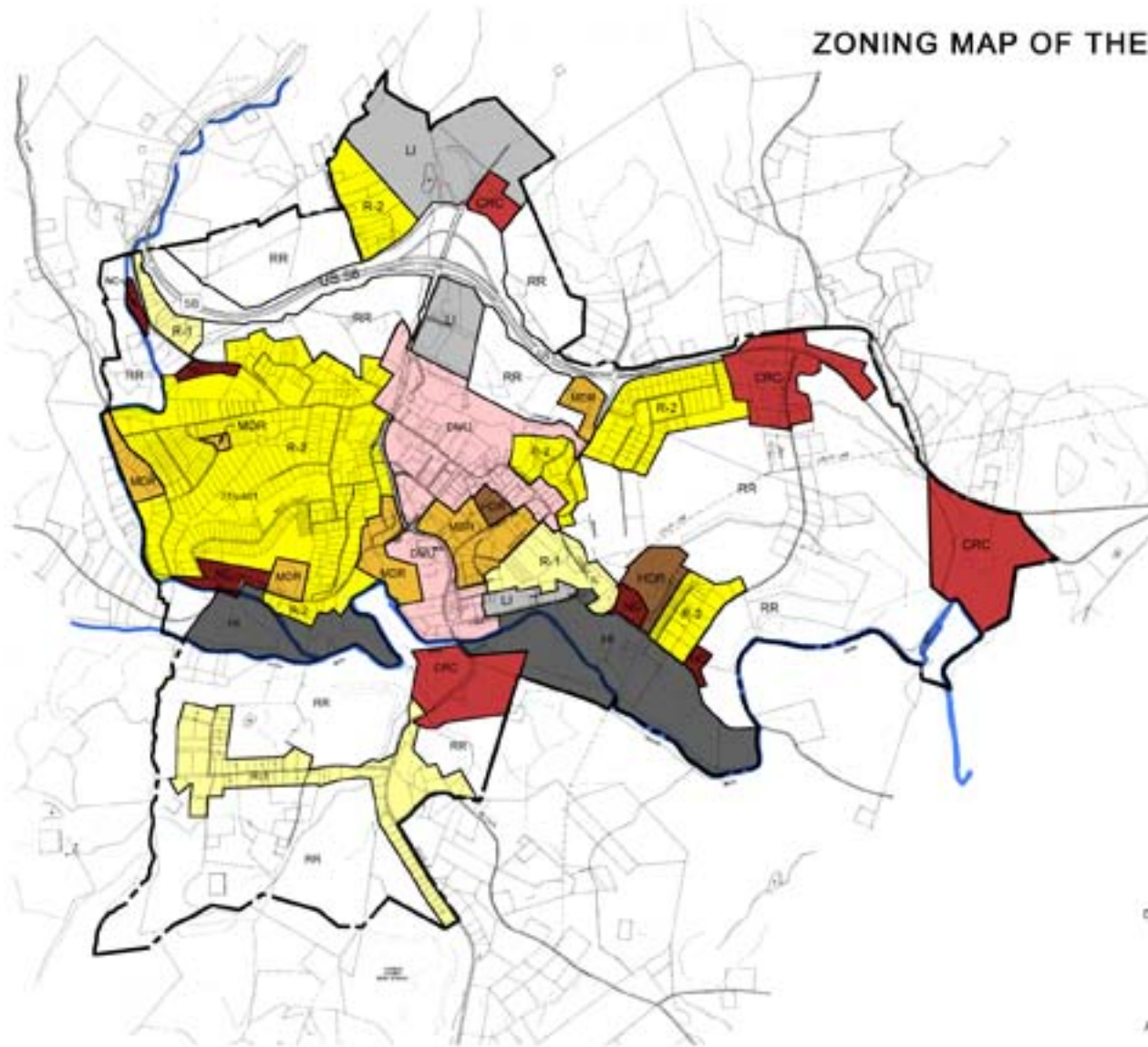


ZONING MAP OF THE TOWN OF STUART, VIRGINIA



ZONING DISTRICTS

— CORPORATE LIMITS

- RR RURAL RESIDENTIAL
- R-1 LOW DENSITY RESIDENTIAL
- R-2 LOW/MEDIUM DENSITY RESIDENTIAL
- MDR MEDIUM DENSITY RESIDENTIAL
- HDR HIGH DENSITY RESIDENTIAL
- DMU DOWNTOWN MIXED USE
- CRC COMMUNITY / REGIONAL COMMERCIAL
- NC NEIGHBORHOOD COMMERCIAL/CONVENIENCE
- LI LIGHT INDUSTRIAL
- HI HEAVY INDUSTRIAL



GRAPHIC SCALE IN FEET
MAY, 2008

IT IS HEREBY DECLARED BY
COMMISSIONER OF PLANNING AND ZONING
STUART, VIRGINIA

Date Adopted _____

Signature - Mayor _____

Attest / Secretary of Planning Commission _____

Amendments: Number: _____ Date: _____

Authorized Signature _____

ZONING ORDINANCE

Town of Stuart, Virginia

This chapter is enacted for the general purpose of promoting the health, safety, and general welfare of the public and further accomplishing the objectives set forth in § 15.2-2200 of the Code of Virginia, 1950, as amended.

ARTICLE 1

LEGAL STATUS AND CONSTITUTIONAL PROVISIONS

Section 1.1 Title

This Ordinance shall be known and cited as “The Zoning Ordinance of the Town of Stuart, Virginia.” The Zoning District map shall be cited separately as the “Zoning Map of the Town of Stuart, Virginia.”

Section 1.2 Effective Date

(To be supplied by the Town Attorney).

Section 1.3 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 1.4 Purpose and Intent

The zoning regulations and districts as herein established have been made to promote in accordance with present and future needs the health, safety, morals, order, convenience, prosperity, and general welfare of the public; and to implement the adopted Comprehensive Plan for the orderly and controlled development of the Town. In order to accomplish this, the Zoning Ordinance is designed to:

- a. Create and maintain conditions under which people and their environment can exist in productive and enjoyable harmony while fulfilling the social and economic, requirements of present and future generations;
- b. Provide for adequate light, air, convenience of access, and safety from fire, flood, crime, and other dangers;
- c. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, water, sewerage, flood protection, parks, playgrounds, recreation facilities, and other public requirements;
- d. Facilitate the creation of a diversified, vibrant, convenient, attractive, and harmonious community;
- e. Protect against overcrowding of land, undue density of population in relation to available community facilities, congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;
- f. Encourage economic development activities that provide desirable employment and enlarge the tax base;

- g. Expand and enhance the central business district by encouraging infill development, performing arts, mixed use, and a pedestrian-friendly environment with pedestrian linkage to serve Uptown and Downtown;
- h. Provide opportunities to increase the supply, quality, and affordability of housing for present and future residents; and,
- l. Encourage the wise and harmonious use of land to preserve stream valleys, steep slopes, lands of natural and scenic beauty, water supplies and related areas of importance.

Section 1.5 Authority

This Ordinance and district maps are adopted according to the authority provided under § 15.2-2800 et seq., of the Code of Virginia, 1950, as amended. The Town of Stuart is authorized to provide for the establishment of districts within its jurisdictional limits in which the Town may regulate, restrict, permit, prohibit and determine:

- a. The use of land, buildings, structures, and other premises for residential, business, commercial, industrial, flood protection, and other specific uses;
- b. The size, height, area, bulk, location, erection, construction, reconstruction, repair, maintenance, razing, or removal of structures;
- c. 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 the establishment of minimum lot sizes based on whether a public or community water supply or sewer system is available and used; and
- d. The excavation or mining of soil or other natural resources.

Section 1.6 Jurisdiction

The provisions of this Ordinance shall apply to all land and all structures within the incorporated territory of the Town of Stuart, Virginia.

Section 1.7 Interpretation

It shall be the responsibility of the Zoning Administrator to interpret the provisions of this Ordinance as provided herein.

- a. In the interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare of the residents of the Town of Stuart, Virginia.
- b. Where the conditions imposed by any provisions of this Ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other law, resolution, Ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.
- c. This Ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

Section 1.8 Provisions are Cumulative

The provisions of this Ordinance are cumulative with additional limitations imposed by all other laws and Ordinances, previously passed or which may be passed after the adoption of this Ordinance, governing any subject matter appearing in this Ordinance.

Section 1.9 Severability

Should any court of competent jurisdiction find that any Section(s) or provision(s) of this Ordinance are unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part held to be unconstitutional or invalid.

Section 1.10 Ordinance Provisions Do Not Constitute Permit

Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to use any property or to locate, construct, or maintain any building, structure, or facility, or to carry on any trade, industry, occupation, or activity.

Section 1.11 Scope of Regulations

a. Use, Buildings and Structures:

Once this Ordinance is effective no use, building, or structure shall hereafter be erected or altered in such manner as to become non-conforming or more non-conforming as to:

- 1) Exceed the height or bulk;
- 2) Accommodate or house a greater number of families;
- 3) Occupy a greater percentage of lot area;
- 4) Have a narrower or smaller rear yards, front yards, side yards, or other open space than specified in each district;
- 5) Used in any manner contrary to the provisions of this Ordinance; or
- 6) Reduce the amount of required parking or other minimum standards set forth in this Ordinance.

b. Yard or Lot:

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 1.12 Construction of Language

In the construction of this Ordinance, the rules contained in this section shall apply, except when the context clearly indicates otherwise:

- a. The word "shall" is always mandatory and not discretionary; the word "may" is permissive;
- b. The word "lot" shall include the words "part" or "parcel" and the word "building" or "structure" includes all other structures or parts thereof;
- c. The word "permitted" or words "permitted by right" means permitted without meeting the requirements for a conditional use by special authorization pursuant to Special Use Provisions under Article 6 of this Ordinance;

- d. The particular shall control the general, words used in the present tense shall include the future, and words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary;
- e. All public officials, bodies, and agencies to which reference is made are those of the Town of Stuart, Virginia;
- f. In the case of any difference of meaning or implications between the text of this Ordinance and any caption, illustration or table, the text shall control; and
- g. Except where definitions are specifically included in various articles and sections, words in the text or tables of this Ordinance shall be interpreted in accordance with the definitions in Article 9. Where words have not been defined, the standard dictionary definition shall prevail.

ARTICLE 2:
ZONING DISTRICTS AND ZONING DISTRICT MAP

Section 2.1 Establishment of Districts

For the purpose of this Ordinance, the incorporated areas of the Town of Stuart, Virginia, are hereby divided into the following districts:

<u>District Name</u>	<u>District Code</u>
Rural Residential	RR
Low Density Residential.....	LDR-1
Low-Medium Density Residential.....	LDR-2
Medium Density Residential.....	MDR
High Density Residential.....	HDR
General Commercial	GC
Downtown Mixed Uses.....	DMU
Community/Regional Commercial	CRC
Light Industrial.....	LI
Heavy Industrial	HI
Floodplain Overlay District	FP

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

Section 2.2 Establishment of District Map

The boundaries and locations of each of these districts are hereby established as shown on the map entitled "Zoning Map of the Town of Stuart, Virginia." The Zoning Map and all notations, amendments, and other information thereon are hereby made a part of this Ordinance, the same as if such information set forth on the map were all fully described and set out herein. Such 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 Town's office except on Court Subpoena," provided however, that said map may be removed during normal office hours by the Zoning Administrator for the purpose of incorporating duly adopted revisions.

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

Section 2.3 Identification or Alteration of the Official Zoning Map

- a. The Zoning Map shall be identified by the Town Seal and the signature of the Mayor of the Town under the following words: "This is to certify that this map is the Zoning Map of the Town of Stuart," together with the adoption date of this Ordinance.

- b. All changes made in district boundaries or other matters shown on the Zoning Map must be in accordance with the provisions of this Ordinance and the Code of Virginia, 1950, as amended, and shall be entered on the Zoning Map within two (2) weeks after the amendment has been approved by the Town Council. Any amendments to this Ordinance

which involves a change on the Zoning Map shall become effective immediately upon action of the Town Council of the Town of Stuart.

- c. A brief statement shall be included describing the nature of the change, date of adoption, and signed by the Mayor of the Town of Stuart.
- d. No changes of any kind shall be made on the Zoning Map or matters shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change shall be considered a violation of this Ordinance and punishable as a misdemeanor.

Section 2.4 Rules for Interpretation of District Boundaries

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

- a. Boundaries indicated as approximately following the centerlines of railroads, streams, streets, roads, or alleys shall be interpreted as following such centerlines;
- b. Boundaries indicated as approximately following platted lot lines shall be interpreted as following such lot lines and the extension of lot lines in the event that the boundary extends across unplatted tracts;
- c. Boundaries indicated as approximately following corporate limits shall be interpreted as following such corporate limits;
- d. Boundaries indicated as approximately following the centerlines of streams, river, lakes, or other bodies of water shall be interpreted as following such centerlines, and in the event of a change in the course of a body of water, shall be interpreted as moving with the actual center line;
- e. Boundaries indicated as parallel to or as extensions of features indicated above shall be so interpreted. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map;
- f. Where actually existing natural or man-made features differ with those shown on the Zoning Map, the Planning Commission shall determine the district boundary;
- g. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot; and
- h. If, because of error or omission in the Zoning Map, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, such property shall be classified RR (Rural Residential District) until changed by amendment.

Section 2.5 Coordination of State and Local Transportation Planning

Rezoning requests proposed under Sections 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303 of the Code of Virginia shall be submitted by the Zoning Administrator to the Department of Transportation within ten (10) business days of receipt thereof, for review and comment if the proposal will substantially affect transportation on state-controlled highways. If it is determined that the proposed rezoning will substantially impact the transportation system, the applicant shall be required to submit a traffic impact statement within the ten (10) business day deadline. The Virginia Department of Transportation (VDOT) will have forty-five (45) days to provide written comments to the Stuart Zoning Administrator or to schedule a meeting within sixty (60) days of receipt of the proposal with the Stuart Planning Commission, the Zoning Administrator,

and the applicant to discuss potential modifications or address concerns or deficiencies. VDOT shall have forty-five (45) days to complete its initial review and one hundred-twenty (120) days to complete its final review. The applicant shall be responsible for all costs associated with the traffic impact statement and VDOT review fees.

Section 2.6 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 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 Stuart, 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 2.7 Interim Zoning of Annexation Areas

Pursuant to Section 15.2-2286, A. 2 of the Code of Virginia, 1950, as amended, all land which shall come into the territorial jurisdictions of the Town shall be classified RR (Rural Residential 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: DISTRICT REGULATIONS

Section 3.1 Single-Family Rural Residential (RR)

3.1.1 Purpose of the District

The purpose of this district is to provide low-density single-family detached residential development, together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the district, agricultural and open uses are permitted, but in general, urbanization is planned and utilities and public services exist or are planned for the types of development contemplated. Accessory dwelling units are permitted by special exception approved by the Board of Zoning Appeals. In addition, certain special care facilities and governmental, educational, recreational, and utility uses are permitted by special use permit.

3.1.2 Permitted Uses

Uses permitted in the Rural Residential (RR) district shall be established in compliance with the standards of this Article, Article 5, and other applicable Town of Stuart Ordinances. Uses permitted shall be one (1) or more of the following uses:

- a. Detached single-family dwellings. Accessory dwelling units are permitted as a special exception by the Board of Zoning Appeals under Article 7.
- b. Manufactured home dwelling.
- c. General agriculture, farming and forestry, including tilling the soil, raising of crops, truck gardens, field crops, orchards, or nurseries for growing or propagation and harvesting of plants, turf, trees, and shrubs and in general uses commonly classified as general agriculture; provided that temporary open air stands not exceeding 200 square feet in area for seasonal sales of products raised on the premises, and the raising of large animals, such as pigs, cows, horses, sheep, or goats, on a farm of ten acres or more, or the raising for sale of birds, bees, fish, rabbits, or other small animals on a lot of two acres or more shall be permitted only as a special exception; and provided that no retail or wholesale business office or store is permanently maintained on the premises, and not including commercial slaughtering or processing of animals or poultry.
- d. Churches and Sunday schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- e. Facilities and structures necessary for rendering public utility service for electric power distribution, broadband, gas, sewer, or water service.
- f. Stables, private, or keeping of horses, ponies, or other livestock for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 100 feet from any side or rear lot line, and provided that no more than one such animal shall be kept for each acre of land on the premises, as a special exception.
- g. Yard sale or garage sale for disposal of used household items, provided such sales are not conducted for more than three days per year, and include items assembled only from households in the immediate neighborhood. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees or utility poles.

- h. Accessory buildings and uses, including but not limited to accessory private garages, farm buildings and structures, servants or caretakers quarters, hunting or fishing cabins, fishing docks for private use, guest houses, swimming pools, home occupations, accessory storage, accessory off-street parking and loading spaces, and accessory signs in accordance with Article 5.

3.1.3 Uses Permitted by Special Use Permit

Special uses in the Single-Family Rural Residential (RR) district shall be permitted following a public hearing and approval as set forth in Article 6. Special uses shall be one (1) or more of the following uses:

- a. Cemeteries.
- b. Convalescent homes, rest homes, nursing homes, or homes for the aged.
- c. Bed and Breakfast establishments, lodges, or inns with 5 bedrooms or more.
- d. Family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons.
- e. Hospital or clinic for humans.
- f. Manufactured home parks.
- g. Temporary accessory mobile home.
- h. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- i. Private schools, colleges, or universities.
- j. Greenhouse, accessory use.
- k. Public or governmental buildings and uses, including schools, community centers, fire and rescue stations (volunteer or otherwise), parks, parkways, and playgrounds, except those which have been approved as a part of a subdivision plan.
- l. Public utility buildings, treatment plants, water storage tanks, pumping or regulator stations, utility storage yards, substations, and major transmission lines.
- m. Radio or television transmission or receiving tower more than 50 feet in height.
- n. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies, and equipment.

3.1.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. A name plate or directional sign, limited in area to two (2) square feet, to identify the owner or occupant of a dwelling or building or a permitted home occupation.
- b. No trespassing or no hunting signs, without limitations on number or placement, limited in area to two (2) square feet.

- c. A temporary, non-illuminated sign, limited in area to twenty (20) square feet, advertising real estate for sale or lease or announcing contemplated improvements of real estate on which it is placed.
- d. A sign, limited in area to 32 square feet, for a church bulletin board or identification of permitted public or semi-public uses, recreational uses, or clubs.
- e. A sign, limited in area to 32 square feet, for identification of a subdivision.
- f. Temporary non-illuminated signs, limited in area to four square feet, directing the way to premises which are for sale or rent or on which a permitted yard sale is being conducted.
- g. A temporary sign, limited in area to 32 square feet, erected in connection with new construction work and displayed on the premises only during such time as the actual construction work is in progress.
- h. Temporary signs at appropriate locations, on or off the premises, for direction of the traveling public, truck deliveries and employees to a subdivision or community, or visitor center or recreation facility in an isolated area of the town, limited in area to thirty-two (32) square feet and subject to approval of location, design, and wording by the Zoning Administrator. This permitted sign is not intended as an ordinary advertising device.

3.1.5 Lot Size Standards

	Minimum <u>Lot Area</u>	Minimum, Feet	
		<u>Lot Width</u>	<u>Lot Depth</u>
a. Single-family dwelling:			
1) Without either public sewer service or public water service	40,000 sq. ft.	150	250
2) With public water service but not public sewer service	20,000 sq. ft.	100	150
3) With both public water & sewer service	15,000 sq. ft.	100	100

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

Minimum lot area for individual or on-site sewage disposal systems is subject to Health Department requirements. Lot width is measured at the building line. Minimum street frontage is 25 feet.

Averaging lot area and cluster subdivisions are permitted in Article 5.

3.1.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. Single-family dwelling:	35	15	30

Total width of both side yards shall be at least 35 feet.

Minimum front yard shall be 55 feet from the street center line if street right-of-way is less than 50 feet in width.

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

- c. Accessory structures attached to the main building shall be considered part of the main building and comply with side yard requirements. Detached accessory structures shall not be closer than five (5) feet to any property line.
- d. The setback line for livestock barns, sheds or feeding areas, or other agriculture activity shall be one hundred (100) feet from the adjacent property line where the adjacent use is not agricultural.

