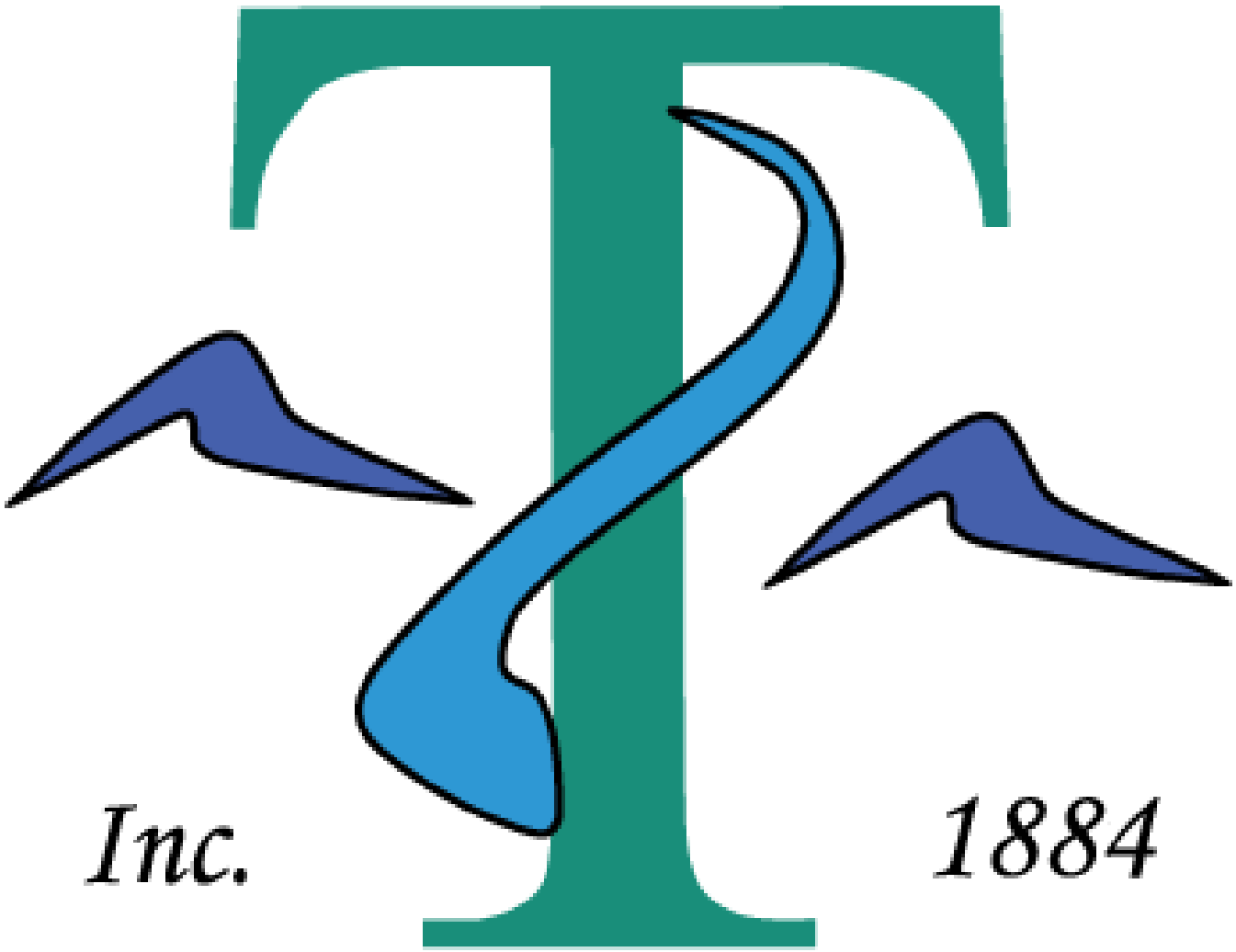
LAND DEVELOPMENT REGULATIONS

Town of Timberville



Virginia

TOWN OF TIMBERVILLE

LAND DEVELOPMENT REGULATIONS

As Amended & Adopted
August 8, 2024

TOWN OF TIMBERVILLE, VIRGINIA
LAND DEVELOPMENT REGULATIONS
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ARTICLE 1
AUTHORITY AND ENACTMENT

101.00 AUTHORITY TO ESTABLISH ZONING

Whereas, by act of the General Assembly of Virginia as recorded in Title 15.2, Chapter 22, Article 7, Sections 15.2-2280 through 15.2-2316, Code of Virginia, 1950, as amended, the governing body of any county or municipality may, by Ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning and in each district it may regulate the following:

101.01 The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, floodplain and other specific uses.

101.02 The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures.

101.03 The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses and of courts, yards, and other open spaces to be left unoccupied by uses and structures including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and in use.

101.04 The excavation or mining of soil or other natural resources.

102.00 AUTHORITY TO ESTABLISH SUBDIVISION REGULATIONS

Whereas, by act of the General Assembly of Virginia as recorded in the Code of Virginia, 1950, as amended, as Article 6, Sections 15.2-2240 through 15.2-2279 requires the Council of the Town of Timberville, Virginia adopt regulations to assure the orderly subdivision of land and its development, to provide for the harmonious and economic development of the Town, for the coordination of streets within subdivisions with other existing or planned streets, for adequate open spaces for traffic, recreation, light and air, and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, and prosperity including reasonable regulations and provisions that apply to or provide:

102.01 For size, scale, and other plat details.

102.02 For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage.

102.03 For adequate provisions for drainage and flood control and other public purposes and for light and air.

102.04 For the extent to which and the manner in which streets shall be graded, graveled, or otherwise improved and water, storm and sanitary sewer and other public utilities or other community facilities are to be installed.

102.05 For the acceptance of dedication for public use of any right-of-way located within any subdivision which has been constructed or proposed to be constructed within the subdivision, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line as a part of a public system, or other improvement, financed or to be financed in whole or part by private funds only if the owner or developer: (1) certifies to the Governing Body that the construction costs have been paid to the person constructing such facilities; or (2) furnishes to the Governing Body a certified check or cash escrow in the amount of the estimated costs of construction or personal, corporate, or property bond, with surety satisfactory to the Governing Body, in an amount sufficient for, and conditioned upon, the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (3) furnishes to the Governing Body a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the Governing Body as to the bank or savings and loan association, the amount and the form.

102.06 For monuments of specific types to be installed establishing street and property lines.

102.07 That unless a plat be filed for recordation within six (6) months after final approval thereof or such longer period as may be approved by the Governing Body, such approval shall be withdrawn and the plat marked void and returned to the approving official.

102.08 For the administration and enforcement of such Ordinance, not inconsistent with provisions contained in this chapter and specifically for the imposition of reasonable fees and charges for the review of plats and plans and for the inspection of facilities required by any such Ordinance to be installed, such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill, and administrator's expense involved. All such charges heretofore made are hereby validated.

102.09 For payment by a subdivider or developer of land of his pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction or improvement of his subdivision or development; provided, however, that no such payment shall be required until such time as the Governing Body or a designated department or agency thereof shall have established a general sewer and drainage improvement

program for an area having related and common sewer and drainage conditions and within which the land owned or controlled by the subdivider or developer is located. Such regulations shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted Comprehensive Plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the proportion of such total estimated cost which the increased sewage flow and/or increased volume and velocity of storm water runoff to be actually caused by his subdivision or development bears to total estimated volume and velocity of such sewage and/or runoff from such area in its fully developed state. Each such payment received shall be expended only for the construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider or developer; provided, however, that in lieu of such payment the Governing Body may provide for the posting of a personal, corporate, or property bond, cash escrow or other method of performance guarantee satisfactory to it, conditioned on payment at commencement of such construction.

102.10 For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia, 1950, as amended. Only one (1) such division shall be allowed per family member and shall not be for the purpose of circumventing this subsection. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, or parent of the owner.

102.11 For the partial or complete release of any bond, escrow, letter of credit, or other performance guarantee required by the Governing Body under this section within thirty (30) days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed hereunder unless the Governing Body notifies said subdivider or developer in writing of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of said thirty (30) day period; provided, however, that the Governing Body shall not be required to release such bond, escrow, letter of credit, or other performance guarantee in an amount to exceed ninety (90) percent of the actual cost of the construction for which the bond was taken until such facilities have been completed and accepted by the Governing Body or State agency. For the purposes of this subsection, a certificate of partial or final completion of such facilities from a duly licensed engineer or land surveyor, as defined in §54.1-400 of Title 54.1 Chapter 4 of the Code of Virginia, 1950, as amended, or from a department or agency designated by the local government may be accepted without further inspection of such facilities.

103.0 ENACTMENT

Therefore, be it ordained by the Council of the Town of Timberville, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Title 15.2, Chapter 22, Articles 6 and 7 of the Code of Virginia, 1950, as amended, that the following be adopted as the Land Development Regulations of the Town of Timberville, Virginia, incorporating the Town of Timberville Zoning Ordinance, as amended, and Subdivision Ordinance, Town of Timberville, Virginia, as amended.

ARTICLE 2
PURPOSES OF THE REGULATIONS

201.00 PURPOSES

The Town of Timberville Planning Commission and Town Council have undertaken to achieve the delicate balance between the individual property rights of its citizens and the health, safety, and general welfare of the public and accomplish the objectives of Section 15.2-2200 by reasonable restrictions on those property rights. Further, to comply with the provisions of Article 6, Section 15.2-2240, et. seq., the purposes of these regulations are:

201.01 To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers.

201.02 To reduce or prevent congestion in the public streets.

201.03 To facilitate the creation of a convenient, attractive, and harmonious community.

201.04 To expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements.

201.05 To protect against destruction of, or encroachment upon, historic areas.

201.06 To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers.

201.07 To encourage economic development activities that provide desirable employment and enlarge the tax base.

201.08 To establish certain subdivision standards and procedures to assure the orderly subdivision of the land and its development for the Town of Timberville, Virginia.

201.09 The subdivision standards and procedures are part of a long-range plan to guide and facilitate the orderly and beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity, and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs where land and acreage become urban in character as a result of development for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a commodity

that is suitable for development and use, and to make possible the provision of public services in a safe, adequate, and efficient manner.

202.00 NON-EXCLUSIONARY INTENT

It is not the intent of these regulations to exclude any individual or group based on race, age, color, religion, gender, sexual orientation, gender identity, national origin, or disability from enjoyment of residence, land ownership, or tenancy within the Town of Timberville; nor is it the intent of this Ordinance to use public powers in any way to promote the separation within the Town of Timberville of individuals or groups based on race, age, color, religion, gender, sexual orientation, gender identity, national origin, or disability, except as may be an incidental result of meeting the purpose outlined in Section 201, herein.

ARTICLE 3
DEFINITIONS OF TERMS USED IN THIS ORDINANCE

301.00 GENERAL

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes "structure." The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

302.00 SPECIFIC DEFINITIONS

When used in this Ordinance, the following words and phrases shall have the meaning given in this Section:

302.01 Abandoned Vehicles. Any vehicle which is deemed inoperable by the fact that any of the following requirements are not met: valid license, inspection sticker, town tag, or cannot operate under its own power.

302.02 Abattoir. A commercial slaughter house.

302.03 Accessory Use or Building. See Use, Accessory or Building, Accessory.

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

302.05 Administrator, The. The official charged with the enforcement of the Zoning Ordinance and/or Subdivision Ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the Governing Body. He may serve with or without compensation as determined by the Governing Body.

302.06 Adult business. Any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons (Added 11/8/2007).

302.07 Adult entertainment. Dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (Added 11/8/2007).

302.08 Adult merchandise. Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices (Added 11/8/2007).

302.09 Adult model studio. A commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons (Added 11/8/2007).

302.10 Adult motel. A motel, hotel, or similar commercial establishment that: (i) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (ii) offers a sleeping room for rent for a time period less than ten hours; or (iii) allows a tenant or occupant to sub rent the sleeping room for a time period of less than ten hours (Added 11/8/2007).

302.11 Adult movie theater. An enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13," or "R" by the Motion Picture Association of America (Added 11/8/2007).

302.12 Adult nightclub. A restaurant, bar, club, or similar establishment that regularly features adult entertainment (Added 11/8/2007).

302.13 Adult store. An establishment having adult merchandise as a substantial or significant portion of its stock-in-trade (Added 11/8/2007).

302.14 Agriculture. The tilling of the soil, the raising of crops, horticulture and forestry, including the keeping of animals and fowl and including any agricultural industry or business such as fruit packing plants, dairies or similar use, not including abattoir.

302.15 Alley. A platted service way providing a secondary means of access to abutting properties.

302.16 Alteration. Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

302.17 Animal or Poultry Husbandry. Any keeping, boarding, breeding, or raising of any number of horses, goats, sheep, poultry, or other customary farm animals for any purpose, or of more than five (5) dogs and seven (7) cats or other customary pet animals for noncommercial purposes.

302.18 Animal Hospital or Clinic. Establishment where treatment is received and no activity is conducted outside the main building. Kennels are not included.

302.19 Apartment. A unit in a multi-family dwelling providing living quarters for a single-family, in which separate access to the outside is usually not provided, and in which the major orientation of the unit is horizontal rather than vertical, or any condominium unit of similar physical character, appearance, and structure.

