and directed to institute any appropriate action to put an end to such violation.
- 18.2 Where there is reasonable cause to believe that a violation of this Ordinance has occurred, the Administrator or his authorized representatives may, with written consent of the owner or of occupier of the premises in question on a form provided by the Administrator, enter the premises for the purposes of inspection. Where permission to enter is withheld, the Administrator shall seek a court order from the General District Court of Wise County or a search warrant from a magistrate of the jurisdiction as may be appropriate.
- 18.3 Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith, or with any of the requirements thereof, or who shall use any land or build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not less than ten dollars nor more than one thousand dollars, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as hereinbefore provided.

#### Section 19. Conflict of Interest

No member of the Town Council, Planning Commission or Board of Zoning Appeals, shall participate in the deliberations or vote on any ordinance, resolution, motion, or other proceedings involving any matter in which he, a member of his immediate family, his partner or agent, has a financial interest other than as an owner of not more than five percent of the stock of a corporation, or as a citizen of the Town.

If such interest exists, it shall be the duty of such member to take no part in the deliberations with regard to such matters.

The provisions of this section do not apply to adoption of a comprehensive zoning plan or ordinance applicable throughout the Town.



ARTICLE 11  
DEFINITIONS

Section 1. General Rules of Construction

The following general rules of construction shall apply to the regulations of this Ordinance:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tenses, and the future the present.
3. The word "shall" is always mandatory. The word "may" is permissive.
4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure."
5. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.
6. The terms "main" and "principal" as used herein are synonymous.

Section 2. Definitions

For the purpose of this Ordinance, certain terms and words are hereby defined:

Accessory Building. An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as the main building or principal use of the land.

Accessory Dwelling Unit. A subordinate dwelling unit in a main building or accessory building as approved by the Board of Zoning Appeals under Article 7.

Accessory Use. An accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) is located on the same lot as the principal use of the premises. When the term "accessory" is used in this Ordinance, it shall have the same meaning as "Accessory Use."

Administrator. The Zoning Administrator of the Town of Wise.

Alley. A public or private way less than 30 feet in width and affording secondary means of access to abutting property.

Alteration. (See Structural Alteration).

Apartment. A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

Automobile, Salvage or Wrecking Yard. A junk yard consisting of that part of a lot not enclosed by a building, which is used for the storage or dismantling of damaged, inoperative, or obsolete vehicles or for the sale of such vehicles or of the salvaged parts therefrom.

Basement. A story partly underground and having more than one half of its height above ground.

Block. That property fronting on one side of a street or road and lying between two intersecting streets or roads or otherwise limited by a railroad right-of-way, a waterway, an unsubdivided tract or any other physical barrier of such nature as to interrupt the continuity of development.

Board. The Board of Zoning Appeals of the Town of Wise.

Boarding House. (See Rooming House.)

Buildable Area. The area of that part of the lot not included within the yards or open spaces herein required.

Buildable Width. The width of that part of a lot not included within the open spaces herein required.

Building. Any structure permanently affixed to a lot or lots and having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or property of any kind.

Building, Completely Enclosed. Any building having no outside openings other than ordinary doors, windows, and ventilators.

Building, Height of. The vertical distance from the average established curb grade or from the average level of the finished grade at the front building line, if higher, to the highest point of the coping of a flat roof, or to the deck line or highest point of coping or parapet of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a building with a shed roof is within 35 feet of a street, the height of such building shall be measured to the highest point of coping or parapet.

Building Line or Building Setback Line. A line within a lot, so designated on a plat of subdivision, between which line and any lot line or the street line of any abutting street no building or structure may be erected.

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

Bulk. A term used in this Ordinance to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

Cellar. A story entirely underground or partly underground, with at least one-half of its height below grade.

Clinic. An establishment where patients who are not lodged overnight are admitted for examination or treatment by physicians or dentists.

Club, Private. Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

Commission. The Planning Commission of the Town of Wise, Virginia.

Conditional Use. A use listed as such in this Ordinance and which may be permitted in a specified district under certain conditions, such conditions to be determined in each case by the terms of this Ordinance and by the Town Council of the Town of Wise after public hearing and report by the Planning Commission in accordance with the procedures specified by this Ordinance and applicable state law.

Convalescent, Nursing or Rest Home. Any institution however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more non-related persons admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

Day Nursery or Child Care Center. Facilities or programs for the care of children away from their own home for any part of a 24 hour day, for compensation or otherwise.