3.1.7 Special Provisions for Corner Lots

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

3.1.8 Height Standards

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

- a. The height limit for dwellings may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet upon granting of a Special Exception by the Board of Zoning Appeals under Article 7.
- b. A public or semi-public building, such as a school, church, or library, may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- d. No accessory structure which is within ten feet of any party lot line shall be more than one story in height. All accessory structures shall be of less height than the main buildings on the lot.

3.1.9 Off-Street Parking and Loading Standards

Off-street parking and loading standards and space requirements for particular uses are contained in Article 5.

Section 3.2 Low Density Residential 1 (LDR-1)

3.2.1 Purpose of the District

The purpose of this district is to provide for low density single-family detached residential development together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. In general, urbanization is planned and utilities and public services exist or are planned for the type or types of development contemplated. Accessory dwelling units are permitted by special exception approved by the Board of Zoning Appeals. In addition, certain special care facilities and governmental, educational, recreational and utility uses are permitted by special use permit.

3.2.2 Permitted Uses

Uses permitted in the Low Density Residential (LDR-1) district shall be established in compliance with the standards of this Article, Article 5, and other applicable Town of Stuart Ordinances. Uses permitted shall be for one (1) or more of the following uses:

- a. Detached single-family dwellings. An accessory dwelling unit in an accessory building is permitted as a special exception by the Board of Zoning Appeals under Article 7.
- b. Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- c. Facilities and structures necessary for rendering public utility service for electric power distribution, broadband or communication service, and underground pipelines or conduits for gas, sewer or water service.
- d. Yard sale or garage sale for disposal of used household items, provided such sales are not conducted for more than three days per year, and include items assembled only from households in the immediate neighborhood. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees or utility poles.
- e. Accessory buildings and uses, including but not limited to accessory private garages, servants or caretakers quarters, guest houses, swimming pools, home occupations, accessory storage, accessory off-street parking and loading spaces, and accessory signs in accordance with Article 5.

3.2.3 Uses Permitted by Special Use Permit

Special uses in the Low Density Residential (LDR-1) district shall be permitted following a public hearing and approval as set forth in Article 6. Special uses shall be one (1) or more of the following:

- a. Bed and breakfast facility.
- b. Convalescent homes, rest homes, nursing homes, or homes for the aged.
- c. Family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons.
- d. Greenhouse, accessory use.
- e. Hospital or clinic for humans.
- f. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- g. Private schools, colleges, or universities.
- h. Public or governmental buildings and uses, including schools, community centers, fire stations (volunteer or otherwise), parks, parkways and playgrounds, except those which have been approved as a part of the subdivision plan.
- i. Public utility buildings, treatment plants, water storage tanks, pumping or regulator stations, storage yards, substations, and major transmission lines.
- j. Radio or television transmission or receiving tower more than 50 feet in height.

- k. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, incidentals, supplies, and equipment.
- l. Single-family manufactured or mobile home.
- m. Temporary accessory mobile home.
- n. Tourist residences for up to five (5) guests.

3.2.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

Any sign permitted in the RR Rural Residential District.

3.2.5 Lot Size Standards

	Minimum <u>Lot Area</u>	Minimum, Feet	
		<u>Lot Width</u>	<u>Lot Depth</u>
Single-family dwelling:			
a. Without either public sewer service or public water service	20,000 sq. ft.	100	150
b. With public water service but not public sewer service	17,500 sq. ft.	100	125
c. With both public water service and public sewer service	10,000 sq. ft.	75	100

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

Minimum lot area for individual or on-site sewage disposal systems is subject to Health Department requirements. Lot width is measured at the building line. Minimum street frontage is 25 feet for detached dwellings.

3.2.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. Single-family dwelling:	35	10	25

Total width of both side yards shall be at least 25 feet.

Minimum front yard shall be 55 feet from the street center line if street right-of-way is less than 50 feet.

- b. Other principal structures same as single-family dwelling or as required in the district regulations.
- c. Accessory structures attached to the main building shall be considered part of the main building and comply with side yard requirements. Detached accessory structures shall not be closer than five (5) feet to any property line.

3.2.7 Special Provisions for Corner Lots

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

3.2.8 Height Standards

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

- a. The height limit for dwellings may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet, upon granting of a Special Exception by the Board of Zoning Appeals under Article 7.
- b. A public or semi-public building, such as a school, church, or library, may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- d. No accessory structure which is within 10 feet of any party lot line shall be more than one story in height. All accessory structures shall be of less height than the main buildings on the lot.

3.2.9 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.2.10 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.3 Low-Medium Density Residential 2 (LDR-2)

3.3.1 Purpose of the District

The purpose of this district is to provide low medium-density single-family detached and duplex residential development, together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. In general, urbanization is planned and utilities and public services exist for the type or types of development contemplated. Accessory dwelling units are permitted by special exception approved by the Board of Zoning Appeals. In addition, certain special care facilities and governmental, educational, recreational, and utility uses are permitted by special use permit.

3.3.2 Permitted Uses

Uses permitted in the Low-Medium Density Residential (LDR-2) district shall be established in compliance with the standards of this Article, Article 5, and other applicable Town of Stuart Ordinances. Uses permitted shall be for one (1) or more of the following uses:

- a. Detached single-family dwellings. An accessory dwelling unit in an accessory building is permitted as a special exception by the Board of Zoning Appeals under Article 7.

- b. Two-family or duplex dwellings, detached or semi-detached, subject to the special regulations below. (Dwellings in accessory buildings are not permitted if there are two dwelling units in the main building or if the main building is semi-detached).
- c. Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- d. Tourist residences for not more than five (5) guests, provided the property owner/operator obtains an annual tourist residence permit from the Zoning Administrator.
- e. Facilities and structures necessary for rendering public utility service for electric power distribution, broadband or communication service, and underground pipelines or conduits for gas, sewer or water service.
- f. Yard sale or garage sale for disposal of used household items, provided such sales are not conducted for more than three days per year, and include items assembled only from households in the immediate neighborhood. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees or utility poles.
- g. Accessory buildings and uses, including but not limited to accessory private garages, farm buildings and structures, servants or caretakers quarters, hunting or fishing cabins, fishing docks for private use, guest houses, swimming pools, home occupations, accessory storage, accessory off-street parking and loading spaces, and accessory signs in accordance with Article 5.

3.3.3 Uses Permitted by Special Use Permit

Special uses in the Low-Medium Density Residential (LDR-2) district shall be permitted following a public hearing and approval as set forth in Article 6. Special uses shall be one (1) or more of the following uses:

- a. Bed and breakfast facility.
- b. Convalescent homes, rest homes, nursing homes, or homes for the aged.
- c. Family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons.
- d. Hospital or clinic for humans.
- e. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- f. Private schools, colleges, or universities.
- g. Public or governmental buildings and uses, including schools, fire stations (volunteer or otherwise), parks, parkways and playgrounds, except those which have been approved as a part of the subdivision plan.
- h. Public utility buildings, treatment plants, water storage tanks, pumping or regulator stations, utility storage yards, substations, and major transmission lines.
- i. Radio or television transmission or receiving tower more than 50 feet in height.
- j. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic

grounds, or similar activities, and accessory facilities, including sale of food, beverages, incidentals, supplies, and equipment.

- k. Single-family or two-family manufactured or mobile home.

3.3.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

Any sign permitted in the LDR-1 Low-Density Residential District.

3.3.5 Lot Size Standards

	Minimum <u>Lot Area</u>	Minimum, Feet	
		<u>Lot Width</u>	<u>Lot Depth</u>
a. <u>Single-family dwelling:</u>			
1) Without either public sewer service or public water service	20,000 sq. ft.	100	150
2) With public water service but not public sewer service	12,000 sq. ft.	85	125
3) With both public water service and public sewer service	10,000 sq. ft.	75	100
b. <u>Two-family dwelling:</u>			
1) Without either public sewer service or public water service	20,000 sq. ft.	100	150
2) With public water service but not public sewer service	15,000 sq. ft.	100	125
3) With both public water service and public sewer service	12,000 sq. ft.	85	100

See sections below for special regulations on sale of dwelling units of a two-family dwelling. If units are to be sold separately, minimums for each unit for lot area and lot width are one-half of values above.

Other uses same as for single-family dwelling or as specified in the district regulations. Minimum lot area for individual or on-site sewage disposal systems is subject to Health Department requirements. Lot width is measured at the building line. Minimum street frontage is 25 feet for detached dwellings.

The dwelling units and individual lots of a two-family dwelling may be sold separately if separate utility systems are provided and if separate lots for all dwelling units in a building are created at the same time and in conformance with Subdivision Regulations.

3.3.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. Single-family or two-family duplex dwellings:	35	10	25

Total width of both side yards shall be at least 25 feet.

Minimum front yard shall be 55 feet from the street center line if street right-of-way is less than 50 feet in width.

- b. Other principal structures same as single-family dwelling or as required in the district regulations.
- c. Accessory structures attached to the main building shall be considered part of the main building and comply with side yard requirements. Detached accessory structures shall not be closer than five (5) feet to any property line.

3.3.7 Special Provisions for Corner Lots

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

3.3.8 Height Standards

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

- a. The height limit for dwellings may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet upon granting of a Special Exception by the Board of Zoning Appeals under Article 7.
- b. A public or semi-public building, such as a school, church, or library, may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- d. No accessory structure which is within ten feet of any party lot line shall be more than one story in height. All accessory structures shall be of less height than the main buildings on the lot.

3.3.9 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.3.10 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.4 Medium Density Residential 2 (MDR)

3.4.1 Purpose of the District

The purpose of this district is to provide for a variety of residential housing types and styles including single-family detached, duplex, and medium-density townhouse residential development, together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. In general, urbanization is planned and utilities and public services exist for the type or types of development contemplated. Certain special care facilities and governmental, educational, recreational, and utility uses are permitted by special use permit.

In conjunction with the provisions for special use permits or for conditional zoning as contained in Articles 6 and 8, this district can be used to facilitate planned housing developments.

3.4.2 Permitted Uses

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

- a. Detached single-family dwellings and accessory dwelling units subject to the regulations of the LDR-2 Low-Medium Density Residential District.
- b. Two-family or duplex dwellings, detached or semi-detached, subject to the regulations of the LDR-2 Low-Medium Density Residential District.
- c. Attached single-family dwellings (townhouses) subject to the special regulations of Section 3.4.9 below.
- d. Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- e. Tourist residences for not more than five (5) guests, provided the property owner/operator obtains an annual tourist residence permit from the Zoning Administrator.
- f. Facilities and structures necessary for rendering public utility service for electric power distribution, broadband or communication service, and underground pipelines or conduits for gas, sewer or water service.
- g. Yard sale or garage sale for disposal of used household items, provided such sales are not conducted for more than three days per year, and include items assembled only from households in the immediate neighborhood. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees or utility poles.
- h. Accessory buildings and uses, including but not limited to accessory private garages, servants or caretakers quarters, guest houses, swimming pools, home occupations, accessory storage, accessory off-street parking and loading spaces, and accessory signs as herein regulated.

3.4.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. Convalescent homes, rest homes, nursing homes, or homes for the aged.
- b. Family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons.
- c. Hospital or clinic for humans.
- d. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- e. Planned housing developments subject to the special regulations of Sections 3.4.9 and 3.4.10 below.
- f. Private schools, colleges, or universities.

- g. Public or governmental buildings and uses, including schools, fire stations (volunteer or otherwise), parks, parkways and playgrounds, except those which have been approved as a part of the subdivision plan.
- h. Public utility buildings, treatment plants, water storage tanks, pumping or regulator stations, utility storage yards, substations, and major transmission lines.
- i. Radio or television transmission or receiving tower more than 50 feet in height.
- j. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, incidentals, supplies, and equipment.

3.4.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Any sign permitted in the LDR-2 Low-Medium Density Residential District.
- b. A sign limited in area to ten (10) square feet, giving the name and/or address or management of a multiple-family dwelling or group of multiple-family dwellings. If such sign is placed on a marquee, awning, or canopy, the height of letters shall not exceed one (1) foot.
- c. A sign, limited in area to 32 square feet, for identification of a subdivision, townhouse, or apartment development.

3.4.5 Lot Size Standards

	Minimum <u>Lot Area</u>	Minimum, Feet <u>Lot Width</u> <u>Lot Depth</u>	
a. Single-family dwelling:	(See LDR-2 District regulations)		
b. Two-family dwelling:	(See LDR-2 District regulations)		
c. Attached single-family dwellings (townhouses), public water and public sewerage required.	2,000 sq. ft. not to exceed 8 units per acre	20 *	100

See Section 3.4.9 below for special regulations for townhouses.

* Minimum lot width shall be 30 feet for end and corner lots. All townhouse dwellings except end dwellings and corner lots shall occupy the full width of the lot.

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

Minimum lot area for individual or on-site sewage disposal systems is subject to Health Department requirements. Minimum street frontage is 25 feet for detached dwellings.

Special provisions for townhouse projects are found in Section 3.4.9.

3.4.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. Single-family and two-family dwellings:	(See LDR-2 District regulations)		
b. Attached single-family dwellings (townhouses):	15	10 *	25

* Minimum side yards for end lots only.

Minimum front yard shall be 40 feet from the street center line if street right-of-way is less than 50 feet in width.

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

See Section 3.4.9 below for special regulations for townhouses and accessory structures.

3.4.7 Special Provisions for Corner Lots

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

3.4.8 Height Standards

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

- a. Townhouses may include three stories but may not exceed 35 feet in height, upon granting of a Special Exception by the Board of Zoning Appeals under Article 7.
- b. The height limit for dwellings other than townhouses may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet.
- c. A public or semi-public building, such as a school, church, library, or general hospital may be erected to a height of 60 feet provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- d. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- e. No accessory structure which is within 10 feet of any party lot line shall be more than one story in height. All accessory structures shall be of less height than the main buildings on the lot.

3.4.9 Special Regulations for Townhouses

Townhouse developments shall comply with the following minimum standards:

- a. Minimum project area—0.75 acres. The overall project design shall be prepared to preserve natural topography and vegetation and to minimize adverse impact of moving and parked vehicles within the development.
- b. Maximum density—Eight (8) units per gross acre, excluding flood plain and slopes exceeding 25 percent.
- c. Minimum lot and yard requirements for townhouses shall comply with the requirements for Sections 3.4.5 and 3.4.6 above.
- d. The minimum gross floor area of every dwelling unit shall be 1,200 square feet with a minimum of 600 square feet per floor, exclusive of attic and basements which are more than 50 percent underground.
- e. Maximum building height for townhouses—See Section 3.4.8 above.
- f. The maximum lot coverage shall be 40 percent.
- g. A minimum of four (4) dwellings are required for each development.
- h. A common green area may be provided in lieu of a part of the minimum lot area, subject to the following provisions:
 - 1) When a common green area is provided, the minimum lot area may be reduced below 2,000 square feet where such reduction results in usable, common open space and the provision of active recreational facilities. However, the minimum lot area shall not be reduced below 1,500 square feet or maximum density increased above eight (8) units per gross acre.
 - 2) When a common green area is provided, the maximum lot coverage specified may be increased in proportion to the reduction in the minimum lot area, but in no event may the lot coverage including dwelling and accessory buildings exceed 50 percent.
 - 3) No part of the common green areas may be utilized for automobile driveways or parking areas, for sidewalks or paved play areas, or for other similar paved areas.
 - 4) All non-public common green areas for use and enjoyment of occupants, shall be properly maintained without expense to the Town of Stuart in accordance with the Condominium Act, Code of Virginia, as amended.
- i. No motor vehicle shall be parked on any lot upon which a townhouse is erected unless a garage is provided as part of the unit. No garage or carport shall be attached to the exterior façade and no garage shall be converted to living area.
- j. Townhouse dwellings abutting each other shall have complementary façades.
- k. There shall be at least three (3) but no more than eight (8) townhouse dwellings continuously connected at least 20 feet of open space shall be provided between any two such groups of continuously connected buildings.
- l. No more than two abutting townhouse dwellings shall have the same front yard setbacks and common roof line.
- m. Service areas and rear yards visible from a street shall be appropriately screened as approved by the Town Council.

- n. Each lot containing a townhouse shall provide a private rear yard at least 300 square feet in area and at least 15 feet in depth enclosed visually by uniform fences or walls.
- o. Each dwelling shall be self-contained as to heating, air conditioning, and utilities.
- p. The developer shall provide front yard areas and common areas with lawn and appropriate shrubbery planting except on areas designated for walks and driveways. The lawn and shrubbery planting shall be subject to review and approval by the Zoning Administrator.
- q. Common refuse bins shall be screened by means of a fence or wall, and appropriately gated.
- r. Each development site shall have a publicly-dedicated or approved private street throughout the development so as to adjoin all private parking lots and access courts.
- s. All private streets shall be at least 30 feet in width, a paved surface, and constructed in accordance with applicable Virginia Department of Transportation pavement design standards and in accordance with the Subdivision Ordinance. All private streets abutting dwellings shall provide a sidewalk between the private street and such dwellings.
- t. Accessory structures shall not exceed 10 feet in height, shall be located to the rear of the main structure, and no closer than one foot from the side or rear property line, or 10 feet from the outside line of the end and corner lots.

3.4.10 Planned Housing Developments

A site plan may be submitted for a Planned Housing Development as a special use permit or in conjunction with an application for conditional zoning, together with a subdivision plan if required by this Ordinance or the Subdivision Ordinance and such other descriptive material or proffers as may be necessary to fully provide for desired development, even though such development does not comply in all respects to the dimensional requirements of the MDR District, provided:

- a. One or more major features of the development, such as natural features, open spaces, and building types and arrangements, are such as to justify application of this section rather than a conventional application of the MDR District regulations.
- b. Materials submitted, drawings, descriptions, proffers, and the like are sufficiently detailed to assure compliance with the intent of this section.
- c. The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment which, if different from designs otherwise permitted, will not adversely affect existing and future development in the surrounding area.
- d. The overall dwelling unit density does not exceed that permitted in the MDR District for development of comparable housing types.
- e. The development is designed to promote harmonious relationships with adjacent and nearby developed properties. Design Techniques should consider appropriate building form and types, orientation, spacing and setbacks, consideration of topography and natural vegetation, open spaces, parking areas, landscaping, and screening.

Procedures and general standards for approval of an application under this section shall be the same as those for a special use permit as described in Article 6 or for conditional zoning as described in Article 8 as the case may require.

3.4.11 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.4.12 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.5 High Density Residential District (HDR)

3.5.1 Purpose of the District

The purpose of this district is to provide high density residential use and to provide for variety in housing types and densities as well as for those public and semi-public uses and accessory uses as may be necessary or are normally associated with residential surroundings. In general, urbanization is planned and utilities and public services exist or are planned to be adequate for the type or types of development contemplated. Certain special care facilities and governmental, educational, recreational, and utility uses are permitted by special use permit.

In conjunction with the provisions for special use permits or conditional zoning as contained in Articles 6 and 8, this district can be used to facilitate planned housing developments.

3.5.2 Permitted Uses

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

- a. Detached single-family dwellings subject to the regulations of the LDR-2 Low-Medium Density Residential District.
- b. Two-family or duplex dwellings, detached or semi-detached, subject to the regulations of the LDR-2 Low-Medium Density Residential District.
- c. Attached single-family dwellings (Townhouses) subject to the regulations of Section 3.5.10 below.
- d. Multiple-family dwellings subject to the special regulations of Section 3.5.11 below.
- e. Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- f. Tourist residences for not more than five (5) guests, provided the property owner/operator obtains an annual tourist residence permit from the Zoning Administrator.
- g. Facilities and structures necessary for rendering public utility service for electric power distribution, broadband or communication service, and underground pipelines or conduits for gas, sewer or water service.
- h. Yard sale or garage sale for disposal of used household items, provided such sales are not conducted for more than three days per year, and include items assembled only from households in the immediate neighborhood. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees or utility poles.
- i. Accessory buildings and uses, including but not limited to accessory private garages, servants or caretakers quarters, guest houses, swimming pools, home occupations,

accessory storage, accessory off-street parking and loading spaces, and accessory signs as herein regulated.