302.20 Apartment Development. A development containing one or more multi-family dwellings containing apartments with accessory parking, open space, recreation and management facilities, and any other facilities for common use.

302.21 Automobile Graveyard. Any lot or place which is exposed to the weather upon which more than three (3) motor vehicles of any kind not displaying current Commonwealth of Virginia inspection certification are placed, located, or found.

302.22 Automobile Service Station. Any area of land, including structures thereon, used for the retail sale of gasoline or oil, automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but excluding painting, major repair, or automobile washing.

302.23 Basement. A story having part but not more than one-half (1/2) of its height below grade. A basement shall count as a story for the purpose of height regulations if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

302.24 Bed and Breakfast Facility, Limited. A limited bed and breakfast facility is a structure in which guests are provided with sleeping quarters for a fee. The proprietor shall reside in the facility. The structure must appear to be an ordinary dwelling and shall display no other than a single sign no larger in surface area than four hundred thirty-two (432) square inches (three [3] square feet). Guests may be provided with morning meals only and may be lodged no more than fourteen (14) consecutive days. No more than four (4) guest rooms may be available for guests. No more than eight (8) guests will be lodged at one (1) time, except for minors in the company of adult guests.

302.25 Board. The Board of Zoning Appeals as established under this Ordinance.

302.26 Boarding House (Rooming House). A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation for three (3) to ten (10) unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one (1) week in duration. A lodging house is also included in this definition.

302.27 Building. Any structure designed or intended for support, enclosure, shelter, or protection of persons, animals, or property.

302.28 Building, Accessory. A subordinate building located on the same lot as the main building, the use of which is incidental and accessory to that of the main building or use. No such accessory structure shall be used for housekeeping purposes or located in any required front yard.

302.29 Building Code. The Virginia Uniform Statewide Building Code, as adopted by the Town of Timberville and as amended.

302.30 Building, Height of. The vertical distance measured from the level of the edge of the pavement opposite the middle of the front of the structure to the highest point of the roof if a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and the ridge of a gable, hip, or gambrel roof. For buildings set back from the road line, the height shall be measured from the average elevation of the ground surface along the front of the building.

302.31 Building Inspector. The building official appointed by the Town Council to administer and enforce the provisions of the Building Code, or his designated representative or agent.

302.32 Building, Main. A building in which is conducted the main or principal use of the lot on which said building is situated.

302.33 Building Permit. Written permission issued by the proper municipal authority for the construction, repair, alteration, or addition to a structure.

302.34 Building, Temporary. A building or structure used in conjunction with construction work which may be permitted in any district but shall be removed immediately upon completion or abandonment of construction. Semi-trailers used as storage, shipping containers, and portable toilets shall be deemed temporary buildings. (Amended & adopted 8/8/2024)

302.35 Campground. Campground shall mean any plot of ground used, maintained, or held out to the public, wholly, or in part, as temporary accommodation of tents, expandable camp trailers, travel trailers, converted buses or trucks, or such other devices as may be developed and marketed for camping, whether privately or public owned, and whether use of such accommodations is granted free of charge or for compensation.

302.36 Cellar. A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.

302.37 Child Care Center. Any facility other than a Family Day Care Home providing care, protection, and guidance to a group of children during only part of the day.

302.38 Church or House of Worship. A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to conduct public worship.

302.39 Clerk. The Clerk of the Circuit Court having jurisdiction in the Town of Timberville.

302.40 Club. A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

302.41 Clubhouse. A building, or portion thereof, used by a club.

302.42 College. An educational institution authorized to award baccalaureate or higher degrees.

302.43 Commission, The. The Town of Timberville Planning Commission.

302.44 Common Elements. All portions of a cooperative other than the units.

302.45 Community Center. Community entertainment, recreation, or meeting place operated by a non-profit organization.

302.46 Communications Equipment. Any tower, dish or other equipment used to send or receive electronic transmissions for public or private use.

302.47 Condominium. A dwelling unit in an apartment building or residential development which is individually owned, but in which the common areas are owned, controlled, and maintained through an organization consisting of all individual owners.

302.48 Conversion Building. A building that at any time before establishment of the cooperative was occupied wholly or partially by persons other than persons with an ownership interest in the cooperative organization owning or leasing the cooperative.

302.49 Cooperative. Real estate owned or leased by a cooperative organization.

302.50 Cooperative Interest. A leasehold interest under a proprietary lease coupled with ownership of an interest in the cooperative organization.

302.51 Cooperative Organization. Any corporation or entity which owns or leases real estate and disposes of cooperative interests in such real estate.

302.52 Cooperative Unit. A physical portion of the cooperative designed for separate tenancy.

302.53 Cottage Industry. A small, non-polluting business or industry employing fewer than five (5) workers.

302.54 Cul-de-sac. A circular turning area at the end of a dead-end street.

302.55 Curb Grade. The elevation of the established curb in front of the building measured at the center of such front where no curb grade has been established, the Zoning Administrator shall establish such curb grade.

302.56 Dairy. A commercial establishment for the manufacture and sale of dairy products.

302.57 Dairy Farm. A livestock establishment where the production of milk is its primary purpose.

302.58 Developer. An owner of property being subdivided, whether or not represented by an agent.

302.59 Development. A tract of land developed or to be developed as a unit under single ownership or unified control which is to contain three (3) or more residential dwelling units. The term “development” shall not be construed to include any property which will be principally devoted to agricultural production.

302.60 District. A section of the Town of Timberville within which the zoning regulations are uniform as referred to in the Code of Virginia, 1950, as amended, Section 15.2-2280.

302.61 Driveway. Any private way provided for the principal purpose of providing vehicular access to an off-street parking area or service in the case of drive-in type uses.

302.62 Dump Heap (Trash Pile). Any area of one hundred (100) square feet or more lying within one thousand (1,000) feet of a State highway, a residence, a food handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

302.63 Dwelling. Any building or portion thereof which is designed for or used for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, and automobile trailers.

302.64 Dwelling, Multi-Family. A building designed for, or occupied exclusively by, three (3) or more families living independently of each other; the term includes condominiums of similar physical appearance, character, and structure. See also 302.11 Definition of Apartment. (Amended 9/14/2006)

302.65 Dwelling, Single-Family. A building designed for, or occupied exclusively by, one (1) family.

302.66 Dwelling, Townhouse. A building unit consisting of no less than three (3) and no more than ten (10) dwelling units. Each dwelling unit is separated from adjacent dwelling units by a vertical wall with no openings, providing a dwelling for a single family, and in which the major orientation of the unit is vertical rather than horizontal (Amended 9/9/99).

302.67 Dwelling, Two-family (Duplex) – Single ownership. A building under one ownership located on a single lot designed for or occupied exclusively by two (2) families living independently of each other. (Amended 4/13/2023)

302.68 Dwelling, Two-family (Duplex) – Dual ownership. A single building unit designed for, or occupied exclusively by, two (2) families living independently of each other. The building may have one owner, or each dwelling unit may have different owners. (Amended 4/13/2023)

302.69 Dwelling Unit. One (1) or more rooms in a dwelling designed for living or sleeping purposes and having at least one (1) kitchen.

302.70 Easement. A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

302.71 Engineer, Civil. An engineer currently registered by the Commonwealth of Virginia.

302.72 Family. One (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boarding house, lodging house or hotel, as herein defined.

302.73 Family Day Care Home. Any private family home providing care, protection, and guidance to not more than ten (10) children during only part of the day. Children related by blood or marriage to the person who maintains the home shall not be counted.

302.74 Family, Immediate Member Of. Any person who is a natural or legally defined off-spring, spouse, or parent of the owner.

302.75 Flood. A general temporary inundation of lands not normally covered by water that are used or usable by man. Concurrent mudslides shall be deemed to be included in this definition.

302.76 Flood Hazard Area. The maximum area of the floodplain which is likely to be flooded once every one hundred (100) years or for which mudslides can be reasonably anticipated. These areas are defined by the Department of Housing and Urban Development's Flood Hazard Mapping or Rate Study Mapping as appropriate.

302.77 Floodplain. An area, usually a relatively flat or low land area adjoining a river, stream, or water course, which has been in the past, or can be reasonably expected in the future, to be covered temporarily by a flood.

302.78 Flood Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding required for new construction in the floodplain by the Virginia Uniform Statewide Building Code, Section 135.6.

302.79 Floodway. The channel of a river or other water course and the adjacent land areas required to carry and discharge the waters of the one hundred (100) year flood.

302.80 Floor Area. The sum of the gross horizontal areas of the total number of floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings, but not including any attic space providing headroom of less than seven (7) feet, unusable basement or cellar space not used for retailing, uncovered steps or fire escapes, open porches, accessory water or cooling towers, accessory off-street parking spaces, and accessory off-street loading berths.

302.81 Frontage. The minimum width of a lot measured from one side lot line to the other, along a straight line on which no point shall be farther away from the street

upon which the lot fronts, or from the front edge of the lot than the building setback line as defined and required herein.

302.82 Garage, Private. Accessory building designed or used for the storage vehicles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of vehicles for each dwelling unit in accordance with minimum off-street parking requirements.

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

302.84 Gardening. Any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, generally for the use and/or consumption by the occupants of the premises, but not including accessory structures used for the same purpose.

302.85 General Store, Country (Convenience Store). A single store, the ground floor area of which is four thousand (4,000) square feet or less which offers for sale primarily most of the following articles: bread, milk, cheese, fresh meats and vegetables, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store.

302.86 Golf Course. Any golf course, publicly or privately owned, on which the game of golf is played including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

302.87 Golf Driving Range. A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

302.88 Governing Body. The Town Council of Timberville, Virginia.

302.89 Group Home. A building other than a boarding house, hotel, or residential human care facility preponderantly residential in character occupied by a non-family, essentially non-transient group of unrelated persons who are not mentally retarded or other developmentally disabled persons where for compensation meals and/or lodging and a degree of supervision are provided.

302.90 Guest Room. A room that is intended, arranged or designed to be occupied, or that is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

302.91 Health Department. The Rockingham County Health Department or its designated agent or representative.

302.92 Highway Engineer. The official designated by the Virginia Department of Highways and Transportation to inspect subdivision streets and alleys and other public ways.

302.93 Historical Area. An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance as to warrant conservation and preservation.

302.94 Hog Farm. A farm where swine are raised commercially as the principal farm enterprise.

302.95 Hog Pen. An enclosure for concentrated confinement or housing of swine. A hog pen shall be located at least five hundred (500) feet from the nearest residence except that of the owner.

302.96 Home for Adults. Any facility other than a nursing home providing part-time or full-time care to three (3) or more aged, infirm, or disabled adults. Persons related by blood or marriage to the operator of the facility shall not be counted.

302.97 Home Occupation. An accessory use carried on by the occupant of a dwelling in connection with which there is no display, no one is employed other than immediate members of the family residing on the premises, and the activities are conducted within the dwelling or accessory building.

302.98 Hospital. An institution rendering medical, surgical, obstetrical, or convalescent care including any institution licensed as a hospital by the State Hospital Board.

302.99 Hospital, Special Care. A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.

302.100 Hotel. A building in which lodging, or board and lodging, are provided and offered to the public for compensation and in which cooking facilities may be provided or in which lodging facilities are provided primarily for travelers and in which the length of stay is primarily less than one (1) week in duration. The term "hotel" includes the term "motel."

302.101 Industrialized Building Unit. A building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specific components, as a finished building or as a part of a finished building comprising two (2) or more

industrialized building units, and not designed for ready removal to or installation or erection on another site. Sometimes referred to as modular building unit.

302.102 Inn/Bed and Breakfast. A building or buildings designed and occupied as the more or less temporary abiding place for individuals who are, for compensation, lodged with or without meals, and in which provision is not generally made for cooking in individual rooms or suites. An inn/bed and breakfast shall accommodate no more than two (2) adult transients per bedroom per night. An inn/bed and breakfast shall maintain at least one (1) off-street parking space per unit, room, or accommodation. (Amended 4/13/2023)

302.103 Junk Yard (Automobile Wrecking Yard). A lot, land, or structure or part thereof used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running conditions, or for the sale of parts thereof.

302.104 Jurisdiction. The area or territory subject to the legislative control of the Governing Body.

302.105 Kennel. Any location where breeding, raising, grooming, caring for or boarding of dogs, cats, or other similar small animals for commercial purposes is carried on.

302.106 Land Use Plan. The Land Use Plan of the Town of Timberville, as amended.

302.107 Light Industry. Includes warehousing and light manufacturing uses which produce some noise, traffic congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise, or odors.

302.108 Livestock. Animals kept or raised for sale, use, or pleasure.

302.109 Livestock Market. A commercial establishment wherein livestock is collected for sale, sold, or auctioned off.

302.110 Loading Space. A space within the main building or on the same lot providing for the standing, loading, or unloading of trucks and other carriers.

302.111 Lodge. Another name for a group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws for the building, or portion thereof, used by a lodge. See also, “club”, “clubhouse”, and “private establishment”. (Adopted 4/13/2023)

302.112 Lot. A numbered and measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended to be a unit for the purpose, whether immediate or future, or transfer of ownership or of development or separate use. The term applies to units of land whether in a subdivision or a development.

302.113 Lot Area. The total horizontal area within the lot lines of a lot. No alley, public way, public land, or area proposed for future street purposes is included within the net area of the lot.