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

District. Any section of the Town of Wise in which the zoning regulations are uniform and so designated on the Zoning District Map.

Dog Kennel, Commercial. A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation, or any place where more than five adult dogs are kept.

Dwelling. A building or portion thereof, designed or used exclusively for residential occupancy, but not including boats, trailers, mobile homes, motor homes, hotels, motels, motor lodges, tourist courts, or tourist homes.

Dwelling, Single-Family. A building designed for or occupied exclusively by one family.

Dwelling, Two-Family. A building designed for or occupied exclusively by two families living independently of each other.

Dwelling, Multiple-Family. A building designed for or occupied exclusively by three or more families living independently of each other.

Dwelling, Detached Single-Family. A single family dwelling entirely surrounded by a yard or other separation from other main buildings on the same lot or on adjacent lots. The term "single-family dwelling" as used in this Ordinance shall be considered to mean a detached single-family dwelling unless specified as attached.

Dwelling, Semi-Detached. Two single-family dwellings attached by a common vertical wall without openings between them and with separate entrances for each dwelling unit.

Dwelling, Attached. (See Townhouse.)

Dwelling, Modular. A movable or portable dwelling over 32 feet in length and over 20 feet wide, designed and constructed without a carriage or hitch, as a stationary house constructed for placement upon a permanent foundation, to be connected to utilities, for year-round occupancy. It can consist of one or more components that can be retracted when transported and subsequently expanded for additional capacity, or of two or more units separately transportable (such as the so-called "double-wide" mobile home), but designed to be joined and joined into one integral unit.

Dwelling Unit. A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone and having its own permanently installed cooking and sanitary facilities.

Family. An individual living alone or two or more persons who are related by blood or marriage living together and occupying a single housekeeping unit with single culinary facilities, or a group of any number of persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a nonprofit, cost-sharing basis. Domestic servants, employed and residing on the premises shall be considered as part of the family.

Floor Area.

- (a) Commercial, business, and industrial buildings, or buildings containing mixed uses: the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or

from the centerline of walls separating two buildings but not including: (1) attic space providing headroom of less than seven feet; (2) basement space not used for retailing; (3) uncovered steps or fire escapes; (4) accessory water towers or cooling towers; (5) accessory off-street parking spaces; and (6) accessory off-street loading spaces.

- (b) Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

Frontage.

- (a) Street (or road) Frontage: all of the property on one side of a street or road between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- (b) Lot Frontage: the distance for which the front boundary line of the lot and the street or road line are coincident.

Garage, Private. An accessory building used for storage purposes only and having a capacity of not more than four automobiles and a floor area of not more than 900 square feet or not more than two automobiles per family housed in the building to which the garage is accessory, whichever is the greater.

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

Grade. Grade or grade elevation shall be determined by averaging the elevations of the finished ground adjacent to all the corners and/or other principal points in the perimeter wall of the building.

Guest House. Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, and not rented or otherwise used as a separate dwelling unless permitted by the terms of this Ordinance.

Home Occupation. Any occupation, profession, enterprise or activity conducted solely by one or more members of a family residing on the premises which is incidental and secondary to the use of the premises for dwelling, provided that (a) not more than the equivalent area of one half of one floor shall be used for such purpose; (b) that such occupation shall not require external or internal alterations of the building; (c) that no person other than a member of the family is employed on the premises; (d) that no commodity is stored or sold, except such as are made on the premises; (e) there shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling. When within the above requirement, a home occupation includes, but is not limited to the following: (a) art or photography studio; (b) dressmaking; (c) professional office of a physician, dentist, minister,

lawyer, engineer, architect, accountant, salesman, or other similar occupation; (d) teaching, with musical instruction limited to one or two pupils at a time; (e) keeping of roomers or boarders; however, a home occupation shall not be interpreted to include the conduct of beauty parlors, barber shops, nursing homes, convalescent homes, rest homes, antique or craft shops, restaurants, tea rooms, tourist homes, fortune tellers, massage parlors or similar establishments offering services to the general public.

Hospital. A building or group of buildings, having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities, central service facilities, and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

Hotel, Motel, Motor Lodge or Tourist Home. A building in which lodging or boarding and lodging are provided for 14 or more persons, primarily transient and offered to the public for compensation and in which room assignments are made through a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to keeping of boarders or roomers, or a multiple-family dwelling which is herein separately defined. A hotel or motel may include restaurants, taverns or club rooms, public banquet halls, ballrooms, and meeting rooms.