3.5.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. Bed and breakfast facility.
- b. Convalescent homes, rest homes, nursing homes, or homes for the aged.
- c. Family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons.
- d. Hospital or clinic for humans.
- e. Manufactured home subdivisions subject to the special regulations of Section 3.5.12 below.
- f. Manufactured home parks subject to the special regulations of Section 3.5.13 below.
- g. Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- h. Planned housing developments subject to the special regulations of Section 3.5.9 below.
- i. Private schools, colleges, or universities.
- j. Public or governmental buildings and uses, including schools, fire stations (volunteer or otherwise), parks, parkways and playgrounds, except those which have been approved as a part of the subdivision plan.
- k. Public utility buildings, treatment plants, water storage tanks, pumping or regulator stations, utility storage yards, substations, and major transmission lines.
- l. Radio or television transmission or receiving tower more than 50 feet in height.
- m. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery ranges, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, incidentals, supplies, and equipment.
- n. Rooming and boarding houses.

3.5.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Any sign permitted in the MDR Medium -Density Residential District.
- b. A sign, limited in area to twenty (20) square feet, giving the name and/or address or management of a manufactured home subdivision or mobile home park.
- c. A sign, limited in area to twenty (20) square feet, advertising mobile homes for sale or lease if located in an approved accessory sales area.

3.5.5 Lot Size Standards

	Minimum <u>Lot Area</u>	Minimum, Feet <u>Lot Width</u> <u>Lot Depth</u>	
a. Single-family dwelling:	(See LDR-2 District regulations)		
b. Two-family or duplex dwellings:	(See LDR-2 District regulations)		
c. Attached single-family dwellings, townhouses:	1,000 sq. ft. not to exceed 12 units per acre	14 *	100
* See Section 3.5.10'; below for special regulations for townhouses.			
d. Four-families or more, public water and public sewerage required:	Min. 2 acres not to exceed 15 units per acre *	100	125
* An increase in density to 20 dwelling units per acre is subject to approval of a special use permit.			

Dwellings for the elderly and handicapped same as for other multiple-dwellings except that above four units, density shall not exceed 30 units per acre.

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

Minimum lot area for individual or on-site sewage disposal systems is subject to Health Department requirements. Lot width is measured at the building line. Minimum street frontage is 25 feet for detached dwellings.

See sections below for special regulations for townhouses, multiple-family dwellings, manufactured home subdivisions, and manufactured home parks.

3.5.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. Single-family dwellings:	35	10	25
Total width of both side yards shall be at least 25 feet.			
Minimum front yard shall be 55 feet from the street center line if street right-of-way is less than 50 feet in width.			

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

See sections below for special regulations for townhouses, multiple-family dwellings, manufactured home subdivisions, and manufactured home parks.

Accessory structures attached to the main building shall be considered part of the main building and comply with side yard requirements. Detached accessory structures shall not be closer than five (5) feet to any property line.

3.5.7 Special Provisions for Corner Lots

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

See sections below for special regulations for townhouses, multiple-family dwellings, manufactured home subdivisions, and manufactured home parks.

3.5.8 Height Standards

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

- a. The height limit for dwellings may be increased up to 45 feet and up to three stories provided there are two side yards for each permitted use of which is at least 15 feet plus one foot or more for each side yard for each additional foot of building height over 35 feet upon granting of a Special Exception by the Board of Zoning Appeals under Article 7.
- b. A public or semi-public building, such as a school, church, or library, may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 50 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- d. No accessory structure which is within ten feet of any party lot line shall be more than one story in height. All accessory structures shall be of less height than the main buildings on the lot.

3.5.9 Planned Housing Developments

Within an HDR High Density Residential District as a special use permit or in conjunction with an application for conditional zoning for HDR Residential, and in order to encourage improved housing design, variety in housing types, and best use of topography, a site plan may be submitted for a Planned Housing Development, together with a subdivision plan if required by this Ordinance or the Subdivision Ordinance and such other descriptive material or proffers as may be necessary to fully provide for desired development, even though such development does not comply in all respects to the dimensional requirements of the HDR District.

- a. One or more major features of the development, such as natural features, building types, and arrangements, are such as to justify application of this section.
- b. Site plans are sufficiently detailed to assure compliance with the intent of this section.
- c. The development is designed to promote harmonious relationships with adjacent and nearby developed properties.

Procedures and general standards for approval of an application under this section shall be the same as those for a special use permit as described in Article 6 or for conditional zoning as described in Article 8 as the case may require.

3.5.10 Special Regulations for Townhouses

Townhouse developments shall comply with the following minimum standards:

- a. Minimum project area—2.0 acres. The overall project design shall be prepared to preserve natural topography and vegetation and to minimize adverse impact of moving and parked vehicles within the development.

- b. Maximum density—Twelve (12) units per gross acre, excluding flood plain and slopes exceeding 25 percent.
- c. Minimum lot area per dwelling unit—1,000 square feet with minimum lot width of 14 feet for interior lots and 25 feet for end and corner lots.
- d. Minimum yard requirement per dwelling unit:
 - Front yard—10 feet.
 - Rear yard—25 feet.
 - Side yard for end and corner lots—10 feet.
- e. The minimum gross floor area of every dwelling unit shall be 800 square feet with a minimum of 400 square feet per floor, exclusive of attic and basements which are more than 50 percent underground.
- f. Maximum building height for townhouses—See Section 3.5.8 above.
- g. A minimum of six (6) dwellings are required for each development.
- h. Minimum lot open space shall be 40 percent.
- i. A common green area may be provided in lieu of a part of the minimum lot area or to meet maximum project density requirements, subject to the following provisions:
 - 1) When a common green area is provided, the minimum lot area may be reduced below 1,000 square feet when such reduction results in usable, common open space and the provision of active recreational facilities. However, the minimum lot area shall not be reduced below 900 square feet or maximum density increased above twelve (12) units per gross acre.
 - 2) No part of the common green areas may be utilized for driveways or parking areas, for sidewalks, or for other similar paved areas.
 - 3) All non-public common green areas for use and enjoyment of occupants, shall be properly maintained without expense to the Town and in accordance with the Condominium Act, Code of Virginia, as amended.
- j. No motor vehicle shall be parked on any lot upon which a townhouse is erected unless a garage is provided as part of the unit. No garage or carport shall be attached to the exterior façade and no garage shall be converted to living area.
- k. Townhouse dwellings abutting each other shall have complementary façades.
- l. There shall be at least three (3) but no more than ten (10) townhouse dwellings continuously connected at least 15 feet of open space shall be provided between any two such groups of continuously connected buildings.
- m. No more than two abutting townhouse dwellings shall have the same front yard setbacks and common roof line.
- n. Service areas and rear yards visible from a street shall be appropriately screened as approved by the Town Council.
- o. Each lot containing a townhouse shall provide a private rear yard at least 200 square feet in area and at least 15 feet in depth.

- p. Each dwelling shall be self-contained as to heating, air conditioning, and utilities.
- q. The developer shall provide front yard areas and common areas with lawn and appropriate shrubbery planting except on areas designated for walks and driveways. The lawn and shrubbery planting shall be subject to review and approval by the Zoning Administrator.
- r. Common refuse bins shall be screened by means of a fence or wall, and appropriately gated.
- s. Each development site shall have a publicly-dedicated or approved private street throughout the development so as to adjoin all private parking lots and access courts.
- t. All private streets shall be at least 30 feet in width, a paved surface, and constructed in accordance with applicable Virginia Department of Transportation pavement design standards and in accordance with the Subdivision Ordinance. All private streets abutting dwellings shall provide a sidewalk between the private street and such dwellings.
- u. Accessory structures shall not exceed 10 feet in height, shall be located to the rear of the main structure, and no closer than one foot from the side or rear property line, or 10 feet from the outside line of the end and corner lots.

3.5.11 Special Regulations for Multiple-Family Dwellings

Multi-family developments shall comply with the following minimum standards:

- a. Overall project density—15 dwelling units per acre, exclusive of public rights-of-way. Density greater than 15 dwelling units per acre, subject to a special use permit and buildings must be three stories.
- b. The development or project shall be designed to promote harmonious relationships with adjacent and nearby developed properties. Design techniques should consider appropriate building form and types, orientation, spacing and setbacks, consideration of topography and natural vegetation, open spaces, parking areas, landscaping, and screening.
- c. No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous. This standard does not apply to housing for the elderly and handicapped.
- d. No apartment building shall be located closer than 35 feet from any public right-of-way or closer than 15 feet from a private drive, access road, or open common parking area.
- e. The minimum separation of any two buildings—25 feet.
- f. The maximum lot coverage—40 percent.
- g. A minimum of 400 square feet of commonly useable open space shall be provided for each dwelling unit, at least 200 square feet for each dwelling unit for the elderly and handicapped.
- h. Community refuse containers provided as accessory uses to apartment developments shall be conveniently located for container pick-up and completely screened from view by means of a fence or wall and appropriately gated.
- i. Garden apartment dwelling units shall contain a minimum of 600 feet of livable floor area, exclusive of garages, basements, attics, open porches, or patios. This standard does not apply to dwelling units for the elderly and handicapped.

3.5.12 Special Regulations for Manufactured Home Subdivisions

- a. The manufactured homes subdivision shall include at least five acres and comply in all respects with the dimensional requirements for a single-family subdivision in the R-2 Duplex District including the provisions for averaging lot area and clustering, and the requirements of the Subdivision Ordinance. Preliminary and final plats as well as deeds to individual lots shall bear a notation as to the nature of the subdivision.
- b. The manufactured home subdivision shall be surrounded by a landscaped or wooded strip of open space at least 50 feet wide along all street or road frontage and along all other exterior boundary lines. This space shall be in addition to minimum area required for each home lot and shall not be used for other facilities, recreation area, accessory storage structures, or parking areas, but may be included as extra depth for individual lots if appropriately restricted by easement. The subdivision plan shall include a landscape plan for this open space indicating planting of shade trees and lower plant materials for open portions of the space and a plan for tree maintenance in wooded portions. Continued maintenance of the open area and its plantings shall be the responsibility of the homeowners association or lot owners, as the case may require.
- c. All homes shall be placed on an approved lot and shall not obstruct the use of, or project over, any driveway, walkway, or public utility easement.
- d. An approved area or areas of at least 10,000 square feet of useable open space shall be provided for recreational use by residents of the subdivision. This area may be included in total area and for the purpose of lot averaging. A homeowners association shall be organized for maintenance of recreational areas which are not to be maintained by the developer.
- e. All homes shall be completely skirted with materials approved by the Administrator.

3.5.13 Special Regulations for Manufactured Home Parks

- a. The park shall contain not less than two contiguous acres and shall be under single ownership or control.
- b. The minimum width and minimum depth for a manufactured home park shall be 200 feet.
- c. The overall density shall not exceed nine (9) units per gross acre. Land subject to flooding or otherwise unsuitable for residential use shall be excluded from density computations.
- d. Minimum site area for individual homes shall be 3,000 square feet and no home shall occupy more than 25 percent of the area of the site. The minimum width for each site shall be 2.5 times the width of the home, or 25 feet, whichever is greater. No more than one home shall be placed on any one site and no home sites shall be offered for sale or sold.
- e. The manufactured home park shall comply with all sanitary and other requirements prescribed by law or regulations. Each home site shall be provided with individual water and sewer connections to central sewer and water systems designed to serve the entire park and each home site shall be provided with electrical outlets in accordance with applicable Codes and ordinances.
- f. Where community refuse containers are provided as an accessory use, such containers shall be conveniently located for pick-up and completely screened by means of a fence or wall with a gate which can be latched open and closed.

- g. No home shall be closer than 50 feet from a public street, 10 feet from an interior access drive, or 15 feet from any other home or service building, and no closer than five feet to the boundaries of the home site.
- h. Space between manufactured homes may be used for the parking of motor vehicles if the space is clearly designated and the vehicle parked at least ten feet from the nearest adjacent lot boundary.
- i. Each manufactured home lot shall abut or face a driveway, roadway, or street of not less than 30 feet in width on a fifty-foot right-of-way, which shall have unobstructed access to a public highway, street, or alley.
- j. The topography of the site shall be such as to facilitate drainage and adequate drainage facilities shall be provided.
- k. The overall design shall evidence a reasonable effort to preserve the natural amenities of the site, particularly mature trees.
- l. The park owner shall require and the unit owner shall insure that open space beneath each home shall be skirted with approved material in accordance with the requirements of the Administrator.
- m. Corners for each home site shall be clearly defined by permanent ground markers corresponding to the approved site plan.
- n. A manufactured home park shall be surrounded by a landscaped strip of open space 50 feet in depth along the street frontage of a primary street and 25 feet in depth along all other lot lines or street frontage.

3.5.14 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.5.15 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.6 General Commercial District (GC)

3.6.1 Purpose of the District

The purpose of this district is to provide sufficient space in appropriate locations for a variety of retail and office uses, and miscellaneous service activities, generally serving the Town, its neighborhoods, and the surrounding area of the County, and generally located along major thoroughfares. Low density residential uses are also permitted. To enhance the general character of the district, its function of local and neighborhood service, and its compatibility with its residential surroundings, the size of certain uses is limited and signs are limited to those accessory to businesses conducted on the premises and the number, area, and types of signs are limited.

3.6.2 Permitted Uses

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

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

- b. Banks and other financial institutions.
- c. Barber shops or beauty parlors.
- d. Catering or delicatessen business.
- e. Clinics.
- f. Funeral home or undertaking establishment.
- g. Hospital or clinic for small animals, dogs, cats, birds, and the like, as a conditional use provided that such hospital or clinic and any treatment rooms, cages, pens, or kennels, be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable noise or odors outside its walls.
- h. Laundries, laundromats, or dry-cleaning establishments with floor area not exceeding 2,500 square feet.
- i. Lawn mower, yard and garden equipment, rental, sales, and service.
- j. Offices, general business or professional, including as a special exception a manufactured home for temporary office use.
- k. Pet shop or dog beauty parlor, provided that any work rooms, cages, pens, or kennels be maintained within a completely enclosed, soundproof building and that such shop or parlor be operated in such a way as to produce no objectionable noise or odors outside its walls.
- l. Printing, publishing, and engraving establishments, photographic processing or blueprinting with floor area not exceeding 2,500 square feet.
- m. Rental of household items, tools, and appliances.
- n. Restaurants, drive-in or otherwise.
- o. Shoe repairing shops with floor area not exceeding 2,500 square feet.
- p. Stores or shops for the conduct of retail business, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.
- q. Studios or shops for artists, photographers, writers, teachers, jewelers, weavers or other crafts, sculptors, or musicians.
- r. Accessory buildings and uses, including upper floor housing provided with separate ingress and egress, accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations.

3.6.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. Automobile service station, so long as bulk storage of inflammable liquids is underground, as a conditional use, but not including temporary storage of wrecked or inoperable vehicles or storage or rental of trailers, campers, vans, or similar equipment.
- b. Hotel, motel, motor lodge, or tourist home.
- c. Institutions, educational or philanthropic, including museums and art galleries.
- d. Nursery schools, kindergartens, child care centers, day nurseries, or day care centers.
- e. Private club, lodge, meeting or assembly hall, or fraternal organization or sorority, health club or fitness center.
- f. Public or governmental buildings and uses, including governmental offices, libraries, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- g. Public utilities or public service or transportation uses, buildings (including bus stations), generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, substations and major transmission lines.
- h. Radio and television stations and studio, but not or other communication towers more than 125 feet in height.
- i. Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery range, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies, and equipment.
- j. Schools, business or technical.
- k. Taxidermists.

3.6.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Flat signs, with total aggregate sign area not more than ten percent (10%) of the area of walls fronting on a street and no one (1) sign with sign area of more than one hundred (100) square feet. Illuminated signs inside of show windows and within five (5) feet of such windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent (10%) of the total glass area of the window in which they are placed.
- b. Projecting signs, if there are no marquee or detached signs, one (1) for each business on the premises, with sign area limited to twenty (20) square feet. The sign shall be ten (10) or more feet from ground level to the bottom of the sign.
- c. Detached signs, if there are no projecting signs, limited in area to fifty (50) square feet and limited in height to twenty (20) feet, one (1) for each business on the premises. A group of three (3) or more contiguous stores, such as form a shopping center, may combine permitted detached sign area to provide a single detached sign advertising the group if there are no other detached signs and if the combined sign area does not exceed one hundred fifty (150) square feet.
- d. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to three (3) square feet.

- e. Temporary, non-illuminated paper signs in show windows, limited to twenty percent (20%) of the total glass area of the window in which they are placed.
- f. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.

3.6.5 Lot Size Standards

There is no minimum lot size standards for business uses in the General Commercial (GC) District except as may be required by the Health Department for uses utilizing individual or on-site sewage disposal systems.

3.6.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. All structures:	30 (a)	15 (b)	20 (b)
1) See Article 5 for exceptions for signs and certain other structures.			
2) Side yards required only if adjacent to a residential district. Rear yard shall be 40 feet if adjacent to the boundary of a residential district.			

3.6.7 Special Provisions for Corner Lots

- a. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.
- b. Where a front yard is provided, signs, landscaping, shrubbery, evergreens, and trees in excess of three feet in height are prohibited within 15 feet from the corner of a lot at intersecting streets.

3.6.8 Special Regulations for Business and Commercial Buildings

- a. *Similar Uses Permitted.* Other retail and service uses which, in the opinion of the Administrator, are of the same general character as those permitted uses listed above shall be permitted provided that these and the above specified stores, shops, or businesses shall be retail and service establishments primarily selling merchandise and rendering a personal service and shall be permitted only in accord with the development standards of this Ordinance.
- b. *Site Plan.* Where approval of a site plan is required, the plan shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end shall provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation in accord with the requirements of this Ordinance.
- c. *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls, or landscape planting.
- d. *Drainage.* Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable Town Ordinances.

3.6.9 Height Standards

Buildings may be erected up to three stories and 45 feet in height except that:

- a. Any business building or part of such building which is located within 200 feet of any Residential District shall not exceed two stories and 30 feet in height.
- b. A public or semi-public building, such as a school or library, may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Building belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 125 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

3.6.10 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.6.11 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.7 Downtown Mixed Uses (DMU)

3.7.1 Purpose of the District

The purpose of this district is to provide for an appropriate variety of uses in the historic center for commercial, financial, governmental, and cultural activities. It is intended to promote a pedestrian scale with convenient and relatively compact arrangement of uses and buildings. To this end, required yards are minimal and permitted building bulk and coverage is relatively high. Upper floor housing and tourist residences are permitted with auxiliary parking to encourage housing convenient to places of shopping and work and downtown activities.

3.7.2 Permitted Uses

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

- a. Automotive filling stations consisting of an office and pumps for the sale of fuel and lubricants, so long as bulk storage of flammable liquids is underground and there is no exterior display of merchandise and no exterior facilities for service, maintenance, or washing, or temporary storage of wrecked or inoperative vehicles or storage or rental of luggage trailers, campers, vans, or similar equipment.
- b. Bakeries, provided that the majority of products produced on the premises are sold at retail on the premises.
- c. Banks and other financial institutions.
- d. Barber shops or beauty parlors.
- e. Bicycle sales and repair shops.
- f. Broadcasting studios.