302.114 Lot, Corner. A lot abutting upon two (2) or more streets at their intersection. Of the two (2) sides of a corner lot the front shall be deemed to be the shorter of the two (2) sides fronting on streets but dwellings may be oriented facing the side street if it provides a better use and appearance of the lot. (Amended 4/13/2023)

302.115 Lot Coverage. The ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.

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

302.117 Lot, Double Frontage (Through). An interior lot having frontage on two (2) streets as distinguished from a corner lot.

302.118 Lot, Interior. Any lot other than a corner lot.

302.119 Lot of Record. A lot or parcel of land whose existence, location, and dimensions have been recorded in the Office of the Clerk of the Circuit Court of Rockingham County at the time of the adoption of this Ordinance.

302.120 Lot, Width. The average horizontal distance between side lot lines.

302.121 Main Use. The primary purpose for which land or a building is used.

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

302.123 Manufactured Home (Mobile Home). A structure intended for the human habitation that is subject to Federal regulation, is transportable in one (1) or more sections, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected, is three hundred twenty (320) or more square feet in area. Such a structure is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, connected to the required utilities and contains plumbing, heating, air-conditioning, and electrical systems.

Manufactured homes are only permitted in the R-4 zoning District. (Amended 11/11/2004)

302.124 Manufactured Home Park. Any development in which space is leased providing for three (3) or more manufactured homes intended for residential use for a period of time longer than thirty (30) days.

302.125 Manufactured Home Stand. A plot of ground within a manufactured home park designed to accommodate one (1) manufactured home.

302.126 Manufactured Home Subdivision. Any area designated to accommodate three (3) or more manufactured homes intended for residential use on lots owned by the manufactured home owner.

302.127 Modular Home. See Industrialized Building Unit, Section 302.90.

302.128 Motor Home or Camper. A unit or subunit which is or becomes self-propelled and is designed for human habitation on a short-term basis.

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

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

302.131 Non-Conforming Structure. A structure existing at the time of enactment or amendment of this Ordinance which does not conform to the requirements of this Ordinance by reason of height or condition, or by reason of its impingement upon required yard areas.

302.132 Non-Conforming Use of Land. A use of land existing at the time of the enactment of this Ordinance, or at the time of a Zoning Amendment which does not conform with the regulations of the use district in which it is located.

302.133 Nursing Home. Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two (2) or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities, and infirmaries.

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

302.135 One Hundred Year Flood. A flood that, on the average, is likely to occur once every one hundred (100) years.

302.136 Overhang. Any projection, either roof, bay, window, or similar cantilevered construction, which extends beyond the foundation of a structure. No such construction shall project into any required yard more than three (3) feet and no such projection shall have a vertical surface whose area is more than twenty-five (25) percent of the area obtained by multiplying the mean height of the structure by the length of the structure along the yard which is violated.

302.137 Parking Space. An area consisting of a minimum of ten (10) by twenty (20) feet; ten (10) by eighteen (18) feet for manufactured home stands of lots.

302.138 Parks, Playgrounds, and Outdoor Recreation Areas. Land publicly or privately owned devoted to recreational pursuits, usually an open area reserved for outdoor activities such as play, hiking, exercise, or competitive sport not requiring structures for habitation.

302.139 Pen. A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of one hundred (100) square feet for each small animal or two hundred (200) square feet for each larger animal shall not be regarded as a pen. Any enclosure containing a hog is a hog pen. (See Section 302.84.)

302.140 Plat. Includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

302.141 Prefabricated Building. The completely assembled and erected building or structure, including the service equipment, of which the structural parts consist of prefabricated individual units or subassemblies using ordinary or controlled materials and in which the service equipment may be either prefabricated or at-site construction.

302.142 Private Establishment. An establishment that is not open to the general public for business or recreation without first being accepted as a member of the relevant club which owns or operates the private establishment. These private establishments may also be known as "clubhouses". (Adopted 4/13/2023)

302.143 Professional. When used in connection with "use" and "occupancy," a use or occupancy by persons generally engaged in rendering personal, executive, sales, or administrative services or activities, including accountants, architects,

professional engineers and land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stockbrokers, and administrative agencies considered professional in character. The term does not include repair or sale of tangible personal property stored or located within the structure nor any use which would create any loud noises or noxious odors.

302.144 Property. Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

302.145 Property Owners Association. A corporation or other legal entity or a non-profit organization which has as its purpose maintenance of streets and/or other common areas.

302.146 Public Establishment. An establishment that is open to the general public for business or recreation. (Adopted 4/13/2023)

302.147 Public Service or Storage Buildings. Governmental facilities necessary for public health, safety, and welfare.

302.148 Public Utilities. Public service structures such as power plants or substations and lights; water treatment plants and associated distribution systems; sewage treatment plants and associated collection systems; or such similar operations publicly or privately owned furnishing electricity, gas, rail transport, communications, or related services to the general public.

302.149 Public Utility Transmission Systems. To include water, sewer, electricity, gas lines, or related transmission facilities for public use, telephones, etc.

302.150 Ramada. A structure erected over a manufactured home for the purpose of providing shade or shelter.

302.151 Required Open Space. Any space required in any front, side, or rear yard.

302.152 Residential Use. Any place, building, or establishment used in whole or in part as a dwelling.

302.153 Restaurant. Any building in which, for compensation, food or beverages are dispensed to persons not residing on the premises for consumption on the premises, including, among other establishments, cafes, delicatessens, or refreshment stands.

302.154 Restaurant, Drive-In. An eating and/or drinking establishment which caters to motor-driven vehicle business where the person being served may consume his food and/or drink while sitting in a motor-driven vehicle, as opposed to a restaurant serving exclusively inside or adjacent to the main building.

302.155 Retail Stores and Shops. Buildings for display and sale of merchandise at retail of for the rendering or personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following, which will serve as illustrations: drug store, newsstand, food store, candy shop, milk dispensary, dry-goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, and beauty and barber shop.

302.156 Right-of-Way. Access over or across particularly described property for a specific purpose or purposes.

302.157 Right-of-Way Line. The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

302.158 Sawmill. A mill or machine for the processing of timber into lumber.

302.159 School, Business or Commercial. Privately owned and operated educational institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to prepare individuals to pursue any occupation for profit in business administration, bookkeeping, accounting, data processing, stenography, clerical, secretarial, receptionist, or other office occupations.

302.160 School, Private. Privately owned and operated educational institution or educational organization, maintained or conducting classes for the purpose of offering instruction of students from kindergarten to twelfth grade level.

302.161 School, Public. Publicly owned and operated educational institution or educational organization regulated by the Commonwealth of Virginia and maintained or conducting classes for the purpose of offering instruction of students from kindergarten to twelfth grade level.

302.162 School, Trade. Privately or publicly owned and operated educational institution or educational organization maintained or conducting classes for the purpose of offering instruction to pursue any occupation for profit in any skilled trade, electronics, data processing or industry, or to give occupational training, or to give training in public or other service occupations, or to give vocational training designed to prepare an individual for, or to upgrade an individual in, technical occupations and technical phases of other occupations.

302.163 Screening. A barrier to vision or noise consisting of trees, bushes, shrubbery, or fences.

302.164 Setback. The minimum distance by which any building structure must be separated from the front lot line.

302.165 Setback Line. A line generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground.

302.166 Shipping Containers. Also known as intermodal containers, cargo containers, conex units, or sea cans. A large, reusable typically metal box designed to transport goods and manufactured products. Shipping containers are not permitted for residential dwelling purposes. (Adopted 8/8/2024)

302.167 Short-Term Rental (STR). The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy; as further defined and regulated by Town Ordinance 4-10.1, et seq. (Adopted 4/13/2023)

302.168 Sign. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used as an outdoor display. A display of less than one (1) square foot in area is excluded from this definition.

302.169 Sign Area. The smallest square, rectangle, triangle, circle, or combination thereof encompassing the entire advertising area, excluding architectural trim and structural supports.

302.170 Sign, Business. A sign painted, electrical, or otherwise erected for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the premises upon which said sign is located.

302.171 Sign, Directional. A directional sign is one (1) (one [1] end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called giving only the name of the firm or business responsible for the erection of same and distance.

302.172 Sign, Home Occupation. A sign directing attention to a product, commodity, or service available on the premises but which product, commodity, or service is clearly a secondary use of the dwelling.

302.173 Sign, Locational. A sign which directs attention to the approximate location of an establishment from which an advertised product or service may be obtained.

302.174 Sign, Monument. A freestanding sign whose sign face extends to the ground or a base. (Adopted 4/13/2023)

302.175 Sign, Outdoor Advertising. A structural poster panel or painted sign, either free standing or attached to a building, for the purpose of conveying information,

knowledge, or ideas to the public about a subject unrelated to the premises upon which it is located.

302.176 Sign Structure. A structure, including the supports, uprights, bracing and framework be it single-faced, double-faced, V-type, or otherwise, which is located on the ground or on top of another structure and which supports no more than two (2) signs.

302.177 Sign Structure Facing. The surface of the sign upon, against, or through which the message of the sign is exhibited, not including architectural trim and structural supports.

302.178 Sign, Temporary. Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other materials with or without frames intended to be displayed for a period of not more than sixty (60) consecutive days. (Amended 11/11/2004)

302.179 Site Plan. The proposal for a development or a subdivision including all convenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable Sections of this Ordinance.

302.180 Skill Game. Electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually. This definition exempts family entertainment centers from the prohibition against the playing or offering of any skill game, provided the prize won or distributed to a player by the skill games offered by such centers is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize that shall only be redeemable on the premises of the family entertainment center and also meets certain other requirements. (Adopted 4/13/2023)

302.181 Specified anatomical areas. Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered (Added 11/8/2007).

302.182 Specified sexual activities. Human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation (Added 11/8/2007).

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

302.184 Story, Half. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two thirds of the floor area is finished off for use.

302.185 Street. The principal means of access to abutting properties.

302.186 Street Center Line. A line generally parallel to the right-of-way lines that equally divide the street right-of-way.

302.187 Street, Half. A street that does not meet the minimum right-of-way width requirements set forth or referenced in this Ordinance.

302.188 Street, Internal. A street providing access to lots within a development, but not including driveways. (Amended & adopted 8/8/2024)

302.189 Street Line. The dividing line between a street or road right-of-way and the contiguous property.

302.190 Street, Major. A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.

302.191 Street, Other. A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.

302.192 Street (Road). Any public thoroughfare which affords the principal means of access to abutting property.

302.193 Street, Service Drive. A public right-of-way, generally parallel and contiguous to a major highway, primarily designated to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

302.194 Street Width. The total width of the strip of land dedicated or reserved for public travel including roadway, curbs, gutters, sidewalks, planting strips, and bikeways.

302.195 Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. Includes fuel pumps and above-ground elevation values for the transmission of oil and natural gas.

302.196 Subdivider. Any individual, corporation or registered partnership owning any tract, lot, or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot, or parcel of land to be subdivided who have given their power of attorney to one of their groups or another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

302.197 Subdivision. The term Subdivision shall include:

a) Lot Division – The division of a single parcel into two (2) lots. Divided parcels may not be redivided for a period of two (2) years (Amended 9/9/99).

b) Minor Subdivision – Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or these regulations (Amended 9/9/99).

c) Major Subdivision – All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements (Amended 9/9/99).

302.198 The term "subdivision" shall not include a bona fide division or partition of agricultural land into parcels of less than two (2) acres for agricultural purposes or for building sites for the farmstead or tenant houses. Plats of divisions so excused will contain notice that the plat has not been approved for residential purposes and must be approved by the agent prior to recordation (Amended 9/9/99);

302.199 The term "subdivision" shall not include a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the owner. Only one (1) such division shall be allowed per family member, and shall not be for the purpose of circumventing the provisions of the Subdivision Ordinance. A plat of the division is required to be approved by the agent prior to recordation (Amended 9/9/99);

302.200 The term "subdivision" includes the re-subdivision of lots of record or the vacation of plats. The term shall apply either to the process of subdivision or the land subdivided (Amended 9/9/99).

302.201 Surveyor. A land surveyor currently certified by the Commonwealth of Virginia.

302.202 Television and/or Radio Stations. A broadcasting facility licensed in the public interest, convenience, and necessity by the Federal Communications Commission,

which includes transmitting and receiving equipment, studios, offices, utility buildings, and other necessary accessories required to operate a station.

302.203 Tourist Court, Auto Court, Motel, Hotel, Cabin, or Motor Lodge. Building or buildings containing individual sleeping rooms, designed for or used temporarily by, automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

302.204 Tourist Home. A dwelling where only lodging is provided for compensation for up to fourteen (14) persons (in contrast to hotels and boarding houses) and open to transients.

302.205 Toilet, Portable. A structure containing a plumbing fixture for defecation and urination which is constructed to be transported. Portable toilets shall be deemed temporary buildings. (Amended 11/11/2004)

302.206 Townhouse Development. One (1) or more single-family dwellings consisting of townhouses, with accessory parking, open space, and recreational and management facilities.

302.207 Travel Trailer. A vehicular, portable structure built on a chassis designed to be used as a temporary occupancy for travel, recreation, or vacation, being of any length provided its gross weight does not exceed fourty-five hundred (4,500) pounds or being of any weight provided its overall length does not exceed twenty-eight (28) feet.