Junk. Dilapidated and inoperative automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons and other kinds of vehicles and parts thereof, discarded appliances, scrap building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, wood scraps, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

Junkyard or Automobile Graveyard. The use of any area of land lying within one hundred feet of a state highway 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 "junkyard" shall include the term "automobile graveyard" as any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, are placed.

Loading Space. A space within a building or on the premises providing for the standing, loading or unloading of vehicles.

Lot. A parcel of land occupied or intended to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as are required by this Ordinance, and having frontage upon a street or road, either shown on a plat of record or considered as a unit of property and described by metes and bounds. Such lot may consist of a single lot of record or a part or combination of one or more lots of record.

Lot, Corner. A lot abutting upon two or more streets at their intersection where the interior angle of intersection is not greater than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees. A reversed corner lot is a corner lot that is turned, with reference to an adjoining lot, to front on another street.

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

Lot, Double Frontage. A lot, other than a corner lot, which has a frontage on two streets.

Lot Line, Front. The line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a predominance of the other lots in the block front.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot of Record. A lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds in a deed recorded in the Clerk's Office of the Circuit Court of the County.

Lot Width. The horizontal distance between the side lot lines measured at the front building setback line.

Mobile Home. A movable or portable dwelling over 32 feet in length and over 8 feet wide, constructed to be towed on its own chassis, connected to utilities and designed to be used with or without a permanent foundation and for year-round occupancy, which can consist of one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

Mobile Home Park. A lot or parcel of land on which are located or which is arranged or equipped for the accommodation of two or more mobile homes occupied for living purposes.

Modular Home. A movable or portable dwelling over 32 feet in length and over 20 feet wide, designed and constructed without a carriage or hitch, as a stationary house constructed for placement upon a permanent foundation, to be connected to utilities, for year-round occupancy. It can consist of one or more components that can be retracted when transported and subsequently expanded for additional capacity, or of two or more units separately transportable (such as the so-called "double-wide" mobile home), but designed to be joined and joined into one integral unit.

Motel, Motor Lodge or Tourist Court. A building in which lodging, or boarding and lodging are provided for more than 20 persons, primarily transient and offered to the public for compensation. As such, it is open to the public in

contradistinction to keeping of boarders or roomers, or a multiple-family dwelling; same as a hotel, except that the buildings are usually designed to serve tourists traveling by automobile and parking is usually adjacent to the dwelling unit.

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

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

Nonconforming Structure. A building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance, for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to this Ordinance.

Open Space. (Useable residential common open space) Any outdoor area of such location, size, and shape as to provide for specific outdoor living as patios, swimming pools, etc., or outdoor service functions as laundry drying. Area considered as useable common open space must be available for all residential occupants of a given building or project and may include only those spaces enclosing an area of at least three hundred (300) square feet, with a least dimension of fifteen feet or more.

Parking Lot, Public. An area containing one or more parking spaces for self-propelled passenger vehicles, designed for and available to the public as an accommodation for patrons, customers or employees, either with or without charge.

Parking Space Off-Street. An all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet (9' x 18'), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Premises. A lot, together with all buildings and structures thereon.

Public Building. A building, or part thereof, owned or leased and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth, a county or a town or city.

Public Water and Sewer Systems. A water or sewer system owned and operated by a municipality or county, or owned and operated by a corporation approved by the governing body and properly chartered and certified by the State Corporation Commission, and subject to special regulations as herein set forth.



Regulations. The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Ordinance.

Rooming House. A building other than a hotel, motel, or motor lodge where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but containing no more than five sleeping rooms.

Sign. For definitions pertaining to signs, see Article 6.

Site Plan. A drawing illustrating a proposed development and prepared in accordance with the specifications of Article 10.

Special Exception. A special use exception, yard exception, or height exception specifically listed in this Ordinance which may be permitted in a specified district or in all districts in accord with terms of this Ordinance by the Board of Zoning Appeals under certain conditions, such conditions to be determined in each case by the terms of this Ordinance and by the Board of Zoning Appeals.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For the purpose of height measurement for any building other than a detached single-family dwelling a basement shall be counted as a story if its ceiling is over five feet above the level from which the height of the building is measured or if it is used as a separate dwelling unit by other than a janitor or other employee and his family.

Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior sides are not more than two feet above the floor of such story, provided, however, that any such story used as a separate dwelling unit, by other than a janitor or other employee and his family, shall be counted as a full story.