- g. Catering business.
- h. Camera shops and repair.
- i. Cellular phone, sales and service.
- j. Churches, mosques, synagogues, and temples.
- k. Clinics.
- l. Dance studios.
- m. Funeral home or undertaking establishment.
- n. Furniture, upholstery and appliance repairs.
- o. Garage, parking or storage, but not auto or truck repair.
- p. Government buildings.
- q. Grocery and drug stores, not exceeding 10,000 square feet.
- r. Hardware store, not exceeding 10,000 square feet.
- s. Hotel, motel, inn, motor lodge, or tourist home.
- t. Hospital or clinic for small animals, dogs, cats, birds, and the like, as a conditional use provided that such hospital or clinic and any treatment rooms, cages, pens, or kennels, be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable noise or odors outside its walls.
- u. Institutions, educational and philanthropic, including museums, libraries, and art galleries.
- v. Laundries, laundromats, or dry-cleaning establishments with floor area not exceeding 2,500 square feet.
- w. Offices, general business or professional, excluding check cashing stores.
- x. Parking lots, parking spaces, and parking areas.
- y. Pet shop or dog beauty parlor, provided that any work rooms, cages, pens, or kennels be maintained within a completely enclosed, soundproof building and that such shop or parlor be operated in such a way as to produce no objectionable noise or odors outside its walls.
- z. Plumbing and electrical supply sales, retail only.
- aa. Printing, publishing, and engraving establishments, photographic processing or blueprinting with floor area not exceeding 2,500 square feet.
- bb. Radio and television stations and broadcasting studios or recording studios.
- cc. Rental of household items, tools, and appliances.
- dd. Restaurants, delicatessens or ice cream parlors, for service of food for consumption primarily on the premises, including outdoor eating area, but not drive-in restaurants.

- ee. Shoe repairing shops with floor area not exceeding 2,500 square feet.
- ff. Stores or shops for the conduct of retail business, including sale of accessories, antiques, home or office appliances, art or art supplies, artisan shops, auto parts and accessories, apparel, beverages (alcoholic or otherwise), books, cards, carpets, cellular phones, drugs, fabrics, flowers, food, furniture, hardware, hobby supplies, jewelry, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops, and incidental repair of products sold on the premises.
- gg. Studios or shops for artists, photographers, writers, teachers, jewelers, weavers or other crafts, sculptors, or musicians.
- hh. Theatre (motion picture or live performance).
- ii. Temporary stands, or outdoor areas or temporary truck parking, for sale of produce, Christmas trees, wreaths, holly, and the like.
- jj. Video, record, DVD, CD sales and rental.
- kk. Accessory buildings and uses, including accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations, including upper floor single-family apartments with separate ingress and egress, studio living quarters, and dwellings in association with a permitted office, business or commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business.

3.7.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. ABC stores.
- b. Billiard parlors or pool rooms, bowling alleys, dance halls, electronic game center, or similar recreational establishments as conditional uses.
- c. Convenience stores, excluding fueling facilities.
- d. Drive-in facility accessory to a bank or savings and loan office.
- e. Funeral homes.
- f. Laundry, laundromats, or dry cleaners exceeding 2,500 square feet.
- g. Public libraries, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- h. Public utilities or public service or transportation uses, buildings (including bus stations), generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, substations and major transmission lines.
- i. Repair service establishments exceeding 2,500 square feet.
- j. Taxidermists.

3.7.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Flat signs, with total aggregate sign area not more than ten percent (10%) of the area of walls fronting on a street and no one (1) sign with sign area of more than two hundred (200) square feet. Illuminated signs inside of show windows and within five (5) feet of such windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent (10%) of the total glass area of the window in which they are placed.
- b. Projecting signs with sign area limited to twenty-five (25) square feet and at least ten (10) feet from the bottom of sign to ground level.
- c. Detached signs, limited in area to fifty (50) square feet and limited in height to thirty-five (35) feet. A group of three (3) or more contiguous stores, such as form a shopping center, may combine permitted detached sign area to provide a single detached sign advertising the group if there are no other detached signs and if the combined sign area does not exceed one hundred fifty (150) square feet.
- d. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to five (5) square feet.
- e. Temporary, non-illuminated paper signs in show windows, limited to twenty percent (20%) of the total glass area of the window in which they are placed.
- f. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.

3.7.5 Lot Size Standards

There is no minimum lot size standards for business uses in the DMU Downtown Mixed Uses District except as may be required by the Health Department for uses utilizing individual or on-site sewage disposal systems.

3.7.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. All structures:	None	None	None
1) On the side of a lot abutting a residential district, there shall be a side yard of at least 10 feet.			
2) For business and mixed use buildings, no rear yard is required at the first floor level except on the rear of a lot abutting a residential district there shall be a rear yard of 20 feet. For dwellings there shall be a rear yard of at least 20 feet and for all buildings there shall be a rear yard of at least 20 feet at and above the second floor level.			

3.7.7 Special Regulations for Business and Commercial Buildings

- a. *Similar Uses Permitted.* Other retail and service uses which, in the opinion of the Administrator, are of the same general character as those permitted uses listed above shall be permitted provided that these and the above specified stores, shops, or businesses shall be retail and service establishments primarily selling new merchandise (except antiques) and rendering a

personal service and shall be permitted only in accord with the development standards of this Ordinance.

- b. *Enclosed Buildings.* Except as provided in the regulations for this district, all uses shall be conducted within enclosed buildings with no open storage of supplies or waste material, except products on temporary display for sale.
- c. *Refuse.* Refuse containers shall be located in a paved area and hidden from general public view by means of fences, walls, or landscape planting.
- d. *Drainage.* Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain onto adjacent property except into a natural watercourse or drainage easement.

3.7.8 Height Standards

Buildings may be erected up to three stories and 45 feet in height except that:

- a. Any business building located within 200 feet of any Residential District shall not exceed two stories and 30 feet in height.
- b. A public or semi-public building may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 125 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

3.7.9 Off-Street Parking and Loading Standards

There are no minimum off-street parking space requirements for uses in the DMU Downtown Mixed Use District, provided however that when off-street parking is provided, such parking shall comply with the design standards of Article 5. Off-street loading regulations contained in Article 5 apply to the DMU Downtown Mixed Use District.

3.7.10 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.8 Community/Regional Commercial (CRC)

3.8.1 Purpose of the District

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of community shopping, including retail, commercial, and wholesale uses, automotive, and service activities, generally serving the Town, a wide area of the County, and the traveling public and generally located along major thoroughfares or near development centers where a general mixture of commercial and service activity now exists or is planned.

3.8.2 Permitted Uses

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

- a. Automobile or truck parts sales, wholesale or retail, but not junk.

- b. Automobile or truck sales, service, and repair, including body or fender repair, but not auto salvage or junk, and any major repair or storage of equipment or materials or damaged vehicles shall be inside a completely enclosed building.
- c. Automobile service station, so long as bulk storage of inflammable liquids is underground.
- d. Automobile storage lot, new or used cars, but not storage or sale of junk.
- e. Automobile used car lot, or used truck sales, but not junk, and any storage of equipment or materials or damaged vehicles shall be inside a completely enclosed building.
- f. Bakeries.
- g. Banks and other financial institutions.
- h. Barber shops or beauty parlors.
- i. Batting cages, "Putt-Putt," and/or mini-sports complex.
- j. Bicycle sales and repair shops.
- k. Bingo parlors.
- l. Boat and boat trailer sales and storage.
- m. Bottling works, dyeing and cleaning works, linen service, or laundry, furniture refinishing, plumbing, electrical and heating shop, painting shop, upholstering shop not involving furniture manufacture, shoe repair, tinsmithing shop, appliance repairs, and general service and repair establishments, similar in character to those listed in this item, but provided that no outside storage of material is permitted except as provided in this section.
- n. Car-wash or automobile laundry, automatic or attended, or self-service.
- o. Catering or delicatessen business.
- p. Clinics.
- q. Drive-in automatic banking or vending machine station. Groups of vending machines shall be contained in a building.
- r. Exterminating establishment.
- s. Farm supply and service establishments, implement sales, rental and service, feed and seed store, including custom milling of grain and feed, fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building.
- t. Frozen food lockers for individual or family use.
- u. Funeral home or undertaking establishment.
- v. Garage, parking, storage, or repair.
- w. Green houses, commercial, wholesale or retail.

- x. Hospital or clinic for small animals, dogs, cats, birds, and the like, as a conditional use provided that such hospital or clinic and any treatment rooms, cages, pens, or kennels, be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable noise or odors outside its walls.
- y. Hotel, motel, inn, motor lodge, or tourist home.
- z. Janitorial service establishment.
- aa. Laundries, laundromats, or dry-cleaning establishments.
- bb. Lawn mower, yard and garden equipment, rental, sales and service, but not junk.
- cc. Lumber and building supply (with storage under cover) and plumbing and electrical supply (with storage undercover).
- dd. Mini-warehouses.
- ee. Monument sales establishments with incidental processing to order, but not including the shaping of headstones.
- ff. Motorcycle or off-road vehicle sales and service.
- gg. Muffler sales and installation.
- hh. Nurseries for growing plants, trees, and shrubs.
- ii. Offices, general business or professional, including as a special exception a manufactured home for temporary office use.
- jj. Parking lots, parking spaces, and parking areas.
- kk. Plumbing and electrical supply sales.
- ll. Printing, publishing, and engraving establishments, photographic processing or blueprinting.
- mm. Private club, lodge, meeting or assembly hall, or fraternal organization or sorority, game courts, swimming pools, archery ranges, health club, or fitness center.
- nn. Radio and television stations and broadcasting studios or recording studios, but not towers more than 125 feet in height.
- oo. Recycling collection center, but not processing activities.
- pp. Rental of household items, tools, and appliances.
- qq. Rental or sale of luggage trailers and pick-up truck caps but not including truck trailer bodies except campers and travel trailers.
- rr. Restaurants, drive-in or otherwise.
- ss. Sign fabricating and painting shop.
- tt. Stores or shops for the conduct of retail business, including sale of accessories, apparel, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, cards, carpets, cellular phones, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry,

office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

- uu. Studios or shops for artists, photographers, writers, teachers, jewelers, weavers or other crafts, sculptors, or musicians.
- vv. Telephone station or booth, including drive-in or talk-from-car stations.
- ww. Theatre (motion picture or live performance) or assembly halls.
- xx. Temporary stands, or outdoor areas or temporary truck parking, for sale of produce, Christmas trees, wreaths, holly, and the like.
- yy. Tire sales, service and installation.
- zz. Accessory buildings and uses, including accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations.

3.8.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. Animal hospital, large or small animals with open pens, pet shop, pet grooming establishment, or commercial dog kennel.
- b. Billiard parlors or pool rooms, bowling alleys, dance halls, theatres, electronic game center, miniature golf, or similar recreational establishments, indoor or outdoor.
- c. Carnival or fairgrounds.
- d. Nursery schools, kindergartens, child care centers, day nurseries, or day care centers.
- e. Outdoor sales area or flea market.
- f. Public or governmental buildings and uses, including governmental offices, libraries, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- g. Public utilities or public service or transportation uses, buildings (including bus stations), generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, substations and major transmission lines.
- h. Radio, television, or other communication tower more than 125 feet in height.
- i. Repair service establishments exceeding 2,500 square feet.
- j. Taxidermists.

3.8.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Flat signs, with total aggregate sign area not more than ten percent (10%) of the area of walls fronting on a street and no one (1) sign with sign area of more than two hundred (200) square

feet. Illuminated signs inside of show windows and within five (5) feet of such windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent (10%) of the total glass area of the window in which they are placed.

- b. Projecting signs with sign area limited to fifty (50) square feet and at least ten (10) feet from the bottom of sign to ground level.
- c. Detached signs, limited in area to one hundred (100) square feet and limited in height to thirty-five (35) feet. A group of three (3) or more contiguous stores, such as form a shopping center, may combine permitted detached sign area to provide a single detached sign advertising the group if there are no other detached signs and if the combined sign area does not exceed three hundred (300) feet.
- d. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to five (5) square feet.
- e. Temporary, non-illuminated paper signs in show windows, limited to twenty percent (20%) of the total glass area of the window in which they are placed.
- f. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.

3.8.5 Lot Size Standards

There is no minimum lot size standards for business uses in the CRC Community/Regional Commercial District except as may be required by the Health Department for uses utilizing individual or on-site sewage disposal systems.

3.8.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. All structures:	30 (a)	15 (b)	20 (b)
1) See Article 5 for exceptions for signs and certain other structures.			
2) Side yards required only if adjacent to a residential district. Rear yard shall be 40 feet if adjacent to the boundary of a residential district.			

3.8.7 Special Provisions for Corner Lots

- a. Each corner lot shall have two front yards and two side yards. Those yards abutting the street shall be considered the front.
- b. Where a front yard is provided, signs, landscaping, shrubbery, evergreens, and trees in excess of three feet in height are prohibited within 15 feet from the corner of a lot at intersecting streets.

3.8.8 Special Regulations for Business and Commercial Buildings

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

- b. *Site Plan.* Where approval of a site plan is required, the plan shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation in accord with the requirements of this Ordinance.
- c. *Refuse.* Refuse containers shall be located in a paved area and hidden from general public view by means of fences, walls, or landscape planting.
- d. *Drainage.* Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain onto adjacent property except into a natural watercourse or drainage easement.

3.8.9 Height Standards

Buildings may be erected up to three stories and 45 feet in height except that:

- a. Any business building located within 200 feet of any Residential District shall not exceed two stories and 30 feet in height.
- b. A public or semi-public building may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas up to 125 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.

3.8.10 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.8.11 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.9 Light Industrial District (LI)

3.9.1 Purpose of the District

The purpose of this district is to provide for a variety of light manufacturing, fabricating, processing, wholesale distributing, and warehousing uses appropriately located for access by highways and providing a controlled environment. Uses are to be conducted generally within completely enclosed buildings or within screened areas, and are to be compatible with adjacent commercial and residential areas. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited to those which will be useful to employees in the district.

3.9.2 Permitted Uses

Uses permitted in the Light Industrial (LI) District shall be established in compliance with Standards of this Article, Article 5, and as provided in the Town of Stuart subdivision ordinance. Uses permitted shall be one (1) or more of the following uses:

- a. Retail and service establishments as follows:
 - 1) Business and office supply establishment.
 - 2) Animal hospital and kennels.
 - 3) Clinics, medical or dental.
 - 4) Employment service or agency.
 - 5) Janitorial or exterminating service.
 - 6) Offices and office buildings, studios, and the like, business, professional, or administrative.
 - 7) Security service office or station.
 - 8) Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing, or distributing use.

- b. Generally those light manufacturing uses similar to those listed below which do not create any more danger to health and safety in surrounding areas or any more offensive noise, vibration, smoke, dust, lint, odor, heat, glare, or electrical impulse than that which is generally associated with light industries of the types specifically permitted below:
 - 1) Manufacture or assembly of electrical appliances, electronic apparatus, medical and dental equipment, office supplies and equipment, drafting, optical, and musical instruments, radios, watches, clocks, toys, games, and communication equipment;
 - 2) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, welding or machine shop;
 - 3) Laboratories, manufacturing or packaging pharmaceutical or medical supplies;
 - 4) Manufacture or assembly of trailers, bolts, buttons, coils and condensers, transformers, crystal holders, nuts, screws, rivets, firearms, photographic and metering equipment, tools, dies, machinery, hardware products, sheet-metal products, heating, cooling, and ventilation equipment, and vitreous enameled products.
 - 5) Manufacture or assembly of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stones, rubber, shell, straw, textiles, tobacco, wood, yarn, and paint.
 - 6) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns only by electricity or gas.
 - 7) Beverage blending or bottling, bakery products, candy manufacture, tobacco products, dairy products and ice cream, fruit and vegetable processing and canning, meat and poultry products, but not the distilling of beverages or slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animals or poultry.
 - 8) Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.
 - 9) Manufacture of boxes, furniture, cabinets, baskets, and other wood products of similar nature.
 - 10) Compounding of cosmetics, perfumes, toiletries, soap, drugs, and pharmaceutical products.

- c. Dwellings for resident watchmen and caretakers employed on the premises.

- d. Facilities and structures necessary for rendering utility service and electrical power distribution or communication service, and pipelines or conduits for electrical, gas, sewer, or water service.

- e. Greenhouse or nursery, commercial, wholesale or retail.
- f. Laboratories, research, experimental or testing, but not testing explosives.
- g. Printing, publishing, and engraving establishments, photographic processing or blueprinting.
- h. Radio and television stations and broadcasting studios or recording studios, but not towers more than 125 feet in height.
- i. Rug and carpet cleaning and storage with incidental sales of rugs and carpets.
- j. Sign fabricating and painting.
- k. Trade or business school, but not including instruction in heavy trucks or heavy construction or materials handling equipment or similar vehicles and equipment.
- l. Wholesale merchandising or storage warehouse or distribution center but not a truck or freight terminal or package distribution center.
- m. Accessory buildings and uses, including but not limited to the following:
 - 1) Any accessory use permitted in the Rural Residential District (RR).
 - 2) Dwellings accessory to a farm of 10 acres or more.
 - 3) Coin-operated vending machines for food, tobacco, ice, soft drinks, and sundries inside a building and primarily for the use of occupants thereof.
 - 4) Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barber shops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs, and sundries.
 - 5) Storage of supplies, merchandise, equipment, or goods normally carried in stock, used, or produced in connection with a permitted office, business, commercial, or industrial use subject to applicable district regulations.
- n. Accessory buildings and uses, including accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations.

3.9.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 6.

- a. Nursery schools, kindergartens, child care centers, day nurseries, or day care centers.
- b. Private club, lodge, meeting hall, labor union, or fraternal organization or sorority.
- c. Public or governmental buildings and uses, including governmental offices, libraries, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- d. Public utility buildings, treatment plants, pumping or regulator stations, telephone exchange, substations and major transmission lines.

- e. Radio, television, or other communication tower more than 125 feet in height.

3.9.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Flat signs, general advertising or otherwise, with total aggregate sign area not more than three (3) square feet for each foot of building with fronting on a street and no one (1) sign more than three hundred (300) square feet.
- b. Projecting signs with sign area limited to fifty (50) square feet.
- c. Detached signs, limited in area to one hundred fifty (150) square feet and limited in height to thirty-five (35) feet. A group of three (3) or more contiguous stores, such as form a shopping center, may combine permitted detached sign area to provide a single detached sign advertising the group if there are no other detached signs and if the combined sign area does not exceed three hundred (300) square feet.
- d. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to five (5) square feet.
- e. Temporary, non-illuminated paper signs in show windows
- f. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.

3.9.5 Lot Size Standards

- a. For permitted uses, the minimum lot size shall be 20,000 square feet with a minimum lot width of 100 feet and minimum lot depth of 150 feet. The lot shall be of sufficient size to handle off-street turning and unloading of trucks and parking as required.
- b. Building coverage shall be limited to 50 percent of lot area.
- c. Lot width is measured at the building line.
- d. Minimum street frontage is 50 feet.

3.9.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. All structures:	25 (a)	15 (b)	40 (b)
1) See Article 5 for exceptions for signs and certain other structures.			
2) No structure shall be located closer than 50 feet to the boundary of any residential district.			

3.9.7 Special Provisions for Corner Lots

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

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

3.9.8 Special Regulations for Business and Commercial Buildings

- a. *Similar Uses Permitted.* Other manufacturing uses which, in the opinion of the Administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable, or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire, or explosion.
- b. *Enclosed Buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences, or walls.
- c. *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs, or pedestrian walks.
- d. *Site Plan.* Where approval of a site plan is required, the plan shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped.
- e. *Refuse.* Refuse containers or storage shall be located in a paved area and screened by means of fences, walls, or landscape planting.
- f. *Drainage.* Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain onto adjacent property except into a natural watercourse or drainage easement.

3.9.9 Height Standards

Buildings may be erected up to 45 feet in height except that:

- a. A building or part thereof may be erected to a height of 60 feet provided it is located at least 100 feet from any lot line.
- b. Cupolas, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennae up to 125 feet in height, are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- c. The Board of Zoning Appeals may grant exceptions to height limits under Article 7.