302.208 Travel Trailer Park or Travel Trailer Camp. Premises where travel trailers are parked temporarily in conjunction with travel, recreation, or vacation.

302.209 Tree. A woody perennial plant having a single main stem.

302.210 Use, Accessory. A subordinate use, customarily incidental to and located upon the same lot occupied by the main use. Any accessory use shall not be located in any required front yard. Shipping containers are not permitted as an accessory use. (Amended & adopted 8/8/2024)

302.211 Use Conditional. A conditional use is one which may be allowed when the Governing Body, after review of the application and hearing, thereon, thereby finds as a fact that the proposed use is consistent with the Comprehensive Plan, is compatible with surrounding uses, is consistent with the intent of the Ordinance, is in the public interest, and will comply with all other provisions of law and ordinances of the Town of Timberville.

302.212 Uses, Prohibited. Any use not specifically permitted shall be prohibited.

302.213 Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

302.214 Warehouse. A structure for storing goods, wares, or merchandise.

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

302.216 Wholesale Sales. An operation which sells cheifly to retailers, other merchants, or industrial, institutional, and commercial uses for resale or business use.

302.217 Yard. A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.

302.218 Yard, Front. An open, unoccupied space, excluding steps, on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. On corner lots, the depth of the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

302.219 Yard, Rear. An open space, excluding steps, on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots the rear yard shall be the opposite end of the lot from the front yard.

302.220 Yard, Side. An open, unoccupied space, excluding steps, on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

ARTICLE 4
ESTABLISHMENT OF DISTRICTS

401.00 DIVISION OF THE TOWN OF TIMBERVILLE INTO DISTRICTS

For the purposes of this Ordinance, the Town of Timberville is divided into zoning districts named and described in the following sections. The boundaries of said zoning districts are hereby established and shown on the Official Zoning Map maintained in the office of the Zoning Administrator and shown as originally adopted within Article 12, Zoning Map et seq.

402.00 INCORPORATION OF THE ZONING MAP

The Zoning Map entitled the "Official Zoning Districts Map for the Town of Timberville, Virginia," dated January 10, 1991, as amended, hereinafter referred to as the Official Zoning Map, with all notations, references, amendments and dates thereof and other information shown thereon shall constitute a part of this Ordinance. Said map shall be made a public record and shall be kept permanently in the office of the Zoning Administrator, where it shall be accessible to the general public.

403.00 MAP AMENDMENT

If in accordance with the provisions of Article 8, herein, changes are made in the district boundaries or other information portrayed in the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the Governing Body, together with a numerical entry referring to the application for the amendment, submitted in accordance with Article 8 herein, which shall be kept as a public record by the Zoning Administrator. Said numerical entry shall state the reference number of the application in the records of the Zoning Administrator and the date of the approval of the amendment by the Governing Body. Amendments to this Ordinance, which involve matter portrayed on the Official Zoning Map, shall become effective immediately upon being entered onto the Official Zoning Map. The Town of Timberville's Official Zoning Map, which shall be located in the office of the Zoning Administrator, shall be the final authority in determining the current zoning status of land and water areas, buildings, and other structures in the Town. No changes of any nature shall be made in the Official Zoning Map except in accordance with the procedure set forth herein.

404.00 REPLACEMENT OF THE OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Governing Body may, by resolution, adopt a new Official Zoning Map which shall supercede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. Unless the prior Official Zoning

Map has been lost or has been totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

405.00 RULES FOR DETERMINING BOUNDARIES

Unless district boundary lines are fixed by dimensions and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following shall apply:

405.01 Unless otherwise indicated, district boundaries indicated as approximately following property lines, landlines, centerlines of streams, roads, highways, alleys, the shorelines of reservoirs, or other bodies of water or civil boundaries shall be construed to follow such lines.

405.02 District boundaries indicated as approximately parallel to the centerlines of streams, roads, highways, or rights-of-way of the same or the shorelines of reservoirs or other bodies of water or said lines extended shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

405.03 Where a district boundary line as appearing on the Official Zoning Map divides a lot which is in single ownership at the time of this enactment the use classification of the larger portion may, on application, be extended to the remainder by the Governing Body in accordance with Article 8 of this Ordinance.

405.04 Where a public road, street, or alley is officially vacated or abandoned the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, or alley.

405.05 Where a district boundary is indicated to follow a river, creek, branch, or other body of water said boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline with its reestablished center or channel.

405.06 If no distance, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the Official Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board which shall determine the boundary in accordance with Section 806.00 of this Ordinance.

ARTICLE 5
APPLICATION OF ZONING REGULATIONS

The regulations established herein within each district shall be minimum regulations and shall be uniformly applied to each class of structure or land except as hereinafter provided:

501.00 USES

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

501.01 Permitted Use. A permitted use is one which is allowed in the district in which the land is situated. Where the proposed use is permitted and is in accordance with other regulations herein, a Zoning Permit will be issued by the Zoning Administrator without a public hearing.

501.02 Conditional Use. A conditional use is one which may be allowed when the Timberville Governing Body, after review of the application and hearing thereon, finds as a fact that the proposed use or uses are consistent with the Comprehensive Plan and the policies of the Town and the public interest. Where the use is conditional, a Zoning Permit will be issued by the Zoning Administrator after such conditional use has been approved by the Governing Body.

502.00 BUILDINGS

No building shall hereafter be erected, constructed, or altered so as to exceed the height limit to accommodate or house a greater number of families or to occupy a greater percentage of the lot area than is required or specified in the regulations herein for the district in which it is located.

503.00 LOTS AND YARDS

No new lot or yard shall hereafter be created nor shall any lot or yard existing at the time of enactment of this Ordinance be altered nor shall any building or structure, whether new or existing, be moved so that lot width, depth, or area requirements; front, side, or rear yard requirements; or inner or outer court requirements; or other requirements of this Ordinance are not maintained except when a portion of a lot is acquired for public use. No part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves provided such projections shall not extend into the required yard areas for a distance exceeding three (3) feet.

504.00 GARDENING

Gardening shall be exempt from zoning permit requirements in any district allowing residential uses provided that such gardening shall not be objectionable by reason of odor, dust, noise, pollution, soil erosion, sedimentation, or drainage.

505.00 PERMITS ISSUED PRIOR TO ADOPTION OF ORDINANCE

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this Ordinance. However, if such construction does not commence within thirty (30) days after this Ordinance becomes effective, or if construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this Ordinance for the district in which the operation is located.

ARTICLE 6
USES IN DISTRICTS

601.00 AGRICULTURAL LIMITED DISTRICT A-1

601.01 Intent of Agricultural Limited District A-1. This District covers the portion of the Town which contains agricultural lands. This District is established for the specific purpose of facilitating agricultural operations, conservation of water and natural resources, reducing soil erosion, and protecting watersheds. Uses not consistent with the character of this District are not permitted.

601.02 Permitted Uses. Within the Agricultural Limited District A-1, the following uses are permitted:

601.02-1 Agriculture, dairying, and general farming, including farm dwellings and agricultural buildings;

601.02-2 Flood control and watershed structures;

601.02-3 Nursery, tree farms, greenhouses;

601.02-4 Feed mills, grain storage as primary uses;

601.02-5 Forest and conservation;

601.02-6 Outdoor recreational areas;

601.02-7 Single-family dwellings, not including residential subdivisions;

601.02-8 Individual manufactured homes;

601.02-9 Water supply buildings, reservoirs, wells, elevated tanks, and similar essential public utility and service structures;

601.02-10 Churches and places of worship and/or cemetery;

601.02-11 Short-term rentals. (Adopted 4/13/2023)

601.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Town Council finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville, the following uses may be permitted:

601.03-1 Temporary trailer camps for the housing of construction workers on highway and other similar projects;

601.03-2 Resort area or campsite subdivisions;

601.03-3 Sawmills;

601.03-4 Communication transmitting stations and towers;

601.03-5 Commercial or service establishments numbering three (3) or less at any one (1) location;

601.03-6 Electric generation, substations, and transmission towers;

601.03-7 Auto graveyards;

601.03-8 Shooting range;

601.03-9 Temporary stands for the sale of produce raised on the farm;

601.03-10 Veterinary hospitals, provided that no enclosure containing animals or odor or dust producing substance shall be located closer than two hundred (200) feet from a property line and that for hospitals treating other than customary pet animals, the operation shall be conducted on a tract of land not less than five (5) acres in area;

601.03-11 Nursing or convalescent homes or homes for the aged;

601.03-12 Poultry or fish hatcheries;

601.03-13 Stock and poultry operations as primary use;

601.03-14 Golf courses, miniature golf courses, driving ranges;

601.03-15 Organized group camps or campgrounds;

601.03-16 The office of a resident member of a recognized profession provided that the office is located in a dwelling;

601.03-17 Customary incidental home occupations provided no stock in trade is kept or products sold, except such as are made on the premises;

601.03-18 Federal, state, municipal administrative, and service buildings;

601.03-19 Convenience store;

601.03-20 Community center;

601.03-21 Schools and colleges for academic instruction, located not less than fifty (50) feet from any lot line.

601.04 Accessory Uses. Where a lot is devoted to a permitted principle use, customary accessory uses and structures are authorized. The following uses are also applicable:

601.04-1 Home occupations provided that the requirements of Article 7, Section 704 are met;

601.04-2 Living quarters of persons employed on the premises;

601.04-3 Private parking garage;

601.04-4 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

601.04-5 Signs as provided for in Article 7;

601.04-6 Parking as provided for in Article 7.

602.00 LOW DENSITY RESIDENTIAL DISTRICT R-1

602.01 Intent of the Low Density Residential District R-1. This District is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the District and to promote and encourage a suitable environment for family life. To these ends, development is limited to relatively low concentration and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches, and certain public facilities that serve the residents of the District. No manufactured homes or abandoned vehicles permitted. (Amended 11/11/2004)

602.02 Permitted Uses. Within Low Density Residential District R-1, the following uses are permitted:

602.02-1 Single-family dwellings. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet; (Amended 9/14/2006)

602.02-2 Public parks, playgrounds, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreational activities, all of a noncommercial nature. No swimming pool or structure shall be located closer than one hundred (100) feet from any residential lot. Swimming pools must conform with the BOCA National Building Code, Section 421.0 (Amended 9/9/99);

602.02-3 Public utility transmission systems;

602.02-4 Short-term rentals. (Adopted 4/13/2023)

602.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with the surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville, the following uses may be permitted with appropriate conditions:

602.03-1 Child care centers and family day care homes. The main structure shall not be located closer than fifty (50) feet from any residential lot;

602.03-2 Public utilities;

602.03-3 Schools;

602.03-4 Public service or storage buildings;

602.03-5 Churches and other places of worship with attendant educational and recreational facilities. No church or attendant facilities shall be located closer than one hundred (100) feet from any residential lot.

602.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following rules are applicable:

602.04-1 Home occupations provided that the requirements of Article 7, Section 704 are met;

602.04-2 Living quarters in main structure for persons employed on the premises;

602.04-3 Travel trailers which may be stored within the minimum yard requirements and shall be prohibited from occupancy;

602.04-4 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

602.04-5 Signs as provided for in Article 7;

602.04-6 Parking as provided for in Article 7;

602.04-7 Private parking garage;

602.04-8 Shelter for house pets, but not exceeding two (2) shelters, to house not more than one (1) adult per shelter plus dependent animals of up to six (6) months of age;

602.04-9 Private swimming pool;

602.04-10 Satellite receivers or dishes.

603.00 RESIDENTIAL DISTRICT R-2

603.01 Intent of Residential District R-2. The intent of the R-2 Residential District is to encourage residential neighborhoods and to stabilize and protect the essential character of such neighborhoods. The regulations for this District rend to protect against encroachment of commercial or industrial uses and other uses likely to generate noise, crowds, concentrations of traffic, light, dust, odors, smoke, or other obnoxious influences. No manufactured homes or abandoned vehicles permitted. (Amended 11/11/2004)

603.02 Permitted Uses. Within Residential District R-2, the following uses are permitted:

603.02-1 Single-family dwellings. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet; (Amended 9/14/2006)

603.02-2 Two-family dwellings provided that the intent of this District is maintained in the design and use of two-family developments. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet (Amended 4/10/2008)

603.02-3 Dual ownership two-family dwellings (duplexes) shall have an off set roofline and have architecturally distinct design approved at the discretion of the zoning administrator after consultation with the Planning Commission. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet (Amended 4/13/2023)

603.02-4 Public parks, playgrounds, golf courses, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreational activities all of a noncommercial nature. No swimming pool or structure shall be located closer than one hundred (100) feet from any residential lot;

603.02-5 Public utility transmission systems;

603.02-6 Short-term rentals. (Adopted 4/13/2023)

603.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville the following uses may be permitted with appropriate conditions:

603.03-1 Public utilities;

603.03-2 Child care centers and family day care homes. The main structure shall not be located closer than fifty (50) feet from any residential lot;

603.03-3 Homes for adults;

603.03-4 Schools;

603.03-5 Public service or storage buildings;

603.03-6 Commercial television receiving towers;

603.03-7 Churches and other places of worship with attendant educational and recreational facilities. No recreational facility shall be located closer than one hundred (100) feet from any residential lot.