Street (Road). A public or private thoroughfare which affords the principal means of access to abutting properties.

Street, Centerline. The center line of a street shall mean the center line thereof as shown in any of the official records of the Town or as established by the Virginia Department of Highways and Transportation. If no such center line has been established, the center line of a street shall be a line lying midway between the side lines of the right-of-way thereof.

Street Line. (Right-of-way Line) The line between a lot, tract or parcel of land and a contiguous street.

Structural Alteration. Any change in the supporting members of a building or structure, including bearing walls, partitions, columns, beams, girders or similar parts of a building or structure, and any substantial change in the roof of a building.

Street, Private. A private thoroughfare or easement of access established in accord with the terms of this Ordinance and which is not publicly owned or publicly maintained.

Street Width. The horizontal distance between street lines measured perpendicular to the street center line.

Subdivide. The process of dealing with land so as to establish a subdivision as defined herein.

Subdivider. Any individual, firm, partnership, association, corporation, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein, and including any agent of the subdivider.

Subdivision. The division of any tract or parcel of land into two or more plots, parcels, lots, or sites, any one of which is less than three acres in area, for the purpose, whether immediate or future, of transfer of ownership or of building development, provided, however, that the following are exempted from this definition and therefore not subject to the design standards and review procedures of this Ordinance:

- a. The division or partition of land into parcels of three acres or more, but the exemption shall not apply if said division or partition involves the use, establishment, opening, widening, or extension of any public or private street or road or common access point.
- b. The sale or exchange of parcels between adjoining property owners where such sale or exchange does not create additional building sites.

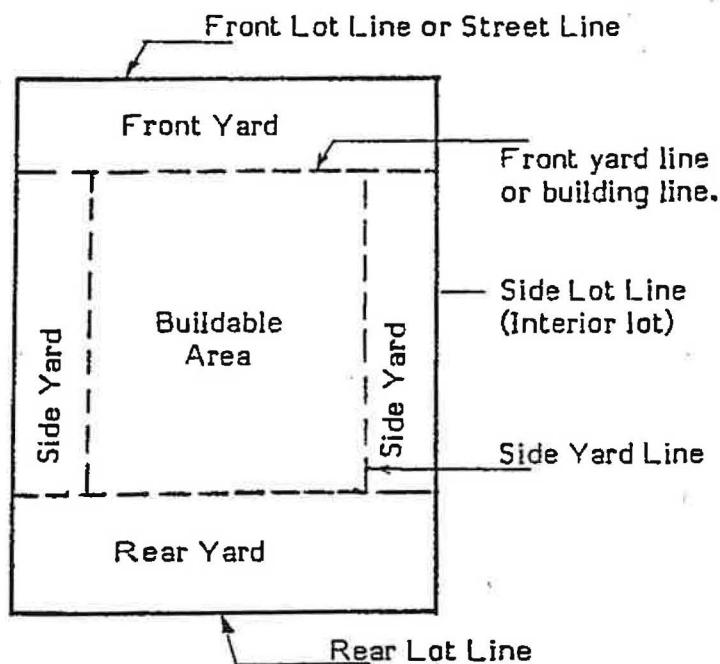
The term subdivision shall include resubdivision, and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided, and shall include establishment of any land area as a common element, limited or otherwise, in connection with a condominium or similar project, construction or conversion regardless of the number of parcels involved.

**Structure.** Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, mobile homes, signs, swimming pools, backstops for tennis courts, gazebos, and pergolas.

**Townhouse.** A single-family dwelling designed to be sold as a unit but forming one of a group or series of three or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one of the dwelling units to another.

**Variance.** A variance from application of the strict terms of this Ordinance which may be granted in a specific case by the Board of Zoning Appeals under the terms of this Ordinance and applicable state law.

**Yard.** An open space other than a court, on a lot, and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.



**Yard, Front.** A yard lying between the front lot line and the nearest part of the building or use not hereinafter excepted, and extending across the full width of the lot. The front yard depth shall mean the distance, measured horizontally, between any part of the building or use not specifically excepted and the front lot line.

**Yard Measurement.** In measuring a yard, the building line shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or the point of a group of buildings nearest to such lot line, and the

ARTICLE 12  
SEVERABILITY, CONFLICT, EFFECTIVE DATE

Section 1. Severability

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 2. Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Effective Date

(To be supplied by the Town Attorney.)