3.9.10 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.9.11 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.10 Heavy Industrial District (HI)

3.10.1 Purpose of the District

The purpose of this district is to provide for a wide variety of service industrial operations, including repair services, building supplies, and open or enclosed storage of products, supplies and equipment, but to restrict or prohibit those service industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district. Limited manufacturing is also permitted, including open storage of products and materials. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, retail and business service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

3.10.2 Permitted Uses

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

- a. Any manufacturing or processing use permitted in the LI Light Industrial District.
- b. Agriculture and forestry as permitted in the RR Rural Residential District.
- c. Dwellings for resident watchmen and caretakers employed on the premises.
- d. Retail and service establishments as permitted in the LI Light Industrial District.
- e. Trade or business school, including instruction in heavy construction or materials handling equipment or similar vehicles and equipment.
- f. Automobile, motorcycle, off-road vehicle, bus or truck sales, service or repair, assembly, painting, upholstering, or body or fender work or rebuilding, but not a salvage or wrecking yard.
- g. Blacksmith shop.
- h. Building materials (cement, lime in bags or container, sand, gravel, stone, lumber, hardware, structural or reinforcing steel, pipe and the like) storage and sales, open or enclosed, but not manufacture or steel fabricating or junk storage.
- i. Coal, flour or grain elevator; coal or wood yard.
- j. Concrete products.
- k. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.
- l. Farm implement and tractor sales, service and repair.
- m. Fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building, but not manufacture or processing.
- n. Feed and seed sales and storage, blending or packaging.
- o. Flour, storage, blending and packaging but not milling.
- p. Ink manufacture from primary raw materials (including colors and pigments).
- q. Meat products, manufacture but not slaughtering of animals and poultry or smoking and curing of meat.

- r. Monuments and architectural stone.
- s. Nursery or landscaping service.
- t. Petroleum and other inflammable liquids, above ground bulk storage up to 80,000 gallons, but not refining.
- u. Plumbing and electrical supplies, manufacture, sale or storage.
- v. Sand and gravel processing but not extraction or stone crushing or grinding.
- w. Lumber yards, wood preserving operation, and sawmills, including cooperage stock mill, stationary, and planning mill.
- x. Self-service storage compartments commonly known as mini-warehouses.
- y. Taxidermists.
- z. Tire rebuilding and recapping.
- aa. Tobacco products, cigars, cigarettes.
- bb. Welding and soldering shops; machine shop.
- cc. Well drilling establishment, water, gas or oil, offices storage or service of supplies and equipment.
- dd. Manufacture or storage or distribution of wire, rope, and cable.
- ee. Any accessory use permitted in the RR Rural Residential District and the LI Light Industrial District.

3.10.3 Uses Permitted by Special Use Permit

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides, and standards of Article 8.

- a. Asphalt mixing.
- b. Automobile service station.
- c. Public or governmental buildings and uses, including governmental offices, libraries, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- d. Public utility buildings, treatment plants, pumping or regulator stations, telephone exchange, substations and major transmission lines.
- e. Radio, television, or other communication tower more than 125 feet in height.
- f. Restaurant, drive-in or otherwise.
- g. Truck terminal, freight.

3.10.4 Permitted Signs

Subject to the general sign regulations of Article 5 and consisting of accessory non-illuminated or indirectly illuminated signs as follows:

- a. Flat signs, general advertising or otherwise, with total aggregate sign area not more than one (1) square foot for each foot of building with fronting on a street and no one (1) sign more than two hundred (200) square feet.
- b. Projecting signs with sign area limited to fifty (50) square feet.
- c. Detached signs, limited in area to fifty (50) square feet and limited in height to thirty (30) feet. A group of three (3) or more contiguous stores, such as form a shopping center, may combine permitted detached sign area to provide a single detached sign advertising the group if there are no other detached signs and if the combined sign area does not exceed one hundred fifty (150) square feet.
- d. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to five (5) square feet.
- e. Temporary, non-illuminated paper signs in show windows
- f. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.
- g. A sign, limited in area to one hundred fifty (150) square feet and limited in height to thirty (30) square feet, giving the name and/or address or management of a planned industrial subdivision or buildings group.

3.10.5 Lot Size Standards

There are no minimum lot size standards in the HI Heavy Industrial District, except as may be required by the Health Official for uses utilizing individual sewage disposal systems.

3.10.6 Yard and Setback Standards

	Minimum in Feet		
	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
a. All structures:	20 (a)	10 (b)	20 (b)
1) See Article 5 for exceptions for signs and certain other structures.			
2) No structure shall be located closer than 50 feet to the boundary of any residential district.			

3.10.7 Special Provisions for Corner Lots

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

3.10.8 Special Regulations for Business and Commercial Buildings

- a. *Site Plan*. Where approval of a site plan is required, the plan shall be designed to promote harmonious relationships with adjacent and nearby residential properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines

by means of fences, walls, hedges, planting screens, or natural vegetation in accord with the requirements of this Ordinance.

- b. *Refuse.* Refuse containers or storage shall be located in an all-weather surfaced area and hidden from general public view from outside the premises by means of fences, walls, or landscape planting.
- c. *Drainage.* Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable Town ordinances.
- d. *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

3.10.9 Height Standards

Buildings may be erected up to 50 feet in height except that:

- a. A building or part thereof may be erected to a height of 75 feet provided it is located at least 100 feet from any lot line.
- b. Cupolas, monuments, water towers, chimneys, flues, flag poles of any height, and television antennae up to 125 feet in height are exempt from height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- c. The Board of Zoning Appeals may grant exceptions to height limits under Article 7.

3.10.10 Off-Street Parking and Loading Standards

Off-street parking and loading design standards and space requirements for particular uses are contained in Article 5.

3.10.11 Landscaping and Screening

Regulations for landscaping and screening are contained in Article 5.

Section 3.11 Floodplain Overlay District

3.11.1 Purpose of the District

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

- a. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights,
- b. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding,
- c. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage,

- d. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

3.11.2 Applicability

These provisions shall apply to all lands within the jurisdiction of the Town of Stuart and be identified as being in the 100-year floodplain by the Federal Insurance Administration.

3.11.3 Compliance and Liability

- a. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- b. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or that land uses permitted within such districts will be free from flooding or flood damages.
- c. This ordinance shall not create liability on the part of the Town of Stuart or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.11.4 Abrogation and Greater Restrictions

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

3.11.5 Definitions

- a. Base Flood/One-Hundred Year Flood—A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).
- b. Base Flood Elevation (BFE)—The Federal Emergency Management Agency designated 100 year water surface elevation.
- c. Basement—Any area of the building having its floor sub-grade (below ground level) on all sides.
- d. Board of Zoning Appeals—The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- e. Floodplain—Any land area susceptible to being inundated by water from any source.
- f. Floodway—The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- g. Freeboard—A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

- h. Lowest Floor—The lowest floor of the lowest enclosed area (including basement).
- i. Recreational Vehicle—A vehicle which is:
 - 1) Built on a single chassis;
 - 2) 400 square feet or less when measured at the largest horizontal projection;
 - 3) Designed to be self-propelled or permanently tow-able by a light duty truck; and
 - 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- j. Substantial Damage—Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- k. Substantial Improvement—Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either: (1) any project or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

3.11.6 Description of District

- a. The floodplain district shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the Approximated Floodplain District shall be the Flood Insurance Rate Map/Flood Hazard Boundary Map prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 3, 1990, as amended.
- b. The Floodplain District described above shall be overlays to the existing underlying area as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.
- c. In the event of any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- d. In the event that any provision concerning a Floodplain District is declared inapplicable as a result of any legislative, administrative, or judicial decision, the basic underlying provisions shall remain applicable.

3.11.7 Official District Map

The boundaries of the Floodplain District are established as shown on the Flood Hazard Boundary Map/Flood Insurance Rate Map, which is declared to be a part of this ordinance and which shall be kept on file at the Stuart Town Office, 100 Patrick Avenue, Stuart, Virginia 24171.

3.11.8 District Boundary Changes

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

3.11.9 Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The party questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present their case to the Board and to submit supportive technical evidence.

3.11.10 General Provisions

- a. All uses, activities, and development occurring within any Floodplain District shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Stuart Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require the application to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.
- b. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Further notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.
- c. Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide position drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- d. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - 1) For structures to be elevated, the elevation of the lowest floor (including basement);
 - 2) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed;
 - 3) The elevation of the one hundred (100) year flood.
 - 4) Topographic information showing existing and proposed ground elevations.
- e. Recreational vehicles placed on sites shall either:

- 1) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or
- 2) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in the Virginia Uniform Statewide Building Code. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

3.11.11 Approximated Floodplain District

In the Approximated Floodplain District, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statement Building Code and all other applicable codes and ordinances. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include within such proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100) year flood elevation more than one foot at any one point. The engineering principle of equal reduction of conveyance shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant, no development shall be permitted that will cause any increase in the one hundred (100) year flood elevation.

3.11.12 Variances: Factors to be Considered

- a. In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and shall consider the following additional factors:
 - 1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be grants for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100) year flood elevation.
 - 2) The danger that materials may be swept on to other lands or downstream to the injury of, or damage to, others.
 - 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - 5) The importance of the services provided by the proposed facility to the community.
 - 6) The requirements of the facility for a waterfront location.
 - 7) The availability of alternative locations not subject to flooding for the proposed use.
 - 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - 9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

- 10)The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - 11)The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - 12)The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 13)Such other factors which are relevant to the purposes of this ordinance.
- b. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in:
- 1) Unacceptable or prohibited increases in flood heights;
 - 2) Additional threats to public safety;
 - 3) Extraordinary public expense;
 - 4) The creation of nuisances;
 - 5) Fraud or victimization of the public; or
 - 6) Conflict with local laws or ordinances.
- c. Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) year flood elevation will:
- 1) Increase the risks to life and property; and
 - 2) Result in increased premium rates for flood insurance.
- d. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biannual report submitted to the Federal Insurance Administrator.

3.11.13 Existing Structures in Floodplain Districts

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

- a. Existing structures in the Floodplain District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one hundred (100) year flood elevation.

- b. Any modifications, alterations, repairs, reconstruction, or improvements of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty percent (50%) of its market value, elevation and/or flood-proofing should be considered to the greatest extent possible.
- c. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of fifty percent (50%) or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.

ARTICLE 4: NONCONFORMING USES

Section 4.1 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 4.2 Extension of Use Within Existing Buildings

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 4.3 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.

Section 4.4 Discontinuance of Nonconforming Use

No building or portion thereof used in whole or in part for a nonconforming use in any 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 4.5 Destruction of a Nonconforming Use

No building which has been damaged to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to damage shall be restored, repaired, replaced, or 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. Repairs to a building damaged by less than fifty percent (50%) of the fair market value must be substantially completed within 12 months of the damage.

Section 4.6 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.

Section 4.7 Nonconforming Lots

If the owner of a lot of record prior to the application of the zoning regulations does not conform to the requirements of such regulations and restrictions as to area, frontage, and dimensions, the owner 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, health regulations, and restrictions.

Section 4.8 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 as to area, frontage, and dimensions, shall not be deemed a nonconforming lot or structure for the purpose of this Ordinance.

Section 4.9 Nonconforming Signs

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

ARTICLE 5:
GENERAL PROVISIONS
SUPPLEMENTARY DISTRICT REGULATIONS

This article contains specific standards that apply to all users and districts within the jurisdiction. The standards set forth are the minimum allowed, and from the date of this Ordinance no building, structure or use shall be permitted, altered or changed which would cause conditions to exist which would be less than the standards set forth in this Article or Article 3.

Section 5.1 Conformance with Regulations Required

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

Section 5.2 Encroachment: Reduction Lot Area/Required Open Space

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 5.3 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 5.4 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.

Section 5.5 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 5.6 Visibility at Intersection

On a corner lot in any district, nothing shall be erected placed, planted or allowed to be grown in such a manner as to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the center line grades within 15 feet of the intersecting streets.

Section 5.7 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 (6) months prior to beginning construction of the main building, and no accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or is under

construction. No accessory building, on a farm or otherwise, shall be used for dwelling except in accord with the specific provisions of this Ordinance.

Section 5.8 One Principal Building on Any Lot

No more than one principal building and its accessory buildings may be erected on any lot unless the lot frontage (measured at the road or street right-of-way line) is in multiples of one hundred (100) feet per each principal building. A second or more principal building may be constructed so long as each structure complies with the above frontage requirement and the minimum size lot requirement is in multiples of the size requirements for the district in which the proposed use is located.

Section 5.9 Temporary Accessory Mobile Home

A Temporary Accessory Mobile Home is defined as a mobile living unit designed to be movable as one unit, more than 320 square feet in size, fully functional as an independent living unit, and having wheels and a towing mechanism that has not been removed;

- a. Minimum lot or parcel size shall be no less than 30,000 square feet;
- b. Only one temporary accessory mobile home shall be permitted per lot or parcel in addition to one other principal use;
- c. The minimum setback requirements must be met and no temporary mobile home shall be closer than 20 feet to any other dwelling or 10 feet from any other accessory building;
- d. The temporary mobile home must meet all building code and Health Department requirements;
- e. Only a member of the immediate family may occupy the temporary mobile home. Occupancy by anyone other than the immediate family shall be a violation of the permit, and will render the permit null and void;
- f. "Immediate family" shall be defined as parent, grandparent, child, or grandchild of the head of the household owning and occupying the principal dwelling on the lot or the spouse (whether living or deceased) of the head of the household;
- g. This section is particularly designed to accommodate the need for children and grandchildren to take care of parents or grandparents. However, it may be used for other applications provided that the applicant demonstrate a hardship existing that is particular to their situation and not common to the general public as a whole, and which is not simply a financial benefit for either party;
- h. All Special Use Permits for temporary accessory mobile homes issued by the Town of Stuart Town Council are valid for one year. The permit holder, on or before the anniversary date of the permit annually thereafter, must have the permit validated by the Zoning Administrator by submitting a written request accompanied by an application showing that the conditions on which the permit was originally issued has not changed;
- i. The temporary accessory mobile home must be removed within sixty (60) days of a change in the use that would disqualify the special use designation. Failure of the permit holder to notify the Zoning Administrator of a disqualifying change in the approved permit constitutes a violation of this Ordinance and is punishable as set forth in Article 6.7 herein.

Section 5.10 Junk Storage and Automobile Graveyards

- a. Inoperable Automobiles:

- 1) No automotive vehicle that does not display a current license plate may be parked on any public right-of-way, street, or public area for more than twenty-four (24) hours;
- 2) No more than one (1) inoperable vehicle requiring a license to operate may be stored on any open lot in any district except those vehicles being repaired in conjunction with an automobile service repair business.

b. Junkyards, Junk Storage, or Automobile Graveyards:

No junkyard or automobile graveyard shall be established within the Town that is within one thousand (1,000) feet of the nearest edge of the right-of-way of any primary highway, or within five hundred (500) feet of the nearest edge of the right -of-way of any secondary road or adjoining property line, unless such area shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, street, or adjoining property owner.

Section 5.11 Home Occupations

Home occupation regulations as cited below only apply in a Residential Districts:

- a. No person other than members of the family residing on the premises shall be engaged in such occupation;
- b. The use of the dwelling unit for the home occupation shall not be operated in a manner to cause offensive noise, vibration, smoke, electrical interference, or glare, and shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area (including basements) of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square feet in area, non-illuminated, and located at least five (5) feet from the street right-of-way;
- d. No home occupation shall be conducted in any accessory building and no outdoor storage shall be permitted;
- e. There shall be no retail or wholesale sales occurring on the premises in connection with such home occupation;
- f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street or in a rear or side yard.

Section 5.12 Sign Regulations

5.12.1 Purpose

The purpose of this section is to permit such signs that will not, by reason of their size, location, construction, or manner of display, endanger the public safety of individuals; confuse, mislead, or obstruct the vision necessary for traffic safety; or otherwise endanger public health, safety, and morals; and to permit and regulate signs in such a way as to support and complement the objectives set forth in Article I of this Ordinance.

5.12.2 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 9 are applicable to these definitions.

- a. 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 is made visible for the purpose of making something known or which directs attention to a product, place, activity, person, institution, or business.
- b. 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.
- c. 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.
- d. Changeable Copy Sign. A sign or part of a sign designed so that characters or letters can be changed or rearranged without altering the face or size of the sign.
- e. Detached Sign, Freestanding Sign, or Ground 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 part of a building shall be considered a detached sign.
- f. 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.
- g. 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, 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.
- h. Flat Sign or Wall 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.
- i. General Advertising Sign. Any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations. A billboard not related to a use conducted on the premises is a general advertising sign.
- j. 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.
- k. Indirectly Illuminated Sign. A sign which does not produce artificial light from within itself, but which is opaque and backlit 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.

- l. Portable Sign. A sign not permanently anchored to the ground or to a building or fixed structure and which is constructed in such a manner as to permit its easy removal, as for example a sign mounted upon a carriage, fixed supports, or an axle and wheels.
- m. 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.
- n. 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.

5.12.3 General Requirements, All Signs

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

- a. 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 Zoning 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.
- b. 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.
- c. The Administrator, upon application, as required above in this section, 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:
 - 1) 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.
 - 2) Special decorative displays used for holidays, public demonstrations, or promotion for non-partisan civic purposes.
 - 3) Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.
- d. The following types of signs are prohibited:
 - 1) Any moving sign or device to attract attention, whether or not any said device has written message content, of which all or any part moves by any means, including fluttering, rotation, or otherwise moving devices, or set in motion by movement of the atmosphere, including but not limited to pennants, flags, propellers, discs, etc.

- 2) Any flashing sign or device displaying flashing or intermittent lights or lights of changing degrees of intensity, except a sign indicating the time and/or temperature, with changes alternating on not less than a five second cycle.
 - 3) Any sign on public land, other than those erected at the direction of a public authority and those otherwise authorized herein, and any sign that obscures a sign displayed by public authority for the purpose of giving traffic instructions or direction or other public information.
 - 4) Any illuminated tubing or strings of lights outlining property lines or open sales areas, roof lines, doors, windows, or wall edges of any buildings, provided that perimeter shielded down lighting may be used to illuminate open sales areas.
 - 5) Any sign that uses the word "stop" or "danger" or otherwise presents or implies the need or requirement of stopping or caution, or the existence of danger, or which is a copy of, imitation of, or which for any reason is likely to be confused with, any sign displayed or authorized by public authority.
 - 6) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any building.
 - 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) Any non-shielded illumination of a sign within two hundred (200) feet of an "R" district.
 - 9) Any portable sign, including any sign displayed on a vehicle when used primarily for the purpose of such display.
 - 10) Any sign that violates any provisions of any law of the Commonwealth of Virginia relating to outdoor advertising.
 - 11) Any other sign not expressly permitted by this Ordinance.
- e. 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.
 - f. Permitted signs for a nonconforming business or industrial use in a residence district shall consist of those signs permitted in the GC Commercial District.
 - g. Except as otherwise specifically provided in these regulations, all signs shall be subject to the provisions of Article 4 governing nonconforming uses.
 - h. 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.
 - i. 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.

- j. 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.
- k. 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.
- l. No sign shall be placed or located to conflict with the vision clearance or other requirements of this ordinance or applicable traffic ordinances.
- m. No signs shall be attached to trees, utility poles, or any other unapproved supporting structure.
- n. 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.
- o. 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.
- p. 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.
- q. The Administrator shall remove or cause to be removed any sign or supporting structure 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. The cost of removal may be placed as a lien against the property. Removal of a sign by the Administrator shall not affect any proceedings instituted prior to removal of such sign.
- r. No person shall erect, construct, or maintain any sign upon any property without first submitting a drawing to the Zoning Administrator showing sign lettering dimensions, method of attachment, and the area in which the sign is to be located. Neon signs shall have no exposed electrodes. Upon receiving written approval and permit from the Administrator, the proposed sign may be constructed.

Section 5.13 Supplementary Height, Area, and Bulk Regulations

5.13.1 Reference to Virginia Condominium Act

- a. 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.
- b. 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.

- c. 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.

5.13.2 Lot Area

- a. 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.
- b. Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge, bed and breakfast facility, tourist home, or rooms in a rooming, boarding, or lodging house.

5.13.3 Yards and Open Space Generally

- a. 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.
- b. More than one main building may be located upon a lot or tract in the following instances:
 - 1) Institutional buildings.
 - 2) Public or semi-public buildings.
 - 3) Multiple-family dwellings or condominiums under approved site plans.
 - 4) Convalescent or nursing homes and homes for the aged.
 - 5) 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.

- c. 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 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.