603.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following uses are also applicable:

603.04-1 Home occupations provided that the requirements of Article 7, Section 704 are met;

603.04-2 Living quarters in the main structure of persons employed on the premises;

603.04-3 Travel trailers which shall be stored within the minimum yard requirements and shall be prohibited from occupancy;

603.04-4 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

603.04-5 Signs as provided for in Article 7;

603.04-6 Parking as provided for in Article 7;

603.04-7 Private parking garage;

603.04-8 Shelter for house pets, but not exceeding two (2) shelters, to house not more than one (1) adult per shelter plus dependent animals of up to six (6) months of age;

603.04-9 Private swimming pool;

603.04-10 Satellite receivers or dishes.

604.00 MEDIUM DENSITY RESIDENTIAL DISTRICT R-3

604.01 Intent of Medium Density Residential District R-3. The intent of the Medium Density Residential District is to provide for a range of development densities in accordance with the Timberville Comprehensive Plan. The regulations for this District provide for development which is not completely residential as it includes public and semipublic, institutional and other related uses. However, it is basically residential in character, and as such, is protected against encroachment of heavy commercial, industrial, and other uses likely to generate noise, crowds, large concentrations of traffic, light, dust, odors, smoke, and other obnoxious influences. No manufactured homes or abandoned vehicles permitted. (Amended 11/11/2004)

604.02 Permitted Uses. Within Medium Density Residential District R-3, the following uses are permitted:

604.02-1 Single-family dwellings. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet; (Amended 9/14/2006)

604.02-2 Two-family dwellings. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet (Amended 4/13/2023);

604.02-3 Multi-family dwellings, apartments, condominiums, and townhouses (as regulated in Section 708 of this Ordinance);

604.02-4 Public utility transmission systems;

604.02-5 Public parks, playgrounds, golf courses, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreational activities, all of a noncommercial nature. No public swimming pool or structure shall be located closer than one hundred (100) feet from any residential lot;

604.02-6 Professional offices in structures similar in character with surrounding neighborhoods;

604.02-7 Tourist homes, Inn/Bed and Breakfast, Short-term rentals. (Amended 4/13/2023)

604.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville, the following uses may be permitted with appropriate conditions:

604.03-1 General hospitals;

604.03-2 Public utilities;

604.03-3 Commercial operations which: (1) will not adversely affect the health or safety of persons residing in the neighborhood of the proposed use; (2) will not be detrimental to the public welfare or injurious to property or improvements; (3) will not be in conflict with the intent of this District; and (4) will comply with all other provisions regulating such uses;

604.03-4 Boarding houses;

604.03-5 Family day care homes, foster homes or group homes serving the mentally retarded, developmentally disabled or others, rest homes, homes for adults, or nursing homes;

604.03-6 Clubs, fraternities, lodges, and meeting places of other organizations provided that the buildings in which such meetings are housed shall be located at least fifty (50) feet from any other lot;

604.03-7 Commercial radio towers;

604.03-8 Schools;

604.03-9 Public service or storage buildings;

604.03-10 Churches and other places of worship with attendant educational and recreational facilities. No recreational facility shall be located closer than one hundred (100) feet from any residential lot.

604.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following uses are also applicable:

604.04-1 Home occupations provided that the requirements of Article 7, Section 705 are met;

604.04-2 Living quarters in main structure of persons employed on the premises;

604.04-3 Travel trailers which may be stored within the minimum yard requirements and occupancy therein shall be prohibited;

604.04-4 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

604.04-5 Signs as provided for in Article 7;

604.04-6 Parking as provided for in Article 7;

604.04-7 Private swimming pool.

605.00 RESIDENTIAL DISTRICT R-4

605.01 Intent of the Residential District R-4. The intent of the Residential District R-4 is to allow low cost residential development in the form of mobile home parks and mobile home subdivisions. No abandoned vehicles permitted.

605.02 Permitted Uses. Within Residential District R-4, the following uses are permitted:

605.02-1 Manufactured home parks in accordance with Article 7;

605.02-2 Manufactured home subdivisions in accordance with Article 7 and meeting the requirements of Article 9;

605.02-3 Permanent buildings housing management offices, child care centers, laundry facilities, or indoor recreational facilities or other service facilities may be permitted provided that: (a) parking requirements for such facilities are met; and (b) such uses are subordinate to the residential use and character of the park;

605.02-4 Short-term rentals. (Adopted 4/13/2023)

605.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville the following uses may be permitted with appropriate conditions:

605.03-1 Neighborhood commercial uses provided they are designed and intended to meet the service needs of persons residing in the park or subdivision and its immediate neighborhood.

605.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following rules are applicable:

605.04-1 Home occupations provided that the requirements of Article 7, Section 704 are met;

605.04-2 Living quarters in main structure of persons employed on the premises;

605.04-3 Travel trailers which may be stored within the minimum yard requirements and occupancy therein shall be prohibited;

605.04-4 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion of abandonment of the construction work;

605.04-5 Signs as provided for in Article 7;

605.04-6 Parking as provided for in Article 7.

606.00 PLANNED UNIT DEVELOPMENT DISTRICT R-5

606.01 Intent of Planned Development District R-5. The intent of the Planned Development District R-5 is to provide for larger scaled development and clustering of single-family residential dwelling units through design innovation to provide for a neighborhood with a variety of housing types and densities, neighborhood shopping facilities, schools, parks, playgrounds, off-street parking and, where necessary, land reserved to provide local employment opportunities. No manufactured homes or abandoned vehicles permitted. (Amended 11/8/2007)

606.02 Permitted Uses. Within Planned Development District R-5, the following uses are permitted:

606.02-1 Single-family dwellings. Each living unit shall contain a minimum of one thousand one hundred (1,100) square feet; (Amended 9/14/2006)

606.02-2 Two-family dwellings;

606.02-3 Multi-family dwellings, apartments, condominiums, and townhouses (as regulated in Section 708 of this Ordinance). (Amended 9/14/2006)

606.02-4 Short-term rentals. (Adopted 4/13/2023)

606.03 Accessory Uses. In addition to the principal uses other commercial or non-commercial service uses may be permitted provided: (a) that such uses are intended primarily to serve the needs of the project area residents; (b) that such uses are designed and located for the convenience of project area residents and to protect the character of the District; (c) that all subsequent changes in use shall be approved by the Planning Commission or its agent; (d) that all commercial uses shall not total more than ten (10) percent of the total project area; and (e) that construction of commercial facilities shall not begin until twenty-five (25) percent of the residential units or two hundred fifty (250) dwelling units, whichever is less, of the total planned development has been completed.

606.04 Uses Permitted by Approval. The development authorized within this District is regulated by a comprehensive development and management plan proposed by the developer and where conventional zoning lot restrictions are waived in favor of the detailed site plan and dedication of common open space.

606.05 Qualifying Requirements. A tract or parcel of land may be considered for R-5 Planned Residential District zoning only if it meets the following conditions:

606.05-1 Ownership Requirements. The project area must be in one ownership or the application filed jointly by the owners of all land within the project area. The holder of a written option to purchase land shall, for the purposes of such application, be deemed to be an owner of such land; however, each and every

project area in a Planned Residential District must be in single or common ownership before the final development plan is approved;

606.05-2 Availability of Public Utilities. The project area must be located where public water and sewer systems are available or where a community water and sewer system can be developed as part of the project;

606.05-3 Land Suitability. Rezoning land to R-5 Planned Residential District may be denied if from investigation conducted by all public agencies concerned, it has been determined that the land is not suitable for development because of inadequate road access, inadequate community utilities, excessive distance to employment area, nonconformity to town development plans or other public health, welfare, or safety objectives.

606.06 Site Design Requirements. The following are the site design requirements for the R-5 Residential District:

606.06-1 Maximum Density. The gross residential density shall not exceed ten (10) dwelling units per acre; (amended 9/8/2016)

606.06-2 Common Open Space. Minimum open space shall be not less than twenty-five (25) percent of the total area exclusive of buildings, streets, alleys, roads, parking areas, walks, patios, and other similar improvements but inclusive of swimming pools and other active and passive recreational areas;

606.06-3 Functional Relationships. The site development plan shall be designed for convenient relationships between the various functional areas of the project such as residential, recreational, shopping, etc.;

606.06-4 Lot Design. The lot design, arrangement, and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be property related to topography and provide convenient and safe access;

606.06-5 Street Design. The street system within the project area shall be designed:

(a) According to functional street purposes and projected traffic flow;
(b) To discourage through traffic;
(c) To assure safe and convenient sight distances;
(d) To complement the natural topography;
(e) In coordination with existing and planned streets; and
(f) Roads shall be built to state standards.

606.06-6 Street Names and Signs. The name of proposed streets shall not duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane, or court. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of

the existing streets. Street names shall be indicated on the preliminary plan and final subdivision plat. Street signs shall be provided at all intersections;

606.06-7 Street Lighting. Street lighting shall be provided on all streets in the development and shall be built to the current requirements of the utility company or the Town standards, whichever are more restrictive.

606.06-8 Pedestrian Circulation. Provision shall be made for sidewalks and pedestrian walkways, which will enable residents, visitors and/or patrons to walk safely and conveniently between the various functional areas of the project and adjacent circulation systems;

606.06-9 Parking. Off-street parking shall be provided in adequate amounts and in convenient locations. Wherever feasible, parking areas should be designed to preserve natural amenities and should avoid excessive concentrations of pavement by scattered landscaping and tree planting. Generally, two (2) parking spaces should be provided for each dwelling unit;

606.06-10 Water and Sewer. All planned Residential Districts shall be served by collective water and sewer systems as follows:

(a) Wherever feasible the project area water and sewer lines shall be connected to existing public systems.

(b) Where connections to existing public water or sewer systems are not feasible, the developer shall provide community water or sewer systems.

606.06-11 Community Facilities. Reservation or dedication of land for community facilities may be required if the need is created by the project area development or if proposed on the Town development plan;

606.06-12 Fire Hydrants. Fire hydrants shall be provided throughout the project area in such locations to provide adequate fire protection;

606.06-13 Drainage. The site development plan shall include a plan for adequate drainage. The street and lot plan shall be designed to avoid drainage problems. Where storm drains or drainage ditches are required, or where an existing waterway or drainage way traverses the project area, an easement or right-of-way shall be provided with adequate improvements to contain the drainage flows from the tributary area upstream of the watershed;

606.06-14 Floodways. Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life, or property or aggravate erosion or flood hazard. Such land within the project area shall be used as common open space or other uses which would not be endangered by periodic or occasional inundation or

shall not produce conditions contrary to public welfare;

606.06-15 Easements. Easements through the project area shall be provided for water, sewer, gas, telephone, power and other utilities as required by the respective utility departments, agencies or companies;

606.06-16 Grading. The site development plan shall be designed to minimize the amount of grading required for development. To the extent feasible, the natural lay of the land shall be maintained except where grading is required for public health or safety;

606.06-17 Natural Amenities. The developer shall make every reasonable effort to protect and preserve the natural amenities of the site such as tree cover, waterways, scenic overlooks, etc. The site development plan shall be designed to maximize the use and enjoyment of natural amenities by project residents;

606.06-18 Landscaping and Screening. Landscaping and screening may be required to improve the project appearance or to provide a buffer between potentially conflicting uses.

606.07 Data to Accompany Application. With the Planned Unit District, there shall be submitted a tentative, overall development plan which shall include:

606.07-1 Scale accurate proposed development plan mapping of the project to include:

(a) Proposed land uses including residential types, commercial types, recreation and any other proposed use;

(b) Proposed street system including public and private right-of-way;

(c) Proposed parking areas and parking space delineations;

(d) Proposed plat showing subdivision lot lines;

(e) Proposed utility rights-of-way or easements including water, sewer, gas, power, and telephone;

(f) Proposed drainage plan;

(g) Proposed location of buildings, structures, and improvements;

(h) Property lines of proposed common property;

(i) Proposed pedestrian circulation system;

(j) Proposed landscaping plan;

(k) Proposed treatment of the project perimeter such as screening or landscaping;

(l) Relationships and tie-ins to adjacent property.

606.07-2 Supporting documentation to include the following minimum data:

(a) A legal description of the project boundaries;

(b) A statement of existing and proposed property owners;

(c) Names and addresses of all adjacent property owners;

(d) A statement of project development objectives and character to be achieved;

(e) An approximate development schedule including dates of proposed construction beginning and completion and staging plan, if appropriate;

(f) A statement of intent regarding future selling or leasing of land areas, dwelling units, commercial areas, etc.;

(g) Quantitative data including the number and type of dwelling units; parcel sizes, gross and net residential densities, total amount and percentage of open space, residential, commercial, and other land use types;

(h) Proposed building types including architectural style, height, and floor area;

(i) Approvals from the Virginia Department of Highways and the County Health Officer (if appropriate);

(j) Proposed agreements, provisions, or covenants which govern the use, maintenance, and continued protection of property to be held in common ownership;

(k) A statement of proposed temporary and permanent erosion and sedimentation control measures to be taken.

606.07-3 Application. Application for zoning meeting the foregoing requirements shall be filed with the Zoning Administrator. Ten (10) copies of the original application are required to be filed with it. The Zoning Administrator shall forward the application and data to the Planning Commission for their review and recommendation. The Planning Commission shall consider the general plan for the community, the location, arrangement and size of lots, parks, school sites and other reservations of open space; the location, width and grade of streets; the

location and arrangement of parking spaces; the location, arrangement and height of buildings; the location, arrangement and design of neighborhood business areas and accessory parking spaces; the gross densities proposed for the area; and such other features as will contribute to the orderly and harmonious development of the area, with due regard to the type and the character of adjoining neighborhoods and the peculiar suitability of the proposed uses;

606.07-4 Processing Fee. At the time of filing the preliminary plan application the applicant shall deposit with the Zoning Administrator a check payable to the Treasurer in the amount of two hundred ($200.00) plus one dollar ($1.00) for each dwelling unit proposed on the development plan;

606.07-5 Appearance of Developer. The Planning Commission and/or the Governing Body may require the developer to appear to discuss the planned development;

606.07-6 Preliminary Plan Approval.

(a) Within sixty (60) days after the filing of the preliminary development plan, the Planning Commission shall report to the Governing Body one of the following:

- Recommend approval of the plan as presented, or
- Recommend approval of the plan as revised by concurrence of the Planning Commission and the developer, or
- Recommend disapproval;

(b) The Governing Body shall give notice under Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended, of a public hearing to be held not more than thirty (30) days after the receipt of the Planning Commission's report. After the hearing, the Governing Body disapproves or approves the preliminary development plan, or approves the preliminary development plan with modifications;

(c) If the preliminary development plan is approved, or approved with modifications by the Governing Body, the Zoning Map shall be amended to show the R-5 Planned Unit Development. If the preliminary development plan is approved with modifications, the Governing Body shall not amend the Zoning Map until the applicant has filed with the Zoning Administrator written consent to the plan as modified.

606.08 Status of Approval. No building permits shall be issued within the project area until the final development plan has been approved by the Town under the procedures in the following sections and until the required bond is posted to the Governing Body's satisfaction.

606.09 Final Plan Application. Within six (6) months following the approval of the

preliminary development plan, the applicant shall file with the Zoning Administrator ten (10) copies of a final development plan containing in final form, the information required in the preliminary plan, including but not limited to, final maps and documents specified above. In its discretion and for good cause, the Planning Commission may, upon receipt of a written application, extend for six (6) months the period for filing of the final development plan;

606.09-1 Phasing Plan. If the project area is to be developed in stages, a phasing plan shall be submitted with the final development plan. The phasing plan shall delineate the areas to be developed in each phase and the approximate development schedule of each phase;

606.09-2 Compliance with Preliminary Plan. The final development plan shall be in substantial compliance with the preliminary development plan. The final development plan shall be deemed in substantial compliance providing modification does not involve any of the following and provided further that such modification does not exceed the limitations of these Planned Unit Development District regulations:

(a) Variation of the proposed residential density or intensity of use by more than ten (10) percent;

(b) Reduction of more than ten (10) percent of the area reserved for common open space;

(c) Increase of the floor area proposed for nonresidential use by more than ten (10) percent; and

(d) Increase of the total ground area covered by buildings by more than five (5) percent.

606.09-3 Final Plan Approval. The Planning Commission shall review the final development plan and shall approve the final development plan if it is in substantial compliance with the preliminary development plan. The Clerk of the Court in whose office deeds are conveyed will record the final development plan in the manner provided for recording plats or subdivisions.

606.10 Subdivision Plat Requirements. Final subdivision plats shall be submitted and recorded before the granting of building permits or before the sale of any lots. Subdivision plats may be submitted for portions of the project area in accordance with the phasing plan. Subdivision plats shall be drawn according to the following specifications:

(a) Subdivision plats shall be clearly and legibly drawn or printed at a suitable scale. A blank oblong space 3" x 5" shall be reserved on the cover sheet and a 1" x 5" space shall be reserved on subsequent sheets for use of the

approving authority;

(b) Subdivision plats shall show the accurate location and dimensions by bearing said distances with all curve data on all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites or other public areas; the number and area of all buildings sites; all existing public and private streets, their names, numbers and widths; existing and proposed easements for water, sewer, gas, power, telephone and other utilities; water courses and their names; names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries;

(c) Distances and bearings must balance and close with an accuracy of not less than one in ten thousand;

(d) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

606.10-1 Surveyor's Certificate. Every subdivision plat shall be prepared by a surveyor duly licensed by the State of Virginia, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the land subdivided, and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such tract, within an insert block or by means of a dotted boundary line upon the plat;

606.10-2 Owner's Statement. Every such plat, or the deed of dedication to which plat is attached, shall contain a statement to the effect that "the above and foregoing subdivision of (here insert the correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any," which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved as herein specified shall be filed and recorded in the office of the Clerk of the appropriate court, and indexed under the names of the landowners signing such statement and under the name of the subdivision;

606.10-3 Recording of Plat. The subdivider shall record the approved plat in the office of the Clerk within sixty (60) days after final approval, otherwise the Zoning Administrator shall mark the plat "void" and return the same to the subdivider. No lot shall be sold and the building permit shall not be issued until the plat has been approved and properly recorded.

606.11 Required Improvements. All improvements shown on the final development plan shall be installed by the developer at his cost. In cases where specifications have been established by state departments or local ordinances, such specifications shall be followed. The developer's performance bond shall not be released until

construction has been inspected and approved by the appropriate official. (Amended 4/13/2023)

606.11-1 Monuments. Monuments shall be provided to permanently identify lot and right-of-way lines;

606.11-2 Plans and Specifications. Two (2) blue or black line prints of the plans and specifications of all required physical improvements to be installed shall be prepared by a licensed engineer as certified by the State of Virginia and shall be submitted to the agent for review. The agent shall approve or disapprove of the construction plans within forty-five (45) days of submission. If approved, one (1) copy bearing certification of such approval shall be returned to the developer. If disapproved, all papers shall be returned to the developer with the reason for disapproval stated in writing;

606.11-3 Maintenance of Common Property. The developer shall create a property owners association to be responsible for maintaining all common property. The cost of maintaining common property shall be paid by property owner assessments and such assessments shall constitute a lien upon the individual properties;

606.11-4 Advertising and Sale. The developer shall not advertise for sale or sell any tract or lot within the project area until required surety bond has been posted with the Town and an approved plat has been properly recorded. Prospective property owners shall be informed of the homeowners responsibility, the entire project area development plan and the amount of officially approved water available to each lot in terms of gallons per day;

606.11-5 Changes in Final Development. No changes may be made in the approved final plan during the construction of the Planned Development except upon application to the appropriate agency under the procedures provided below:

(a) Minor changes in the location, setting, and character of buildings and structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the final plan was approved. No changes authorized by this section may increase the cubic volume of any building or structure by more than ten (10) percent;

(b) All other changes in use, and rearrangement of lots, blocks, and building tracts, any changes in the provisions of common open spaces, and all other changes in the approved final plan by the developer or any succeeding owner or agent must be made under the procedure authorized by this Ordinance. No amendments may be made in the approved final plans unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the community.

606.11-6 Development Schedule and Review. The construction and provision of all

facilities and improvements on common property, which are shown on the final development plan, must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan the Zoning Administrator shall review all of the building permits issued for the Planned Development and examine the construction which has taken place on the site. If he shall find that the rate at which facilities and improvements on common property have been constructed and provided, is not in accordance with the original development schedule, he shall forward this information to the Building Official who shall not issue any additional building permits until the scheduled facilities and improvements on common property have been provided;

606.11-7 Failure to Begin Development. If no construction has begun or no use established in the Planned Development within one year from the approval of the final development plan, the final development plan shall lapse and be of no further effect. In its discretion, and for good cause, the Planning Commission may, upon receipt of written application, extend for one additional year the period for the beginning of construction or the establishment of a use. If a final development plan lapses under the provisions of this section, the Clerk shall file a notice of revocation with the recorded subdivision plat. The zoning regulations applicable before the final development plan was approved shall then be in effect.

606.12 Effectual Clauses.

606.12-1 Authority. This Ordinance has been enacted under the authority granted under Chapter 22, Articles 6 and 7 of the Code of Virginia, 1950, as amended;

606.12-2 Validity. Should any article, section, subsection, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional;

606.12-3 Private Covenants. This Ordinance bears no relation to any private easement, covenant, agreement, or restriction nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this Ordinance calls for more restrictive standards than are required by private contract, the provisions of this Ordinance shall control;

606.12-4 Penalties. Any developer who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than one hundred ($100.00) for each dwelling unit proposed in the final development plan.

607.00 GENERAL BUSINESS DISTRICT B-1

607.01 Intent of the General Business District B-1. Generally, this District covers that portion of the Town intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, and garages and service stations. No manufactured homes or abandoned vehicles allowed. (Amended 11/8/2007)

607.02 Permitted Uses. Within the General Business District B-1 the following uses are permitted:

607.02-1 Department stores, variety stores, specialty shops, discount pawn shops, and appliance stores;

607.02-2 Bakeries with total building square footage not to exceed five thousand (5,000) square feet;

607.02-3 Motorcycle, bicycle, truck, trailer, farm implement, heavy equipment, aircraft and boat establishments for display, hire, sales and repair, including sales lots provided that all operations other than display and sales shall be conducted in a completely enclosed building; (Amended 9/14/2006)

607.02-4 Retail stores and shops, public establishments, general stores, country stores, convenience stores; (Amended 4/13/2023)

607.02-5 Theaters, assembly halls, playhouses and dinner theaters;

607.02-6 Hotels, inn/bed and breakfast houses;

607.02-7 Banks and loan and finance offices, including drive-in types;

607.02-8 Churches and other places of worship, and church school buildings;

607.02-9 Libraries;

607.02-10 Hospitals; (Amended 9/8/2016)

607.02-11 Funeral home and/or mortuary;

607.02-12 Automobile service stations and public garages (with major repair in enclosed building); (Amended 9/14/2006)

607.02-13 Clubs and lodges and other private establishments. (Amended 4/13/2023)

607.02-14 Automobile sales;

607.02-15 Child care centers;

607.02-16 Carpenter, electrical, plumbing, heating, appliance, bicycle, watch and shoe repair, residential painting, publishing, lithographing, upholstering, gunsmith or similar shops provided that any use shall be conducted within a commercially enclosed building and provided that no part of a building for such use shall have any opening other than stationary windows or required fire exits within one hundred (100) feet of any Residential District;

607.02-17 Public utility transmission Systems;

607.02-18 Public service and storage buildings;

607.02-19 Public utilities;

607.02-20 Restaurants including dairy product stores and soda fountains, and drive-in restaurants;

607.02-21 Newspaper offices and printing shops;

607.02-22 Business and professional offices;

607.02-23 Greenhouses;

607.02-24 Police, fire, and rescue squad stations;

607.02-25 Post offices;

607.02-26 Bus stations and taxi stands;

607.02-27 Radio and television broadcasting studios;

607.02-28 Public buildings and properties of a cultural, administrative, or service type;

607.02-29 Business and vocational schools;

607.02-30 Off-street parking as required by this Ordinance;

607.02-31 Signs as provided in Article 7;

607.02-32 Museums;

607.02-33 Picture frame manufacturing and assembling;

607.02-34 Recording studios, dance studios, and other music related instructional facilities;

607.02-35 Short-term rentals. (Adopted 4/13/2023)

607.03 Conditional Uses. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville, the following uses may be permitted with appropriate conditions:

607.03-1 Wholesale and processing not objectionable because of dust, noise, or odors;

607.03-2 Public establishments whose primary or secondary attraction(s) are pool halls, bowling alleys, dance halls, and similar forms of public amusement. "Pool halls" include businesses with billiards and/or pool tables whether the billiard/pool tables are coin operated or not, and whether the billiard/pool tables are regulation size or not. A "bowling alley" includes all facilities with bowling amusements within, whether they are regulation size, non-standard size, or those set up for stickpin/duckpin bowling. A "dance hall" means any place open to the general public where dancing is permitted. (Amended 4/13/2023)

607.03-3 Television and radio transmitting antennae;

607.03-4 Athletic fields, stadiums, and arenas;

607.03-5 Beverage manufacturing, bottling or distribution stations and food processing, packaging, or distribution stations;

607.03-6 Circuses, carnivals, fairs, and sideshows;

607.03-7 Drive-in theaters provided all parts of such drive-in shall be distant at least two hundred (200) feet from any Residential District and provided that the screen shall be located as not to be visible from adjacent streets or highways and it shall be set back not less than two hundred (200) feet from the established right-of-way of said street or highway;

607.03-8 Livestock market and sales pavilions;

607.03-9 Overnight recreational vehicle park;

607.03-10 Shooting range or gallery;

607.03-11 Wholesale business, storage or warehouse provided that any such use shall be distant at least fifty (50) feet from any Residential District;

607.03-12 Apartments in existing structures;

607.03-13 Kennels and animal hospitals provided that any structure or premise used for such purposes shall be located at least two hundred (200) feet from any residential lot;

607.03-14 Swimming pools, skating rinks, golf driving ranges, miniature golf courses, or similar recreational use or facility if located at least two hundred (200) feet from any residential lot;

607.03-15 One (1) or two (2) family dwellings with lot requirements being the same as R-2;

607.03-16 Lumber and building supply (with storage under cover or concealed from public view);

607.03-17 Plumbing and electrical supply (with storage under cover or concealed from public view);

607.03-18 Automobile painting, upholstering, rebuilding, reconditioning, and body and fender works.