5.13.4 Front Yards

- a. 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.
- b. On through lots, the required front yard shall be provided on each street.
- c. Telephone booths and bus shelters, when permitted by district regulations, may be located in a required front yard.

- d. 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.
- e. 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 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 forty percent (40%) 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.

5.13.5 Side Yards

- a. 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.
- b. 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.

5.13.6 Rear Yards

Open or lattice-enclosed fire escapes, outside stairways, platforms, terraces, 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.

5.13.7 Accessory Buildings and Structures

- a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- b. Filling station pumps and pump islands, with or without a canopy, may occupy the required yards, provided they are not less than 15 feet from street lines.
- c. 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.
- d. Except as provided in development standards for particular uses, an ornamental fence or wall not more than three and one-half feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences and walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of seven feet. This provision shall not be interpreted to prohibit the erection of an open-mesh type fence enclosing any school, playground site, or business or industrial activity for security purposes.
- e. 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 thirty percent (30%) of the area of the required rear yard and provided it is not located closer than five feet to any lot line.
- f. Satellite dish antennae or receiving stations and similar devices are deemed to be accessory structures and shall not be located in front or side yards in a residential or commercial district and in a residential district shall be limited to one per lot, shall not exceed 10 feet in diameter,

and shall not exceed the height permitted in the zoning district for an accessory structure. In a residential district, no such dish structure greater than two feet in diameter shall be mounted on the roof of a building so as to be visible from the street on which a building fronts.

5.13.8 Major Recreational Equipment, Parking, and Storage

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

- a. Such major recreational equipment shall not exceed 28 feet in length, eight feet in width, and ten feet in heights, exclusive of masts, antennae, vent stacks, windshields, or other accessories.
- b. Such major recreational equipment shall not be used for living, sleeping, housekeeping, or business purposes, nor shall such major recreational equipment be connected to any utility service, except for temporary periods solely for replenishing supplies or for the servicing or repair of equipment.
- c. Such major recreational equipment shall not be parked or stored in a manner which infringes upon the setback requirements for accessory buildings in the residential district in which the lot is located.
- d. Site plans for residential developments which provide common parking areas, such as townhouse or apartment developments, shall show special provisions made for storage and screening of storage areas for major recreational equipment.
- e. Such major recreational equipment shall not be parked or stored in the front yard in any residential district.

5.13.9 Commercial Vehicle Parking

The parking of any commercial vehicle in any residential district is prohibited, except a commercial vehicle of not more than two and one-half (2½) ton capacity (not to exceed manufacturer's gross weight rating of 16,000 pounds GVW) may be parked in an enclosed garage in such district. A commercial vehicle of one (1) ton capacity or less (not to exceed manufacturer's gross weight rating of 10,000 pounds GVW) may be parked to the rear of the rear line of a main building in any residential district or, in the case of an apartment development, in an approved off-street parking area.

Section 5.14 Off-Street Parking Requirements

5.14.1 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 units:	
– Apartments for the elderly	0.5 per dwelling unit
– One bedroom and efficiency apartments	1.5 per dwelling unit
– Two or more bedroom apartments	2.5 per dwelling unit
– Roomers	1 for each roomer
Church, temple, synagogue, or similar place of assembly	1 per 5 seats or bench seating spaces (in main auditorium only)
College or high school	1 per 5 seats or bench seating spaces (in main auditorium)
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 or without 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, lodging house, or bed and breakfast establishment	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, or 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, 15 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
Shopping center	5 per 1,000 square feet gross leasable area
Automobile service station	3 for each service bay

Furniture or appliance store, machinery, equipment, automobile and boat sales and service	1 per 400 square feet of floor area, 2 spaces minimum. Automobile sales and service, 10 spaces minimum.
Auditorium, theatre, gymnasium, 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
Mobile home sales office	1 per 200 square feet sales office space, 10 spaces minimum
Outdoor sales area, open air market or flea market	4 for each rented stall, table, or sales space
Self service storage, mini-warehouse	1 per employee plus 1 for each 5 storage areas
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 3 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

5.14.2 Interpretation of Specific Requirements

- a. The parking requirements above are in addition to waiting or stacking spaces necessary for the operation of drive-in facilities. Waiting spaces on the premises must be adequate to avoid obstruction of traffic.
- b. The parking requirements above are in addition to space for storage of trucks or other similar vehicles used in connection with any use.
- c. The parking requirements in this Article do not limit the parking requirements contained in the district regulations.
- d. The parking requirements in this Article do not limit special requirements which may be imposed by approval of a special use permit or special exception.
- e. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- f. 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.
- g. 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.

- h. 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.
- i. 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 ten percent (10%) 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 ten percent (10%) 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 ten percent (10%) or more.

5.14.3 Spaces for the Handicapped

- a. Handicap spaces for nonresidential developments shall be provided as follows:

<u>Total Number of Spaces</u>	<u>Handicap Spaces Required</u>
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of the total
Over 1,000	20 plus 1 for each 100 over 1,000

For parking lots with five or less spaces, a five foot wheelchair access aisle shall be provided adjacent to a regular space; however, it need not be designated by signage. Handicap spaces in parking lots with six or more spaces must meet the signage requirements as set forth in the Virginia Statewide Building Code.

- b. The Virginia Statewide Building Code requires that multifamily developments provide one percent (1%) of their required spaces as handicapped, with a minimum of at least one space.

5.14.4 Joint Use and Off-Site Facilities

- a. All parking spaces required herein shall be located on the same lot with the building or use served. Where an increase in the number of spaces is required 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.
- b. 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.

5.14.5 Design Standards

- a. 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 (9 feet in width and 18 feet in length minimum), exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. Handicap spaces shall be 12 feet in width and 18 feet in length minimum.
- b. Maneuvering Space. The minimum aisle space for 90 degree and 60 degree parking shall be 22 feet in width. The minimum aisle space for 45 degree parking shall be 20 feet in width. The minimum aisle space for 30 degree parking shall be 17 feet in width. The Zoning Administrator may impose reasonable additional requirements for fire lanes, loading zones, and travel ways in a particular case.
- c. Separation from Walkways and Streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing, or other approved protective device, or by distance so that vehicles cannot protrude over publicly owned area.
- d. Entrances and Exits. Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the Virginia Department of Transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street, and exits and entrances shall not be located within 50 feet of a street intersection, or be greater than 50 feet in width. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
- e. 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.
- f. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. Lighting facilities shall be arranged and installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in a Residential District or 30 feet in a Commercial District.
- g. 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.

Parking spaces in lots of more than ten (10) spaces shall be marked by painted lines or curbs or other means to indicate individual spaces.

- h. Screening. When off-street parking areas for ten (10) or more automobiles are located closer than fifty (50) feet to a lot in a residential district, or to any lot upon which there is a dwelling as a permitted use under these regulations, and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, a continuous, visual screen with a minimum height of six (6) feet shall be provided between the parking

area and the said lot in a residential district or upon which there is a dwelling. Such screen may consist of a compact evergreen hedge, foliage screening, a louvered wall, or fence.

Section 5.15 Off-Street Loading Requirements

5.15.1 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
	10,001–20,000	Two
	20,001–40,000	Three
	40,001–60,000	Four
	Each 50,000 over 60,000	One additional
Apartment building, motel, hotel, offices or office building, hospital or similar institutions, or places of public assembly	5,000–10,000	One
	10,001–100,000	Two
	100,001–200,000	Three
	Each 100,000 over 200,000	One additional
Funeral home or mortuary	2,500–4,000	One
	4,001–6,000	Two
	Each 10,000 over 6,000	One additional

5.15.2 Interpretation of Specific Requirements

- a. The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in the district regulations.
- b. 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.

5.15.3 Mixed Uses in One Building

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

5.15.4 Design Standards

- a. 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 a minimum area of 540 square feet, a minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.
- b. Entrances and Exits. Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an

off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

Section 5.16 Averaging Lot Area and Cluster Subdivisions

5.16.1 Averaging and Clustering Permitted

Averaging of lot areas for detached single-family dwellings or clustering of lots and provision of public or private common open space in a subdivision are permitted in any residential district by the terms of this Ordinance. Average lot area in a subdivision and minimum area and dimensions for any lot are specified herein. Use of a design which incorporates averaging or which includes common open space shall be at the option of the owner or his agent. These design alternatives are intended to encourage permanent reservation of open space and an efficient and improved use of the land to provide good building sites by taking advantage of topography and minimizing grading or destruction of natural vegetation. Plans shall not be approved where the clear purpose of the design is to subvert the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the subdivision.

5.16.2 Procedures—Site Plan Required

A preliminary site plan complying with the requirements of Article 6.5 and the rules of the Planning Commission adopted thereunder shall accompany an application for averaging lot areas of a permitted cluster subdivision under this Section. Procedures for review and decision shall be those specified for administrative site plan review under Article 8. In addition, the proposed development shall follow all applicable procedures, standards, and requirements governing the subdivision of land.

5.16.3 Minimum Project Area

The minimum area of the subdivision shall be sufficient to accommodate at least five lots of minimum average area.

5.16.4 Resubdivision

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

5.16.5 Flood Plain and Water Areas

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

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

Where proposed building site outlines are shown on an application for averaging lot area or cluster subdivision, the minimum lot area, lot width, lot depth, and yard dimensions shall be as follows, provided that public water and sewer services are utilized in the RR and LDR-1 Residential Districts:

Zoning District	Minimum Average Lot Area Sq. Ft.	Minimum Lot Area Square Feet	Minimum in Feet				
			Lot Width	Lot Depth	Front Yard	Side Yard	Rear Yard
RR	15,000	10,000	75	100	30	10	25
LDR-1	10,000	7,000	60	90	25	5	20

Minimum lot size in the LDR-2 and MDR Residential Districts is the same as in the LDR-1 District.

5.16.7 Compatibility with Developed Properties

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

5.16.8 Public Facilities and Open Spaces

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

5.16.9 Preservation of Landscape Amenities

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

Section 5.17 Site Plan Review Required for Certain Uses

For the purposes of assuring careful use of difficult topography and good arrangement, appearance, function, and harmony with surrounding and adjacent uses and the objectives of the Comprehensive Plan, as well as 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 6.

- a. Uses permitted by approval by special use permit.
- b. Cluster subdivisions or subdivisions which average lot area.
- c. Planned housing developments.
- d. Mobile home parks or subdivisions.
- e. Multiple-family dwellings.
- f. Townhouses.
- g. Churches, temples, and synagogues.
- h. Drive-in facilities, all types.
- i. Automobile service stations.
- j. Hotels, motels, or motor lodges.
- k. Shopping centers.
- l. Business buildings, office buildings, commercial buildings, or industrial buildings, if such buildings are to contain more than 5,000 square feet of floor area.
- m. Any parking lot or parking facility which is to contain more than five spaces.

- n. All uses which utilize common facilities such as entrances and exits, parking, and loading facilities.
- o. 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 site plan review under the provisions of Article 6. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of Article 6 and the requirements of the subdivision regulations.

Section 5.18 Landscaping and Screening

5.18.1 Purpose and Intent

The purpose of these regulations is to facilitate the creation of an attractive, urban environment, and to protect property values of the Town through the provision of:

- a. Screening and buffering between incompatible land uses.
- b. Parking lot landscaping to reduce the harmful effects of heat, noise, and glare associated with motor vehicle use.
- c. Shading and enhancement of urban areas.
- d. Attractive landscaped areas adjacent to public streets through the use of landscape materials.
- e. Protection of ground and surface water quality and air quality through the mitigating effects of trees and vegetated areas.

5.18.2 Applicability

The provisions of this section shall apply to all required site plans and subdivision applications, including plans for the reconstruction and enlargement of existing structures. This Article applies to the enlargement or construction of any parking lot with greater than five (5) spaces, but not to the resurfacing of any existing lot.

5.18.3 Landscape Plan Required

A landscape plan is required for all subdivisions and site development plans.

5.18.4 Review Procedures

The Zoning Administrator shall be responsible for the review of all landscape plans and shall forward an evaluation of any required landscape plan to the Planning Commission or Town Council, as appropriate, before final approval of any land development application.

5.18.5 Contents of Landscape Plan

Every landscape plan shall be prepared by a Landscape Architect, Landscape Contractor, or other individual with professional experience in landscape design. All landscape plans shall contain the following information:

- a. *Scale.* Plans shall be drawn to a scale of not less than 50 feet to the inch on sheets not exceeding 24 by 36 inches

- b. *Contents.* All plans shall illustrate with sufficient detail the location of all proposed construction including driveways, parking areas, curbs, sidewalks, utility lines, structures, and landscape areas.
- c. *Schedule.* All plans shall be accompanied by a proposed schedule of plants including the number proposed, their height and size, and common or botanical name.
- d. *Existing Vegetation.* Any existing vegetation proposed to be saved shall be identified by name, quantity, and size.

5.18.6 Perimeter Parking Lot Landscaping

- a. *Definition.* Perimeter parking lot areas include all landscape areas outside the perimeter of the paved area of the lot, including areas adjacent to a public street.
- b. *Parking Lots Adjacent to Public Streets.*
 - 1) Landscape Area. A continuous landscape area ten (10) feet in width, excluding the sidewalk, shall be located between the parking lot and the property line.
 - 2) Number of Trees. One tree for each forty (40) feet of frontage shall be planed in the landscape strip.
 - 3) Screening Adjacent to Public Street. All parking lots adjacent to the public street must be screened along at least one-half of the street frontage. Screening shall be accomplished through the planting of shrubs, hedges, or the creation of berms. No plant material or berm shall obstruct the sight distance of motorists entering or leaving the site.
- c. *Other Parking Lots.*
 - 4) Landscape Area. A continuous landscape area at least five (5) feet in width shall be located between the property line and the parking lot.
 - 5) Number of Trees and Shrubs. One tree and three shrubs for every fifty (50) feet of frontage shall be planted in the landscape area.
 - 6) Species. All trees planted to meet the requirements of this section shall be canopy trees.

5.18.7 Interior Parking Lot Landscaping

- a. *Definition.* Interior parking lot landscaping is any landscape areas within the perimeter of the paved parking areas greater than five (5) feet from any principal structure.
- b. *Applicability.* These requirements shall apply to the construction or enlargement of any parking lot with ten (10) or more parking spaces.
- c. *Interior Parking Lot Landscaping Standards.*
 - 1) Minimum Landscape Area. Five (5) percent of the gross area of the parking lot. The gross area of the parking lot shall include all paved areas within the lot, including areas for ingress/egress.

- 2) Minimum Landscape Area. No landscape area shall be less than fifty (50) square feet. Each landscape area shall have at least one (1) canopy tree.
- 3) Number of Trees. One (1) tree for every ten (10) parking spaces.
- 4) Number of Shrubs. Three (3) shrubs for every ten (10) parking spaces.
- 5) Species. At least three-fourths of the trees planted to meet the requirements of this section must be canopy shade trees.

5.18.8 Minimum Specifications for Plant Materials

- a. *Condition*. All plants required by this Article shall be well branched and well formed, sound, vigorous, healthy, free from disease, sunscald, windburn, abrasion, and harmful insect or insect eggs, and shall have healthy, normal, and unbroken root systems. All plants shall comply with the American Association of Nurserymen's Standards and conform to the representative species.
- b. *Size*. All plant material installed to meet the requirements of this Ordinance shall comply with the minimum size requirements below at the time of planting:
 - 1) Street Trees. Height: 15 feet; caliper: three (3) inches.
 - 2) Canopy Trees. Height: 12 feet; caliper: Two and one half (2½) inches.
 - 3) Evergreen Trees. Height: 8 feet; full branching.
 - 4) Ornamental Trees. Height: 6 feet.
 - 5) Shrubs. Height: 2 feet.
 - 6) Hedges. Planted and maintained to form a continuous, solid visual screen at least two (2) feet in height within one (1) year of planting.

5.18.9 Planting Procedures

All trees and shrubs shall be installed in a sound manner following accepted professional planting procedures. At a minimum, all trees planted shall have rootballs adequate to enclose the entire root system, all trees shall be mulched and staked, and all plants shall be watered at time of installation.

5.18.10 Preservation of Vegetation and Tree Cover

Existing tree cover within any proposed subdivision or site development plan shall be retained to the greatest extent possible and taken fully into account in the design of the improvements and grading of the property. The Zoning Administrator must approve the removal of any tree which has a diameter breast height of six (6) inches or more. The Zoning Administrator shall approve such tree only when the development or subdivision of the site requires the removal of the tree.

5.18.11 Credit for Existing Vegetation

- a. *Hedgerows*. Hedgerows preserved at property boundaries may meet the requirements of screening as required by Section 2 of this Article.
- b. *Trees*. Existing trees preserved on site may be used to satisfy the requirements for parking lot landscaping and street plantings required by Sections 1 and 2. Any existing trees used to meet the requirements of the ordinance must be at least four (4) inch caliper, in healthy

condition, and be protected from construction activity. Such protection procedures shall be illustrated on the landscape plan.

- c. *Exceptional Trees.* Trees of exceptional size, canopy, and historic value of age preserved may be credited as four (4) trees for the purposes of this Article if approved by the Zoning Administrator.

5.18.12 Monitoring and Enforcement

- a. *Responsibility.* The enforcement of the provisions of this Section shall be the responsibility of the Zoning Administrator. Any violation of this Article is a criminal misdemeanor as described in Article 8 of this Ordinance.
- b. *Occupancy Permits.* No occupancy permit shall be signed until the plants and other screening materials required by this Section have been installed to the satisfaction of the Zoning Administrator.
- c. *Bonds.* If the weather prohibits the installation of the required plan materials at the time of occupancy, the applicant may, at his option, post a cash bond for the installation of the required plants. If the required landscaping is not installed within six (6) months, the bond shall be forfeited to the Town to use for the planting of the required materials.

5.18.13 Maintenance Requirements

- a. *Responsibility.* The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscape materials and fences required by this Section.
- b. *Condition.* All landscape materials shall be kept in healthy condition free of all disease and infestation. All fences and screens shall be maintained in a safe and attractive condition.
- c. *Repair and Replacement.* The owner or agent, upon written notice of the Zoning Administrator, shall repair or replace any landscape materials, screens, or fencing not meeting the above requirements within thirty (30) days.

5.18.14 Sight Distance

No tree, shrub, hedge, or vegetation, whether or not required by this Section, shall be planted or maintained in any way that interferes with the sight distance of any persons operating any moving vehicle.

Section 5.19 Uses Not Specified

Uses not specifically named but compatible with other permitted uses and the requirements of this Ordinance may be permitted after review by the Zoning Administrator and approved by the Planning Commission. The recommendations of the Planning Commission shall not be made until a hearing as required by the Code of Virginia 1950 as amended has been held.

ARTICLE 6: ADMINISTRATION AND ENFORCEMENT

Section 6.1 Enforcement

It shall be the duty of the Zoning Administrator and such deputies as are appointed by Town Council 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 6.2 Certificate of Occupancy

- 6.2.1** 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.
- 6.2.2** No premises 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.
- 6.2.3** 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.
- 6.2.4** No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.
- 6.2.5** A certificate of occupancy shall be required for all nonconforming uses. An application for such uses shall be filed with the Administrator within twelve (12) months from the effective date of this Ordinance.

Section 6.3 Permits

- 6.3.1** 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 (6) months unless a longer period of time is specified thereon in accord with the terms of this Ordinance.
- 6.3.2** No manufactured home shall be placed for occupancy in a manufactured home subdivision without the owner or owners first having obtained a placement permit therefore from the Administrator. Separate permits shall not be required for each home as authorized in an approved manufactured home park or as authorized within the limits of a manufactured home park as established prior to the enactment of applicable zoning regulations.
- 6.3.3** 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 (6) 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 6.4 Plans Required for Building Permits—Procedures for Approval or Disapproval

All applications for a building permit shall be accompanied by three (3) copies of a plan drawn to scale showing the shape and dimensions of the plot to be built upon, the structures and accessory buildings then existing, and the dimensions and locations of all proposed buildings or structures alterations or additions, the existing and intended uses of the land and of each building or part of a building, and the number of families or housekeeping units (where applicable) the building is designed to accommodate. Any other information that the Administrator may deem necessary for consideration of the application may be required.