607.03-19 Car wash, laundries, dry cleaning shops, and clothes dyeing establishments. (Amended 9/14/2006)

607.03-20 Adult/Sexually Oriented Businesses. (Amended 4/13/2023) In addition to all other requirements, any adult/sexually oriented business shall conform to the following requirements:

A. The business shall be located at least 750 feet away from any residential district, and at least 750 feet away from the property line of any land used for any of the following:

1) A school;

2) A residence;

3) A church or other place of worship;

4) A public park;

5) A child day care center;

6) A nursing home, assisted living facility, or similar institution;

7) An adult day care center;

8) A public library, museum or cultural center;

9) A hotel, motel or boardinghouse;

10) Any other adult/sexually oriented business.

B. Adult merchandise shall not be visible from any point outside the establishment.

C. Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 302.00

D. The business shall not begin service to the public or any outside activity before 6:00 a.m. Hours of operation for any adult movie theater, adult nightclub or other business providing adult entertainment shall not extend after 12:00 midnight. Hours of operation for any adult bookstore, adult video store, adult model studio, adult store or any other adult business except an adult motel shall not extend after 12:00 midnight.

E. In any adult business other than an adult motel or adult movie theater, there shall be no viewing of videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices, Internet sites or files transmitted over the Internet, or similar media characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 302.00, while on the premises.

F. Adult merchandise shall be located in a separate room or other area inaccessible to persons under 18 years of age.

G. All owners, managers, employees and entertainers shall be at least 18 years of age.

H. The owner or operator shall install, operate and maintain a security camera and video tape system designed by a security specialist. Surveillance cameras shall continuously monitor all entrances, parking areas and all areas of the establishment where the adult business is conducted, except for the sleeping rooms of an adult motel. Such cameras shall provide clear imagery of the establishment's patrons and their vehicles. Tapes recording activities in the areas under surveillance shall be preserved for a period of four months. Authorized representatives of the Timberville Police Department or the Timberville Zoning Administrator shall have access to such tapes upon request.

I. The owner or operator shall provide adequate lighting for all entrances, exits and parking areas serving the adult business, and all areas of the establishment where the adult business is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.

607.03-21 Places hosting skill games and the like. (Adopted 4/13/2023) In addition to all other requirements, Places hosting skill games shall conform to the following:

A. No public establishment shall have more than four (4) skill games operating for play at any one (1) time.

B. No establishment shall have the primary purpose of gaming or skill gaming.

C. No skill game shall allow a game play of more than three dollars ($3.00) per play.

D. No skill game shall allow a payout of more than three thousand dollars ($3,000.00) per play.

E. An establishment shall not allow a person under the age of eighteen (18) years to play a skill game.

607.03-22 Convenience or Retail Stores selling primarily tobacco, nicotine, cannabinoids, and/or their related products, accessories, and merchandise, also commonly referred to as “smoke shops”, “vape shops”, or “head shops” (hereinafter “smoke shops”). In addition to all other requirements, including those listed in Va. Code § 18.2-371.2 (banning the sale or use of tobacco, hemp, etc. related products to those under the age of 21), shall conform to the following:

A. Tobacco, nicotine, cannabinoids, and/or their related products, accessories, and merchandise shall not be visible from any point outside the establishment.

B. Hours of operation: the smoke shop business shall only operation from 6:00am to 11:00pm.

C. All owners, managers, and employees shall be at least 21 years of age.

D. No smoking shall be permitted on the premises at any time.

E. No distribution of free or low-cost tobacco, nicotine, cannabinoids and/or their related products, accessories, and merchandise, as well as coupons for said items, shall be permitted.

F. It is unlawful for a smoke shop to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop.

G. Smoke shops shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the smoke shop. It shall be unlawful for a smoke shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

H. The owner or operator shall install, operate and maintain a security camera and video tape system designed by a security specialist. Surveillance cameras shall continuously monitor all entrances, parking areas and all areas of the establishment where business is conducted. Such cameras shall provide clear imagery of the establishment's patrons and their vehicles. Tapes recording activities in the areas under surveillance shall be preserved for a period of four months. Authorized representatives of the Timberville Police Department or the Timberville Zoning Administrator shall have access to such tapes upon request.

I. The owner or operator shall provide adequate lighting for all entrances, exits and parking areas serving the business, and all areas of the establishment where the business is conducted. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.

J. Smoke shops that are legally existing on the effective date of this land use regulation may continue to operate, but shall still be required to obtain a conditional use permit.

607.03-23 Parking garages and parking lots; (Amended and adopted 8/8/2024)

607.03-24 Open Air Retail Facilities; (Amended and adopted 8/8/2024)

607.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following rules are applicable:

607.04-1 Living quarters in the main building of persons employed on the premises;

607.04-2 Private parking garage;

607.04-3 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

607.04-4 Signs as provided for in Article 7;

607.04-5 Parking as provided for in Article 7.

608.00 PLANNED BUSINESS DISTRICT B-2

608.01 Intent of the Planned Business District B-2. The B-2 Planned Business Zone is intended to permit the development of neighborhood business areas, under one ownership or control in those areas of the Town where there are areas of sufficient size in heavily populated sections and where sanitary sewers, street access, and public water supply are adequately provided. Within this District the location of buildings, design of buildings, parking areas and other open spaces shall be controlled in such a manner that it will not be a detriment to the adjoining residential property or to the neighborhood in general. No manufactured homes or abandoned vehicles permitted. (Amended 11/8/2007)

608.02 Permitted Uses. Within the Planned Business Zone, no building, structure, or premises shall be used and no building or structure shall be erected or altered until and unless the same has been approved by the Planning Commission and by the Governing Body in accordance with the provisions contained in Article 8, Section 802.00 and until and unless the following conditions have been complied with:

A. Uses permitted will be the same as those permitted in the B-I Zone.

B. There shall have been filed with the Planning Commission a written application for approval of a contemplated use within said District, which application shall be accompanied with the following information:

1) A plot plan indicating the location of present and proposed buildings, driveways, parking lots, landscaping, screening, and other necessary uses;

2) Preliminary architectural plans for the proposed building or buildings;

3) A description of the business operations proposed in sufficient detail to indicate the effects of those operations in producing excessive auto or traffic congestion or problems of noise, glare, odor, fire, or safety hazards, or other factors detrimental to the health, safety, and welfare of the area;

4) Engineering or architectural plans for the handling of any of the problems of the type outlined in number (3) above, including the handling of storm water and sewers and necessary plans for the controlling of smoke or other nuisances such as those enumerated under number (3) above;

5) Any other information the Planning Commission or the Governing Body may need to adequately consider the effect that the proposed uses may have upon the area, and/or the cost of providing municipal services to the area.

608.03 Area Regulations. In this District the area regulations, maximum lot coverage, height regulations, and off-street parking shall comply with the requirements of the B-1 District as stated in Article 7, Table 1.

608.03-1 There shall be a twenty five (25) foot setback from all streets and all adjoining residential property. This setback shall act as a buffer between the business and residential uses. It shall be fully landscaped and maintained with grass and with trees or shrubbery of sufficient height and density to serve as a screen between the business zone and the residential zone. The buffer zone shall not constitute a site-distance obstruction at street intersections. The buffer zone shall be considered as part of the lot area but shall not be used for any business purpose such as buildings, parking lots, signs, or any accessory use. The buffer zone, upon completion of development of the project shall be at or near the same grade or plane which existed prior to the development of the Planned Business District property, unless otherwise expressly reviewed and approved by the Planning Commission and by the Governing Body;

608.03-2 These restrictions shall not apply to that portion of the lot fronting on the major business thoroughfare or thoroughfares. Entrances to the property will be allowed from the arterial streets only.

608.04 Signs.

608.04-1 For each shopping center, one freestanding sign meeting the requirements of 705.04-2 I.;

608.04-2 For each individual business; one sign attached to the building having a maximum area of one (1) square foot for each linear foot of building frontage occupied by a single permitted use;

608.04-3 All other regulations of Article 7, Section 706.00 shall apply.

609.00 LIGHT INDUSTRIAL DISTRICT M-I

609.01 Intent of Light Industrial District M-l. The intent of the M-1 Industrial District is to accommodate industrial uses that provide desirable employment consistent with the goal of maintaining environmental quality. The M-1 District is to permit the manufacturing, compounding, processing, packaging, assembly, sales and/or treatment of finished or semifinished products from previously prepared material. No manufactured homes or abandoned vehicles permitted. (Amended 11/8/2007)

609.02 Permitted Uses. Within the Light Industrial District the following uses are permitted:

609.02-1 Assembly of electrical appliances, electronic instruments and devices, radios, and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders;

609.02-2 Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping or battery manufacture;

609.02-3 Blacksmith shop, welding or machine shop;

609.02-4 Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet soap, toiletries and food products when conducted within a completely enclosed building;

609.02-5 Manufacture, compounding, assembling or treatment 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 semiprecious metals or stones, shell, straw, textiles, tobacco, wood (excluding sawmill), yard, and paint, not involving a boiling process;

609.02-6 Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

609.02-7 Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

609.02-8 Carpenter, electrical, plumbing, heating, appliance, bicycle, watch and shoe repair, residential painting, publishing, lithographing, cabinets, furniture, upholstery, gunsmith, or similar shops;

609.02-9 Boat building;

609.02-10 Monumental stone works;

609.02-11 Public service or storage buildings;

609.02-12 Public utilities;

609.02-13 Public utility transmission systems;

609.02-14 Radio transmission tower not exceeding two hundred twenty-five (225) feet in height shall not be lighted and shall conform in design and coloring to the environment and pursuant to plans and specifications approved by the Zoning Administrator and Building Inspector;

609.02-15 Animal hospital, kennels;

609.02-16 Building material sales yards, plumbing supplies storage;

609.02-17 Coal and wood yards, lumber yards, feed and seed stores;

609.02-18 Contractor's equipment storage yards or plants or rental of equipment commonly used by contractors;

609.03 Conditional Use. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Timberville Governing Body finds as a fact that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Timberville, the following uses may be permitted with appropriate conditions:

609.03-1 Mining operations;

609.03-2 Laboratories-pharmaceutical and/or medical;

609.03-3 Manufacture, compounding, processing, packaging, or treatment of drugs or pharmaceuticals.

609.04 Accessory Uses. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized. The following rules are applicable:

609.04-1 Living quarters in the main structure of persons employed on the premises:

609.04-2 Private parking garage;

609.04-3 Temporary buildings for uses incidental to construction work, such buildings shall be removed upon completion or abandonment of the construction work;

609.04-4 Signs as provided for in Article 7;

609.04-5 Parking as provided for in Article 7.

609.05 Requirements for Use.

609.05-1 Before a building permit shall be issued or construction commenced on any permitted use in this District, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for recommendation. Modifications of the plans may be required;

609.05-2 Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three (3) feet, and to within fifty (50) feet from the corner of any intersecting streets;

609.05-3 Sufficient area shall be provided to: (a) adequately screen permitted uses from adjacent business and residential districts; and (b) for off-street parking of vehicles to the industry, its employees, and clients;

609.05-4 The Zoning Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

610.00 GENERAL INDUSTRIAL DISTRICT I-1

610.01 Intent of the General Industrial District I-1. The primary purpose of this District is to establish an area where the primary use of land is for industrial operations, which may create some nuisance, and which are not properly associated with, nor particularly compatible with residential, institutional, and commercial service establishments. The specific intent of this District is to: (a) encourage the construction of and the continued use of land for industrial purposes; (b) prohibit new residential and new commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation, or expansion of industrial type uses in the District; (c) encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance; and (6) to encourage industrial parks. No manufactured homes or abandoned vehicles permitted. (Amended 11/8/2007)

610.02 Permitted Uses. Within the General Industrial District I-1 the following uses are permitted:

610.02-1 Assembly of electrical appliances, electronic instruments and devices, radios, and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders;

610.02-2 Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping, or battery manufacture;

610.02-3 Blacksmith shop, welding or machine shop;

610.02-4 Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet soap, toiletries, and food products;

610.02-5 Manufacture, compounding, assembling or treatment 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, shell, straw, textiles, tobacco, wood, yarn, and paint, not including a boiling process;

610.02-6 Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

610.02-7 Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

610.02-8 Building material sales yards, plumbing supplies storage;

610.02-9 Coal and wood yards, lumber yards, feed and seed stores;

610.02-10 Contractors' equipment storage yards or plants, or rental of equipment commonly used by contractors;

610.02-11 Cabinets, furniture and upholstery shops;

610.02-12 Boat building;

610.02-13 Monumental stone works;

610.02-14 Wholesale businesses, storage warehouses;

610.02-15 Sawmills and planing mills;

610.02-16 Brick manufacture;

610.02-17 0ff-street parking as required by this Ordinance;

610.02-18 Public service or storage buildings;

610.02-19 Public utilities;

610.02-20 Public utility transmission systems;

610.02-21 Signs as provided in Article 7;

610.02-22 Radio transmission tower not exceeding two hundred twenty-five (225) feet in height shall not be lighted and shall conform in design and coloring to the environment and pursuant to plans and specifications approved by the Zoning Administrator and Building Inspector.