- a. If the proposed building or use is found to conform to the provisions of this Ordinance, the Administrator shall issue a building permit to the applicant. One copy of the approved plans shall be issued to the applicant. One copy shall be forwarded to the Building Inspector for his files. One copy shall be retained in the Administrator's files.
- b. If the proposed building or use is not in compliance, the Administrator shall disapprove the permit and advise the applicant in writing as to what measures could be taken to bring about compliance through a change in the plans. An applicant shall also have right of appeal as permitted.

Section 6.5 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 assigned responsibility for preliminary and final approval as follows:

- a. Administrative Site Plan Review to be conducted by the Zoning Administrator with preliminary and final approval by the Administrator. Unless specifically stated to the contrary, administrative site plan review is intended. An appeal from the Administrator's decision may be taken to the Town Council, in which case the decision of the Town Council shall 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 ensure careful design and compatibility with neighboring conditions in accordance with the terms of the Ordinance.
- b. 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 requiring approval of a special use permit or proffered plans which accompany an application for conditional zoning.

In all cases, the review begins with the Administrator. Generally, approval is required first for preliminary plans, followed by approval of final plans which agree with approved preliminary plans and any conditions attached. 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.

6.5.1 Purpose of Site Plan Review

The purpose of site plan review is to ensure that new development is appropriately functional, harmonious with its environment, and consistent with the Comprehensive Plan and the intent of these regulations generally, and to this end to provide for a review of proposed development plans with respect to:

- a. The compatibility of the development with respect to its environment, considering the layout and design of features such as building location, project open space, grading and treatment of slopes and stream valleys, buffer-yards, screening, lighting, and landscaping.
- b. The capacity of the design to provide for convenient and safe internal and external movement of vehicles and pedestrians.
- c. Public safety and the location and adequacy of necessary utilities, drainage, and erosion and sediment controls.

6.5.2 Requirements for Site Plans—Content and Form

The Zoning Administrator shall provide application forms and instructions for the applicant which clearly facilitates timely review of any application or site plan. No permit shall be issued without street address, route number, approximate location, tax parcel number, and legal description of the subject property.

- a. Plans shall be submitted, showing the following: title of the project, owners, scale, north arrow, zoning and proposed changes, property lines, flood plains, adjacent properties' and owners' boundary survey, existing and proposed structures; significant natural features, including wooded areas and large trees; existing and proposed roads, driveways, walkways and utilities; and landscaping proposed.
- b. The site plan shall be accompanied by plans and/or written description explaining methods proposed for water supply, sewage disposal, storm water drainage, and prevention of erosion.
- c. The Administrator may accept an owner-prepared sketch for plans of single-family construction and other non-inhabitable structures. All other plans shall be prepared by a certified surveyor, engineer, or architect.
- d. The Zoning Administrator may require other necessary information as he or she deems necessary, including a topographic map and finished grading by contours of the site.

6.5.3 Procedures for Administrative Site Plan Review

- a. When these regulations require site plan review for certain major uses for which Town Council action is not required, including certain uses as listed in Section 17 of Article 5 and not otherwise listed as requiring a special use permit, five (5) copies of the site plan for any of the specified uses shall be submitted to the Administrator for review of the plans for compliance with these regulations.
- b. The Administrator shall examine the proposed site plan with respect to the traffic and circulation patterns, relation to existing or proposed major thoroughfares, utilities, drainage, and community facilities, surrounding development, considerations of topography, flood plains, and the natural environment, the preservation of trees and historic sites, provision for screening and buffer-yards, open space, and in general with the objective of ensuring 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 ten (10) days following submittal, or within ten (10) days of a recommendation by the Planning Commission of approval, approval subject to conditions, or disapproved. Unless otherwise specified, approval shall be valid for a period of one year prior.
- c. The Administrator may approve issuance of building permits if specified conditions are met and may approve additional minor changes, if such changes do not substantially affect the original

approval. Other changes and amendments may require return of the site plan to the Planning Commission.

- d. The applicant shall submit written proof of notification to all adjoining property owners as to the nature of the proposal and where site plans may be viewed.
- e. The Administrator may request a public hearing by the Planning Commission if in the Administrator's opinion the project is of such scale and impact that a decision on the site plan should be reached only after a public hearing and a recommendation by the Planning Commission.
- f. Nothing in this section shall be interpreted to permit 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.

6.5.4 Appeal from the Administrator's 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 Administrator regarding a site plan, said applicant or party 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 (10) 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 Administrator.

6.5.5 Procedures for Approval of Site Plans for Special Use Permits which Require Approval by the Town Council

- a. Five copies of a preliminary site plan shall be filed with the Town Council through the Administrator. The preliminary site plan shall comply with Section 6.7 and include such other written or graphic material as may be necessary or desirable in aiding the decisions of Town Council. The Administrator shall forthwith forward the plans and a copy of the application to the Planning Commission.
- b. The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance and may make reasonable additional requirements including, but not limited to, those imposed by the Board of Zoning Appeals and, especially, requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, buffer-yards, screening, accessways, curb cuts, traffic control, height 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 prepare its report within sixty (60) days after the first public hearing. The Town Council shall not advertise its public hearing until after the report and plans shall have been received from the Planning Commission.
- c. Approval by the Town Council of a preliminary site plan for a special use permit 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.

Section 6.6 Duties of Administrator on Zone Amendments, Zone Changes, Special Uses, Variances, and Appeals

6.6.1 Applications and Fees

The Zoning Administrator shall be responsible for receiving each application for a zoning amendment, zone change to the zoning map, conditional use, variance, or appeal. The application shall not

be processed until the required fee has been paid. Fees are based upon reasonable costs to pay for expenses and are as follows:

- a. Zoning Amendment: \$50.00
- b. Zone Change: \$50.00 plus \$6.00 for each certified letter to adjacent owners
- c. Special Use: \$35.00 plus \$6.00 for each certified letter to adjacent owners
- d. Variance: \$25.00 plus \$6.00 for each certified letter to adjacent owners
- e. Appeal: \$15.00
- f. All fees may be waived by the Town Council for any governmental agency.

6.6.2 Procedure

The Zoning Administrator shall, after consultation with the Planning Commission Chairman or Town Manager, advertise the application for hearing as required by Section 15.2-2204 of the Code of Virginia 1950, as amended. The Zoning Administrator shall be responsible for mailing notice to affected property owners one week prior to the hearing. Addresses in the Commissioner of Revenue's office shall constitute valid addresses. Requests for a zone change shall be reviewed for conformance with the Town's Comprehensive Plan.

Section 6.7 Duties of Administrator Regarding Enforcement and Remedies

6.7.1 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis of such complaint and shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record the complaint, shall immediately investigate, and shall take such action as provided for in this Ordinance. The Town Attorney shall be immediately advised of all violations of this Ordinance. The Town Attorney shall report to the Town Council any violations not abated through orders is sued by the Zoning Administrator.

6.7.2 Penalties for Violation

Violations of the provisions of this Ordinance, or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) following official notification, shall constitute a Class 2 misdemeanor and may be punished as provided by law. Each day such violation exists may be deemed a separate offense.

The owner or tenant of any building, structure or premises and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in or maintains such violation may be punished as heretofore provided.

6.7.3 Remedies

Upon finding that any provision of this Ordinance is being violated, the Zoning Administrator shall notify in writing by certified mail the person responsible for such violation and order the discontinuance of illegal building, structures, illegal additions, alterations, or structural changes, and the discontinuance of any illegal work being done.

Should such notice fail to force compliance within thirty (30) days, the Zoning Administrator shall request that the Town Council authorize the Town Attorney to bring legal action to ensure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.

In the extent that any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building, other structure or land is or is proposed to be used, in violation of this Ordinance, the Zoning Administrator or other appropriate authority of the Stuart Town Council or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion, or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land.

6.7.4 Appeal

An appeal of the Zoning Administrator's decision may be filed within fifteen (15) days by filing a letter with the Zoning Administrator. Appeals shall go to the Board of Zoning Appeals.

Section 6.8 Special Use Provisions

Certain uses of land and buildings, designated in *Article 3 District Regulations* as special uses, may be permitted in one or more of the various districts only after individual consideration and approval by the Planning Commission.

Such special uses are deemed to be generally appropriate to the district or districts to which they are assigned under this Ordinance, and reasonably harmonious with the uses permitted in said districts as a matter of right, provided that the location and design of the site in each case is determined by the Planning Commission to be in accord with standards herein set forth. It is the intent of this section that the designation of certain uses as conditional for certain districts, and the procedures set forth for the review and approval or disapproval of such uses, be administered so as to further the purposes of this Ordinance and facilitate the creation of a convenient, attractive, and harmonious community.

6.8.1 Procedures for Review and Approval of Special Uses

Any person desiring to use any land or building in a manner classed by this Ordinance as a special use for the district in which said land is located shall make application to the Zoning Administrator for a special use permit, which shall submit supporting maps and other documents as required by the Zoning Administrator.

6.8.2 Public Hearing and Report to Town Council

- a. The Zoning Administrator shall forward the application to the Planning Commission, which shall hold a public hearing thereon in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. After receiving a report and recommendation from the Zoning Administrator, the Planning Commission shall recommend either approval as submitted, recommend approval with modifications, or recommend disapproval of the application for a special use permit. The Planning Commission shall recommend the granting of the permit if it determines the proposed development is in full compliance with the standards set forth in Section 5.5-3 and shall record its findings concerning such compliance. Upon action by the Planning Commission, a report shall be made to Town Council for review at its next meeting. The Council shall move to accept or deny the Commission's decision.
- b. The Commission may recommend, and the Town Council may impose, such other conditions and restrictions as may be necessary to reduce or minimize the injurious effect of the special use and ensure compatibility with surrounding property. The Commission may recommend, and the Town Council may establish, expiration dates for any special use permit as a condition of approval.

- c. If a special use permit is approved, then a final site plan shall be submitted to the Zoning Administrator within six (6) months of date of approval.
- d. Any significant change (as determined by the Zoning Administrator) of the preliminary site plan approved by Town Council shall nullify the special use permit and require re-submittal for Planning Commission review and Council action.

6.8.3 General Requirements

A special use permit may be granted provided that the Planning Commission finds that the proposed special use:

- a. Is designed, located, and operated so as the public health, safety, and welfare will be protected;
- b. Will not adversely affect other property in the area in which it is located;
- c. Is within the provision of "Special Uses" as set forth in this Ordinance;
- d. Conforms to all applicable provisions of this Ordinance for the district in which it is to be located and is necessary for public convenience in that location;
- e. The proposed use must have direct access on a public road, which can safely and adequately handle the traffic generated.
- f. Satisfactory storm drainage can be provided, and there must be adequate safeguards to prevent soil erosion on the site and erosion and sedimentation on neighboring downhill and downstream properties during and after development;
- g. There is a satisfactory plan and methods for sewage disposal. No effluent shall be discharged into any stream prior to having at least secondary treatment;
- h. There is suitable provision for the protection of privacy on adjoining property which is now in residential use or which may develop in residential use under the provisions of this Ordinance. In this section, protection of privacy shall mean effective screening against both visual intrusion and noise.
- i. In the case of manufacturing, there shall not be discernible, at any property line of the tract on which the use is located, any dust, smoke, odor, or glare that results from the manufacturing use; and,
- j. In the case of quarry and mining operations, where permitted as a conditional use, there must be a satisfactory plan for reclamation of the land and restoration of the natural landscape.

6.8.4 Conditions

In authorizing a permit for any special use provided for in this Ordinance, the Town Council, after report and recommendation by the Zoning Administrator, may impose specific conditions on the development and use of land as necessary to assure compliance with the standards set forth in Section 5.5-3. Such conditions may include, but are not limited to: dimensional requirements for front, side, and rear yards greater than those specified elsewhere in this Ordinance; screening by planting or fences or other devices; landscaping for appearance; dedication of land for street purposes; construction of turning lanes on public roads; prohibition and/or regulations of signs; requirement of additional parking spaces, and limiting hours of operation.

ARTICLE 7:
BOARD OF ZONING APPEALS AND
ADMINISTRATION OF VARIANCES

Section 7.1 Creation, Membership and Appointment of the Board

The Board of Zoning Appeals is hereby established which may be referred to in this Ordinance as the "Board" or "Board of Zoning Appeals." The Board shall have jurisdiction within the boundary limits of the Town of Stuart, and it shall consist of five (5) residents of the Town, appointed by the Circuit Court of Patrick County. Members may be re-appointed to succeed themselves. Members of the Board shall hold no other public office in the Town except that one (1) may be a member of the Planning Commission.

7.1.1 Terms of Office of Board Members, Vacancies, Removals

The members of the Board shall serve for a four-year term, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen (15) days notice.

7.1.2 Staff of Board and Compensation of Board Members

Within the limits of funds appropriated by the Stuart Town Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive such compensation as may be authorized by the Town Council.

7.1.3 Election of Officers

The board shall elect from its members its own chairman, vice chairman, and secretary who shall serve for one year and may upon election serve succeeding terms.

7.1.4 Stay of Proceedings

An appeal shall stay all proceedings related to the action appealed from, unless the Zoning Administrator certifies to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent threat to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application for good cause shown and upon reasonable notice to the Zoning Administrator.

7.1.5 Rules and Proceedings of the Board

The Board shall also adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- a. The presence of a majority of all members of the Board shall constitute a quorum;
- b. No action shall be taken by the Board on any case until after a public hearing and notice thereof shall be published and mailed in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended;

- c. Appeals to the Board shall be taken within fifteen (15) days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds of the appeal. The Zoning Administrator shall then transmit to the Board all the papers constituting the record upon which the action was taken;
- d. The Board shall fix a reasonable time for hearing the application or appeal, give public notice thereof as well as notify interested parties, and decide the same within sixty (60) days;
- e. The Board may reverse or affirm, wholly or in part, or may modify an order, requirement, decision, or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision, or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any variances from the Ordinance;
- f. The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Town Manager and shall be public records. The chairman of the Board, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses;
- g. In the performance of its duties, the Board may call upon any other officer or agency of the Town for information; and it shall be the duty of such other agencies to render the information to the Board as may be reasonably required;
- h. Any office, agency, or department of the Town or other aggrieved party may appeal any decision of the Board to the Circuit Court of Patrick County as provided for in Section 15.2-2314 of the Code of Virginia, 1950, as amended;
- i. In decisions on variances, the Board shall indicate the specific section of this Ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety, and general welfare." The Board shall state clearly the specific conditions imposed in granting the variance. For variance cases pertaining to hardship, the Board shall specifically identify the hardship warranting such action by the Board;
- j. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other; and,
- k. The Stuart Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board, and such opinion shall be made part of the record of the public hearing.

Section 7.2 Powers of the Board of Zoning Appeals

The Board of Zoning Appeals shall:

- a. Hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in carrying out the administration or enforcement of the Ordinance;
- b. Hear and act upon application for variances in accordance with this Article to alleviate hardships by virtue of the inability of the land owner to comply with the provisions of this Ordinance by reason of unique shape, topography, or physical features of the lot;
- c. Authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, provided that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done as hereinafter provided;

- d. Hear and decide on applications for special exceptions upon which the Board is specifically authorized to pass under this Ordinance;
- e. Hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary;
- f. Hear and decide appeals from the decision of the Planning Commission or Town Council concerning conditional use permits and special exceptions;
- g. Determine, in cases of uncertainty, the district classification of any use not specifically named in these regulations provided, however, such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified;
- h. Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.
- i. Have all other powers and duties as provided by Section 15.2-2309 of the Code of Virginia, 1950, as amended.

Section 7.3 Special Exceptions

In order to provide for adjustments in the relative locations of uses and buildings of the same or different classifications; to promote the usefulness of these regulations as instruments for fact finding, interpretation, application, and adjustment; and to supply the necessary elasticity to their efficient operation, special exceptions and, limited as to location and especially in locations described in the district regulations and in this Article, special use and yard exceptions, are permitted by the terms of these regulations. In considering an application for a special exception, the Board shall give due regard to the specific guides and standards of this Section and those listed elsewhere in this Ordinance, and in general to the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed exception. It shall also take into account the special characteristics, design, location, construction, method of operation, effect on traffic conditions, or any other aspects of the particular use or structure, that may be proposed by the applicant.

If it should find, after the hearing, that the proposed establishment or use will not adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to the adjacent property, nor increase congestion in the streets, nor increase public danger from fire or otherwise unreasonably affect public safety, nor impair the character of the district or adjacent districts, nor be incompatible with the general plans and objectives of the official Comprehensive Plan of the Town of Stuart, nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this Ordinance, the Board shall grant the exception and authorize the issuance of a special exception permit. In those instances where the Board finds that the proposed use may be likely to have an adverse effect as above, the Board shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance, or operation, in addition to those expressly stipulated by this Ordinance.

The following buildings and uses are permitted as special exceptions under the terms and conditions specified above:

7.3.1 Special Use Exceptions

- a. An accessory dwelling unit in a single-family dwelling or in an accessory building in a Residential District as permitted in the district regulations, provided that either the main dwelling or the accessory dwelling unit be occupied by the owner of the property, that the accessory dwelling unit shall not exceed 25 percent of the total floor area of the main dwelling nor contain less than 500 square feet of floor area, that the general appearance of a single-family dwelling

shall be maintained, that no exterior stairways to a second floor be constructed at the front or side of the main building, and that at least three off-street parking spaces are available on the property for use by the owner-occupant and the tenant.

- b. Temporary open air stands and the raising of animals as specified in the RR Residential District.
- c. Stables and keeping of horses and other livestock as specified in the RR Residential District.
- d. A manufactured home for temporary office use in GC, DMU, CRC Commercial Districts.
- e. A garage or other building accessory to a single-family dwelling which building does not comply with the regulations of the district in which it is located.
- f. Extension of a nonconforming use in a building so as to increase floor area by not more than 25 percent.
- g. Restoration, repair, or replacement of a nonconforming use damaged by more than fifty percent (50%) of fair market value of the building immediately prior to damage.
- h. An exception to off-street parking requirements where it can be shown that provision of the required number of spaces is clearly unnecessary for successful operation of the use.
- i. Temporary uses and structures in any district not specifically listed in the regulations and determined by the Board to be in the public interest for the district in which located, provided that such uses be of a temporary nature and do not involve the erection of substantial buildings. Such use or structure shall be authorized by the issuance of a temporary and revocable permit for not more than a 24-month period subject to such conditions as will safeguard the public health, safety, and welfare.

7.3.2 Special Yard and Height Exceptions

- a. An exception in the yard regulations on a lot where on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations in a way similar to the exception applied for, but not to encroach upon an existing or proposed right-of-way.
- b. An exception in the depth of a rear yard on a lot, in a block where there are nonconforming rear yards.
- c. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.
- d. Construction of a single-family dwelling with reduced yard spaces on a legal nonconforming lot.
- e. An exception to the height limits for special purpose structures in the CRC Commercial District and in an industrial district.

Section 7.4 Variance

Subject to the provisions of Section 4.3 of this Article, the Board shall have the power to grant variances from the terms of this Ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the Ordinance shall be observed and substantial justice done, as follows:

7.4.1 A variation in the yard and lot area requirements in any district so as to relieve practical difficulties or particular hardships in cases when a property owner can show that his property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this Ordinance, or where by reason of exceptional topographic conditions of other extraordinary situation, or condition of such piece of property, or the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the utilization of the property, or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this Ordinance.

7.4.2 Notice to Affected Property Owners

Notice to affected property owners and public agencies including the Stuart Planning Commission and Town Council shall be given in accordance with notice and hearing procedures of Section 15.2-2204 of Code of Virginia, 1950, as amended.

7.4.3 Standards for Variance

The Board shall not grant a variance unless it finds:

- a. That the property owner acquired the property in good faith, and that by reason of exceptional narrowness, shallowness, size or shape, or exceptional topographic conditions of the property, or of the use or development of property immediately adjacent to it, the strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the use of the property;
- b. That the strict application of the Ordinance would produce undue hardship;
- c. That the hardship is not generally shared by other properties in the same zoning district and the same vicinity;
- d. That the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant;
- e. That the authorization of such variance will not be of substantial detriment to adjacent and that the character of the district will not be changed by the granting of the variance;
- f. That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance;
- g. That the variance shall be in harmony with the intended spirit and purpose of this Ordinance;
- h. That financial concerns shall not be the sole consideration as a basis for granting a variance; and,
- i. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

7.4.4 Non-conforming does Not Constitute Grounds for Granting a Variance

No permitted or non-conforming use of neighboring lands, structures or buildings in the same district or in other districts shall be considered grounds for the issuance of a variance.

7.4.5 Prohibition of Use Variances

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permitted under the terms of this Ordinance in the district involved, nor any use expressly or by implication prohibited by the terms of this Ordinance in said district.

7.4.6 Conditions and Restrictions by the Board

The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 4.3 to reduce or minimize the injurious effect of such variance upon surrounding property and to better carry out the general intent of this Ordinance. The Board may establish expiration dates as a condition or as a part of the variance. The Board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

7.4.7 Variance Appeals

Any person aggrieved by a decision of the Board may appeal any decision of the Board to the Circuit Court of Patrick County as provided for in Section 15.2-2314 of the Code of Virginia, 1950, as amended.

Section 7.5 Conditions Attached to Approvals

Where, in these regulations, special exceptions are permitted, provided they are approved by the Board where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including the imposition of any of the following specifications:

- a. No outside signs or advertising structures except professional or directional signs.
- b. Limitation of signs as to size, type, color, location, or illumination.
- c. Amount, direction, and location of outdoor lighting.
- d. Amount and location of off-street parking and loading space.
- e. Connected or disconnected with other buildings.
- f. Exits or entrances, doors, and windows.
- g. Paving, shrubbery, landscaping, or ornamental or screening fences, walls, or hedges, or security fences.
- h. Time of day or night for operating.
- i. Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.
- j. Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.
- k. Such other conditions as are necessary.

Section 7.6 Lapse of Special Exception or Variance

After the Board of Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place.

Section 7.7 Amendment of Special Exceptions or Variance

The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that, where the Administrator determines the change to be minor relative to the original approval, he may transmit the same to the Board with the original record.

Section 7.8 Procedure on Applications and Appeals

7.8.1 Applications for Special Exceptions

An application to the Board for a special exception permit or other action in which the Board has original jurisdiction under this Ordinance may be made by board or bureau. Such application shall be made to the Secretary of the Board on forms which shall be provided for the purpose, in accordance with rules which shall be adopted by the Board. All information, including maps and plans required by such forms, or otherwise required by the Board in order that it might be fully informed, shall be furnished by the applicant. The Secretary of the Board shall place the matter on the agenda. Every application or appeal shall be advertised for a public hearing, said notice to appear at least once a week for two successive weeks in a newspaper having general circulation in the Town. Such notice shall specify the time and place of hearing, not less than six days nor more than 21 days after the second advertisement and the property shall be posted in accordance with the rules of the Board. The Secretary of the Board shall also transmit a copy of the application to the Planning Commission so that the latter, if it finds that the application is related in any way to any provision or general policy or objective of the Comprehensive Plan or any of its components, may send a recommendation to the Board based upon such relationship.

7.8.2 Appeals

An appeal to the Board may be taken by any person aggrieved by any decision of the Administrator, or from any order, requirement, decision, or determination made in the enforcement of this Ordinance. Such appeal shall be taken within 30 days after the decision by filing with the Administrator, and with the Board, a notice of appeal specifying the grounds thereof.

ARTICLE 8: CHANGES AND AMENDMENTS

Section 8.1 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 the owner, contract purchaser with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed zoning map amendment, addressed to the Town Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning Commission.

Section 8.2 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 8.3 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 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 re-mailed. 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 of more than 25 but less than 500 parcels of land, then, in addition to the above advertising, 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.

Section 8.4 Withdrawal of Application

Applications for a change in zoning may be withdrawn from consideration before the first notice of a public hearing thereon has been published and fees refunded if no publication cost is incurred. Rezoning applications which are withdrawn after first publication shall be considered as denied.

Section 8.5 Action by the Town Council

The Town Council shall take action on a request for amendment within one (1) year of the date of filing; otherwise, the amendment shall be deemed approved. When any application for a proposed change in this Ordinance has been denied by the Town Council, no subsequent petition for the same, or substantially the same change, in whole or in part, shall be filed with or accepted by the Zoning Administrator, or any proceeding therefore commenced or maintained within twelve (12) months next succeeding the date of the action of the Town Council denying said proposed change.

In determining what amendments are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire Zoning Plan and 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.

In determining what amendments to the Ordinance or 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 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, that no citizen has the right to indefinite continuation of any zoning regulation or classification, and that changes may be initiated which will properly adjust the Zoning Ordinance and District Map to the Comprehensive Plan or changed conditions.

Section 8.6 Violation and Penalty

All officials and public employees of the Town of Stuart who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no such permit or licenses for uses, buildings, or purposes until the Zoning Administrator has issued a zoning permit for such use or building. If they are not in conformance, those permits or licenses shall be null and void. If a permit is issued in error and the person, firm, or corporation, using the permit in good faith, acts in accordance with the permit, then the person, firm, or corporation shall not be held in violation of the provisions of this Ordinance. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a Class 2 misdemeanor (see Section 15.2-2286, A.5). Each day's continuance of such violation shall constitute a separate offense.

Section 8.7 Conditional Zoning

The purpose of this section is to provide for the conditional rezoning of land, pursuant to Section 15.2-2297 through Section 2303.3 et seq., of the Code of Virginia, 1950, as amended, and subject to certain voluntary proffered conditions. The property owner applying for the zoning change and/or amendment to the Zoning Map may voluntarily proffer in writing reasonable conditions which shall be in addition to the existing regulations. All such proffered conditions must be made prior to any public hearing before the Stuart Town

Council (including joint public hearings of the Stuart Planning Commission and the Stuart Town Council), and subject to the following:

- a. The rezoning itself must give rise for the need for the conditions;
- b. The conditions shall have a reasonable relation to the rezoning;
- c. The conditions shall not include a cash contribution to the Town of Stuart;
- d. The 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 Section 15.2-2241;
- e. The conditions shall not include a requirement that the applicant create a property owners' association under Chapter 26 (Section 55-508 et seq.) of Title 55;
- f. The conditions shall not include payment for or construction of off-site improvements except those provided for in Section 15.2-2241;
- g. No condition shall be proffered that is not related to the physical development or physical operation of the property;
- h. All such conditions shall be in conformity with the Stuart Comprehensive Plan; and,
- i. The Stuart Town Council may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal.

8.7.1 Effect of Conditions

The approval of any rezoning with conditions proffered and accepted as part of an amendment to the zoning ordinance shall continue in effect until a subsequent amendment changes the zoning on the conditioned property. The conditions shall continue in effect until a subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. In the event proffered conditions include the dedication of real property or the payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment in the event the property or cash payment is not used for the purpose for which it was proffered.

8.7.2 Submittal Requirements

Each application for rezoning that proposes conditions shall be accompanied by the following, which are in addition to those required by conventional rezoning requests:

- a. A statement explaining the relationship of the development to the Comprehensive Plan;
- b. A statement setting forth the maximum number of dwelling units or lots proposed for any residential development and the density and open space calculations where applicable;
- c. A statement certifying that the proposed development conforms to the provisions of all applicable ordinances, regulations, adopted standards, and the identification of all variances sought;
- d. A statement which details any proposed special amenities;

- e. A statement identifying both on and off site public improvements proposed for dedication and/or construction and an estimated time schedule relative to each identified improvement;
- f. A statement setting forth a proposed development schedule;
- g. A site plan detailing the nature and location of all proffered conditions and the circumstance(s) that prompted the need for such proffers; and
- h. A signed statement by both the applicant and owner in the following format:

"I 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."

8.7.3 Procedural Regulations and Requirements

The proffered conditions shall include written statements, development plans, and proffered materials in accordance with Section 7 of this Article and approved by the Stuart Town Council in conjunction with the approval of a change in zoning or an amendment to the Zoning Map. Once approval has been granted, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions and no development shall be approved by any Town official in the absence of said substantial conformance. In this application, substantial conformance shall mean conformance that leaves a reasonable margin for adjustment due to final engineering data but conforms to the general nature of the development and the specific uses and general layout depicted by the plans and other materials presented by the owner and the applicant.

There shall be no amendment or variation of conditions created pursuant to the provisions of this section until after a public hearing before the Stuart Town Council advertised pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, as amended.

8.7.4 Zoning Map Notation and Records

Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol determined by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain a conditional zoning index which shall be available for public inspection and which shall provide ready access to the Stuart Town Council action creating such conditions.

8.7.5 Enforcement and Guarantees

The Zoning Administrator shall be vested with all necessary authority on behalf of the Town of Stuart to administer and enforce conditions attached to a rezoning or amendment to a Zoning Map including:

- a. The ordering, in writing, of the remedy of any non-compliance with such conditions;
- b. The bringing of legal action to ensure compliance with such conditions including injunction, abatement, or criminal prosecution or other appropriate action or proceeding;
- c. The requirement of a guarantee in the amount sufficient for, or 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 conditions, which guarantee may be released by the Zoning Administrator upon the submission of satisfactory evidence the construction of such improvements has been completed in whole or part; and

- d. The failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy, or building permit(s) as may be appropriate.

8.7.6 Relation of Division to Other Laws

The provisions contained in this section shall be considered separate from, supplemental to, and additional to provisions contained elsewhere in this Article or other Town ordinances. Nothing contained in this section shall be construed as excusing compliance with all applicable provisions of any Town ordinance.

ARTICLE 9 DEFINITIONS

Section 9.1 General Rules of Construction

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

- a. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- b. Words used in the present tense include the past and future tenses, and the future the present.
- c. The word "shall" is always mandatory. The word "may" is permissive.
- d. The word "building" or "structure" indicates any part thereof, and the word "building" includes the word "structure."
- e. 5The dictionary definition will apply to all words not defined in this article.

Section 9.2 Definitions

The following definitions shall apply for the purpose of this Ordinance.

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. A dwelling unit located within a structure in which the principal activity is a commercial, professional, or general personal service.

Accessory Use. An accessory use that is customarily incidental to or subordinate to an existing established principal use and/or structure that is located on the same lot as the principal use.

Administrator. The Zoning Administrator for the Town of Stuart, Virginia.

Agriculture. The tilling of soil, the raising of crops and domestic animals, horticulture, forestry and fisheries, the keeping of animals, and the growing of Christmas trees, but excluding commercial slaughterhouses, hog operations, poultry houses, fruit packing plants, and other agriculture processing operations.

Alley. A public or private way less than 30 feet in width intended to provide only secondary vehicular access to abutting properties.

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. The lowest story of a building that is below or partly below ground level.

Bed and Breakfast Inn. A structure or building, or portion thereof, containing a minimum of three (3) guest rooms, having sleeping accommodations for overnight transients. The operator of the inn shall live on the premises or in adjacent premises.

Board. The Board of Zoning Appeals of the Town of Stuart, Virginia.

Boarding House. See "Rooming House."

Buffer-yard. Land area used to separate one use from another to absorb runoff or shield from dust, noise, lights, or other such effects and to provide space for screening, all in accord with the requirements of this Ordinance.

Building. A structure having one (1) or more stories permanently affixed to a lot or lots, having a roof supported by columns or walls, and designed or used for the shelter or enclosure of any person, animal, or property of any kind.

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, or 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.

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. The lower-level of a building, located partly or wholly underground, having half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Child Day Care Center or Day Nursery. Any facility operated for the purpose of providing care, protection, and guidance to a group of children separated from their parents or guardians during part of the day only, and meeting the licensing requirements for child care centers under the Code of Virginia, 1950, as amended. (This does not include family day homes as defined by the Code of Virginia, which are considered "home occupations" by this Ordinance).

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.

Clinic, Medical. An establishment where persons are given medical, dental, or surgical treatment by one but not more than four physicians or dentists.

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

Community Center. A structure or area used for fraternal, social, cultural, and/or recreational programs generally open to the public and designed to serve significant segments of the local community.

Condominium. Real property and any incidentals thereto or interests therein which have been or are to be lawfully established as such under the Virginia Condominium Act.

Construction Sales and Services. Any establishment involved in the sale of building materials including hardware, plumbing, and lumber supplies, or the sale of building construction services for the erection or repair of structures.

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.

Density, Residential. Unless otherwise specified, the number of dwelling units per gross acre of residential land area, with gross acres including all the land area, including streets, easements, and open space portions of a developed site.

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

District. Any section of the Town of Stuart 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, designated or used exclusively for residential occupancy, but not including boats, trailers, mobile homes, motor homes, hotels, motels, motor lodges, tourist courts, or tourist homes.

- a. Dwelling, Single-Family (Attached): See "Townhouse."
- b. Dwelling, Single-Family (Detached): A structure used as a residence by one family, containing one living unit which meets the BOCA Basic Building Code. This term includes modular and manufactured homes.
- c. Dwelling, Two-Family or Duplex: A residential structure containing two dwelling units designed for occupancy by not more than two families living independently of each other.
- d. Dwelling, Multi-Family: A building containing three or more dwelling units. The term includes cooperative apartments, condominiums, and the like.

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 in a household, or by a person living alone, and having its own permanently installed cooking and sanitary facilities.

Elder Care and Assisted Living Centers. A facility operated for the provision of continuous care for elderly persons for an extended period, providing housekeeping, meals, and social activities with daily access to a licensed practitioner of medicine and meeting the licensing requirements under the Code of Virginia, 1950, as amended.

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

Floodway. The area within a flood plain which is necessary for the passage of flood waters in which no structure may be built.

Flood Plain.

- a. A relatively flat or low land area adjoining a river, stream, or water course which is subject to partial or complete inundation from flood waters;
- b. An area subject to unusual and rapid accumulation or runoff of surface waters from any source.

Floor Area.

- a. Commercial, business, and industrial buildings, or buildings containing mixed uses: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic space providing headroom of less than seven feet; (2) basement space not used for retailing; (3) uncovered steps or fire escapes; (4) accessory water towers or cooling towers; (5) accessory off-street parking spaces; 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.

General Personal Service. Any establishment primarily involved in the transaction of personal services, as opposed to professional and business services, and which caters to the needs of individuals, such as beauty and barber shops, dry cleaning, laundry, licensed massage therapist (not including massage parlors).

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.

Group Home. A dwelling shared by four or more physically and/or mentally handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term family-like environment with the primary goal of enabling the resident to live as independently as possible.

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. An occupation, profession, vocation, business, trade, and/or personal service, excluding retail sales, that is clearly an incidental and secondary use of a residence and conducted by members of the immediate family residing on the premises. The activity conducted is a business activity for financial gain, as opposed to a hobby.

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, Inn, 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. Automobile parking is located on the premises.

Inoperable Motor Vehicles. A motorcycle, motor vehicle, trailer, or attachment thereto which is required by the Commonwealth of Virginia to display current license plates and/or meet safety standards, as evidenced by display of a current Virginia inspection sticker, which motorcycle, vehicle, trailer, or attachment thereto does not display said license plate and/or current Virginia inspection sticker.

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, scrape contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, wood scraps, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding, or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

Junk Yard or Automobile Graveyard. 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 in any location for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials. The term "junk yard" shall include the term "automobile graveyard" as any lot or place which is exposed to the weather upon which more than three motor vehicles of any kind, incapable of being operated, are placed.

Landscaping. The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials, flowers, walkways, landscaping gravel, and appropriate grading, such as to render an aesthetic appearance to the viewer.

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 of a least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other spaces as required by this Ordinance. A lot shall have frontage on an approved public street and shall either be shown on a plat of record or be considered as a parcel of property described by metes and bounds.

Lot Area. The total horizontal area within the lot lines of a lot.

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 Coverage. That portion of a lot that is covered by buildings or any part of a building and structures.

Lot Line, Front. The lot line abutting the street or private road on which it fronts. On corner lots and through lots, the front shall be deemed to be along the shorter dimension of the lot fronting the street. On lots bounded by a street and one or more private roads or alleys, the front lot line shall be the lot line abutting the street.

Lot Line, Side. A lot line not a front or rear line.

Lot Line, Rear. The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a 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. It shall be the average horizontal distance between side lot lines.

Manufactured Home. A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

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

Manufactured Home Subdivision. An area designed to accommodate one or more manufactured or modular homes on individual lots which may be offered for sale under the terms of this Ordinance and the Subdivision Ordinance.

Mini-Warehouse. A building housing small, individual, self-contained units which are leased or sold for storage of business or household goods. They also may be referred to as a "Self-Service Storage Facility."

Modular Home. A movable or portable dwelling over 32 feet in length and over 20 feet wide, designed and constructed without a carriage or hitch, as a stationary house constructed for placement upon a permanent foundation, to be connected to utilities, for year-round occupancy. It can consist of one or more components that can be retracted when transported and subsequently

expanded for additional capacity, or of two or more units separately transportable but designed to be joined into one integral unit.

Nonconforming.

- a. Any otherwise legal building, structure, or tract of land that does not conform with the lot area, width or depth, yard, or lot coverage requirements, or other area regulations of this Ordinance at the effect date or as a result of subsequent amendments to this Ordinance;
- b. The otherwise legal use that does not comply with any part or any one or more of the applicable regulations pertaining to:
 - 1) Principal, special, or accessory uses permitted in the district in which use is located;
 - 2) Signs, regulations; or
 - 3) Accessory off-street parking and loading requirements, either on the effective date of this Ordinance or as a result of any subsequent amendment.

Occupancy Permit. A permit issued by the Zoning Administrator required before occupancy or commencing to use any building or other structure on any lot.

Open Space. (Useable residential common open space) Any outdoor area of such location, size, and shape as to provide for specific outdoor living functions. Areas considered as useable common open space must be available for all residential occupants of a given building and may include only those spaces enclosing an area of at least three hundred (300) square feet with a least dimension of 15 feet or more.

Parking Lot, Public. An area containing one or more parking spaces for 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.

Planned Unit Development (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Principal Activity. The primary use of a structure or building that is distinguishable from secondary or accessory uses.

Professional Service. A business conducted by physicians and surgeons, lawyers, architects, engineers, or other persons holding advanced degrees and professional licenses. The term is not intended to include insurance agents, adjusters, realtors, photo studios, banks, beauty parlors, barber shops, dance studios, business schools, or any establishment engaged in business of personal services.

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 of Virginia, the county, or the town.

Recreational Vehicle. A vehicle which is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light-duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use. Recreational vehicles placed on sites shall exist on the site for fewer than 180 consecutive days, be fully licensed, and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Recreational Vehicle (RV) Park. Any lot or land on which one or more recreational vehicle sites are located, established, and maintained for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes. A RV park does not include recreational vehicle sales lots.

Residence. See “Dwelling.”

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 contain no more than five sleeping rooms.

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by use of planted vegetation, fences, walls, or berms in accordance with the terms of this Ordinance.

Sign. For definitions pertaining to signs, see Article 5 of this Ordinance.

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 accordance 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.

Special Use Permit. The permit for a use listed as requiring such permit in this Ordinance and which may be in a specified district under certain conditions, such conditions to be determined in each case by the terms of this Ordinance and by the Town Council of the Town of Stuart after public hearing and report by the Planning Commission in accordance with the procedures specified by this Ordinance and applicable state law.

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. A publicly maintained right-of-way, excluding alleys, and which afford the primary access to abutting property. The word “street” shall include the words “road,” “highway,” and “thoroughfare.”

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.

Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground. This includes but is not limited to the generality of the following: mobile homes, swimming pools, backstops for tennis courts, gazebos, towers, smokestacks, television satellites, overhead transmission lines, and signs.

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.

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 front lot line.

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

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

Yard, Side. A yard lying between a side lot line and the nearest part of the building or use not hereinafter excepted, and extending from the front yard to the rear yard, or if there be no front or rear yard, to the front or rear lot lines. Side yard width shall mean the shortest distance, measured horizontally, between any part of the building or use not specifically excepted and the nearest side lot line.