610.03 Conditional Uses. In General Industrial I-1, conditional use permits may be granted for one or more of the following uses:

610.03-1 Manufacture or production of aluminum;

610.03-2 Airports;

610.03-3 Truck terminals;

610.03-4 Sand and gravel operations;

610.03-5 Mining operations;

610.03-6 Petroleum storage;

610.03-7 Junk yards and automobile graveyards;

610.03-8 Manufacture, production, or processing of asphalt;

610.03-9 Laboratories-pharmaceutical and/or medical;

610.03-10 Manufacture, compounding, processing, packaging or treatment of drugs or pharmaceuticals.

610.04 Requirements for Permitted Uses in General Industrial District I-1:

610.04-1 Before a building permit shall be issued or construction commenced on any permitted uses in this District, or a permit issued for a new use, the plans in sufficient detail to show the operations and processes shall be submitted to the Zoning Administer for study. The Administrator may refer these plans to the Planning Commission for recommendation. Modifications of the plan may be required;

610.04-2 Final grading and site finishing are required on parcels where uses are permitted in this District. The execution for this requirement must take into consideration traffic hazards. Landscaping will be restricted to a height of three (3) feet within fifty (50) feet of the intersection of two (2) roads;

610.04-3 The Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

611.00 FLOOD HAZARD DISTRICT FH-1

611.01 Intent of the Flood Hazard District FH-1. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

a) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

b) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

c) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,

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

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

611.03 Compliance and Liability

a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

b) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. 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 district will be free from flooding or flood damages.

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

d) This ordinance shall not create liability on the part of the Town of Timberville or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

611.04 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.

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

611.06 DEFINITIONS

a) Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

b) Base flood elevation - The Federal Emergency Management Agency designated one hundred (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.

b) Breakaway wall -A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

c) Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging,

filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

d) Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

e) Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

f) Flood or flooding -

1. A general or temporary condition of partial or complete inundation of normally dry land areas from

a. the overflow of inland or tidal waters; or,

b. the unusual and rapid accumulation or runoff of surface waters from any source.

2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

g) Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

h) 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.

i) Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

j) Historic structure - Any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either

a. by an approved state program as determined by the Secretary of the Interior; or,

b. directly by the Secretary of the Interior in states without approved programs.

k) Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

l) Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than 180 consecutive days.

m) New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective

date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

n) Recreational vehicle - A vehicle which is

1. built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. designed to be self-propelled or permanently towable by a light duty truck; and,

4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

o) Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

p) Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.

q) Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

s) Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

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

612.00 ESTABLISHMENT OF ZONING DISTRICTS

612.1 Basis of Districts. The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the Town of Timberville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 6, 2008, as amended.

a) The Special Floodplain District shall be those areas identified as either an AE Zone or A1-30 zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.

b) The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.

c) The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

612.2 Overlay Concept

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

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

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

612.3 Official Zoning Map. The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Town of Timberville's offices.

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

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

613.00 DISTRICT PROVISIONS

613.1 Permit and Application Requirements

a) Permit Requirement

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 the Ordinance and with all other applicable codes and ordinances, as amended and the Town of Timberville

Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws.

b) Site Plans and Permit Applications

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

1. 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.

613.2 General Standards. In all special flood hazard areas the following provisions shall apply:

a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

k) In riverine situations, adjacent communities and the Department of Conservation and Recreation (Department of Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.

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

613.3 Specific Standards. In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.4 (A), the following provisions shall apply:

a) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 2 feet above the base flood elevation.

b) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than 2 feet above the base flood elevation. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

c) Elevated Buildings

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

3. include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

    a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

    b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

    c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

    d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

    e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

    f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

d) Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured

home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B), and section 4.3 (A).

2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that

   a. the lowest floor of the manufactured home is elevated no lower than 2 feet above the base flood elevation; or,

   b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;

   c. the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;

3. All recreational vehicles placed on sites must either

   a. be on the site for fewer than 180 consecutive days;

   b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,

   c. meet all the requirements for manufactured homes in Article 4, section 4.3 (D).

613.4 Standards for Approximated Floodplain. The following provisions shall apply within the Approximate Floodplain District:

a) When base flood elevation data or floodway data have not been provided, the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of Article 4. When such base flood elevation data is utilized, the Zoning Administrator shall obtain

   1. the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,

2. if the structure has been floodproofed in accordance with the requirements of Article 4, Section 4.3 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been floodproofed.

b) When the data is not available from any source as in Article 4, Section 4.4 (A), the lowest floor of the structure shall be elevated to no lower than 2 feet above the highest adjacent grade.

613.5 Standards for the Special Floodplain District. The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Timberville.

Development activities in Zones Al-30, AE, and AH, on the Town of Timberville's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Town of Timberville's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

613.6 Standards for the Floodway. The following provisions shall apply within the Floodway when it has been identified as in Section 4.4 (A):

a) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

Development activities in which increase the water surface elevation of the base flood be allowed, provided that the applicant first applies – with the Town of Timberville's endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

b) If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

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

613.7 Standards for the Shallow Flooding District. The following provisions shall apply within the Shallow Flooding District:

a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than three feet above the highest adjacent grade.

b) All new construction and substantial improvements of non-residential structures shall

1. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade; or,

2. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

613.8 Standards for Subdivision Proposals

a) All subdivision proposals shall be consistent with the need to minimize flood damage;

b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

d) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

614.00 VARIANCES: FACTORS TO BE CONSIDERED

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

a) The showing of good and sufficient cause.

b) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

c) The danger that materials may be swept on to other lands or downstream to the injury of others.

d) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

e) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

f) The importance of the services provided by the proposed facility to the community.

g) The requirements of the facility for a waterfront location.

h) The availability of alternative locations not subject to flooding for the proposed use.

i) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

j) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

k) The safety of access by ordinary and emergency vehicles to the property in time of flood.

l) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

m) 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.

n) Such other factors which are relevant to the purposes of this ordinance.

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

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

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional 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 (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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

ARTICLE 7
USE REGULATIONS

701.00 AREA REGULATIONS

Area and density regulations are provided by District in the Lot Regulations, Table 1 and Table 2

701.01 Modification of Yard Requirements. Yard requirements may be modified to provide:

701.01-1 An unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet;

701.01-2 Decks and patios must meet all side and rear yard setback requirements and may not occupy more than 30% of the required yard; (Amended 5/11/2006)

701.01-3 Minimum setback requirements of this Ordinance for yards facing streets shall not apply to any lot where the average setback on developed lots, within the same block and zoning district, and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the existing developed lots;

701.01-4 Signs advertising sale or rent of premises may be erected up to the property line.

701.02 Special Provisions for Corner Lots in Residential Districts.

701.02-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets but dwellings may be oriented facing the side street if it provides a better use and appearance of the lot (Amended 4/13/2023);

701.02-2 The side yard on the side facing the side street shall be twenty-five (25) feet or more for both main and accessory buildings;

701.02-3 For subdivisions platted after the enactment of this Ordinance, each corner lot shall have a minimum width at the setback line of one hundred twenty-five (125) feet or more.

701.03 Conditional Height Regulation.

701.03-1 The height limits may be increased upon approval by the Board of Zoning Appeals after public hearing, provided there are two (2) side yards for each permitted use, each of which is ten (10) feet or more, plus one (1) foot or more per side yard for each additional foot of building height over thirty-five (35) feet;

701.03-2 A public or semipublic building, such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet;

701.03-3 Church spires, belfries, cupolas, monuments, water, silo, barns, towers, chimneys, flues, flag poles, television and radio antenna are exempt, except for those structures exceeding two hundred (200) feet in height where written approval from the Federal Aviation Administration is necessary. Parapet wall may be up to four (4) feet above the height of the building on which the walls rest.

702.00 ADDITIONAL BUILDINGS ON A SINGLE LOT

After review of an application, additional buildings on the same lot or parcel of land may be permitted.

702.01 Additional Dwellings. Additional dwellings on a single lot may be permitted provided that:

702.01-1 Additional dwellings conform to the minimum lot area, minimum lot width, maximum lot coverage, and yard requirements;

702.01-2 The arrangement of such additional dwellings is in such a manner so that if the lot or parcel of land is ever subdivided, no substandard lots are created.

702.02 Temporary Buildings. Temporary buildings used in conjunction with construction work only may be permitted in any district but shall be removed immediately upon completion or abandonment of construction. Semi-trailers used for storage and portable toilets are deemed temporary buildings. (Amended 11/11/2004)

702.03 Accessory Buildings. The location of accessory buildings and uses must meet the following conditions:

702.03-1 Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main buildings or such accessory building shall be attached to the main building in a substantial manner by a roof and, therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building;

702.03-2 A detached accessory building shall be located as prescribed in Table 1 for the district in which the lot is located;

702.03-3 A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard;

702.03-4 No detached accessory building may be located in the front yard of a lot.

702.03-5 An accessory building, if not attached to another accessory building, must be a minimum distance of five (5) feet from any other accessory building. (Amended 5/11/2006)

TABLE 7-1
TIMBERVILLE LOT REGULATIONS BY DISTRICT
(See page 7-4 for Explanatory Notes)

DISTRICT	PERMITTED USE	MINIMUM LOT REQUIREMENTS				MINIMUM YARD REQUIREMENTS				ACCESSORY BUILDINGS & USES MINIMUM DISTANCE TO				OTHER REQUIRE-MENTS
		PUBLIC WATER & SEWER (square feet)	NON-PUBLIC WATER & SEWER	SET BACK[I]	FRONTAGE AT SETBACK LINE	ONE SIDE[L]	TWO SIDES	REAR	MAXIMUM HEIGHT **A,B,C**	PRINCIPAL BUILDING[O]	SIDE LOT LINE	REAR LOT LINE	HEIGHT **D,E**	
A-1[K] LIMITED AGRICULTURAL	Ag. Production Associated Uses	20,000	N/A	N/A	100'	10'	20'	35'	35'	20'	10'	10'	60'	
R-1 LOW DENSITY RESIDENTIAL	Single Family	10,000	20,000	30'	100'	10'	25'	30'	35'	10'	10'	10'	35'	
R-2 RESIDENTIAL	Single Family[P] Duplex – Single Ownership Duplex – Dual Ownership	7,500 10,000 10,000	15,000 15,000 15,000	30' 30' 30'	75' 75' 75'	10' 10' 10'[M]	20' 20' N/A	25' 25' 25'	35' 35' 35'	10' 10' 10'	5' 5' 5'	5' 5' 5'	35' 20' 20'	
R-3 MEDIUM DENSITY RESIDENTIAL	Single Family Duplex – Single Ownership Duplex – Dual Ownership Multi-Family Townhouse	10,000 10,000 10,000 3,000 ea. + 3,000 ea. +	20,000 20,000 20,000 20,000 20,000	30' 30' 30' 30' 30'	75' 75' 75' 75' 20'[N]	10' 10' 10'[M] 10' 10'[M]	20' 20' N/A 20' N/A	25' 25' 25' 25' 25'	35' 35' 35' 35' 35'	10' 10' 10' 10' 10'	5' 5' 5' 5' 5'	5' 5' 5' 5' 5'	35' 20' 20' 35' 35'	Max. Density 10 Units/acre Section 708.00
R-4 RESIDENTIAL	Manufactured Home & Park Subdivision	(see Table 2)	--	--	--	--	--	--	--	--	--	--	--	
R-5 PLANNED UNIT DEVELOPMENT	Single Family Duplex – Single Ownership Duplex – Dual Ownership Multi-Family Townhouse	10,000 10,000 10,000 3,000 ea. + 3,000 ea. +	N/A	30' 30' 30' 30' 30'	75' 75' 75' 75' 20'[N]	10' 10' 10'[M] 10' 10'[M]	20' 20' N/A 20' N/A	25' 25' 25' 25' 25'	35' 35' 35' 35' 35'	10' 10' 10' 10' 10'	5' 5' 5' 5' 5'	5' 5' 5' 5' 5'	35' 20' 20' 35' 35'	Max. Density 10 Units/acre Section 708.00
B-1[H] GENERAL BUSINESS	Commercial Development	None	G	J	J	10'	20'	20'	35'	20'	20'	20'	35'	
B-2[H] PLANNED BUSINESS	Commercial Development	None	G	J	J	10'	20'	20'	35'	20'	20'	20'	35'	Detailed Plan[F] Required
M-1 LIGHT INDUSTRIAL	Light Industrial	None	G	30'	N/A	25'	50'	25'	45'	40'	20'	20'	45'	
I-1 GENERAL INDUSTRIAL	Industrial	None	G	30'	N/A	25'	50'	25'	45'	40'	20'	20'	45'	

TABLE 7-1 EXPLANATORY NOTES

A. The height limit for dwellings may be increased up to a total of 45 feet and up to 3 stories provided each side yard is 20 feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.

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 1 foot for each foot in height over 35 feet.

C. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antenna and radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest.

D. Accessory buildings over one story in height shall be at least 10 feet from any lot line. All accessory buildings shall not exceed the main building in height.

E. For buildings over 45 feet in height, approval shall be obtained from the administrator. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities, not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to 4 feet above the limited height of the building on which the walls rest.

F. Densities and use variations are approvable based upon the plan submitted for the proposed development.

G. For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the Health Official. The administrator shall require greater area as considered necessary by the health official.

H. Property located in a business district, which adjoins any residential district, or is separated from any residential district only by a public street or way, shall have a 10-foot side yard on the side or sides adjoining or adjacent to the residential district.

I. Minimum setback requirements of this Ordinance, for yards facing streets, shall not apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots (Amended 9/9/99).

J. Buildings shall be located 5 feet or more from any street right-of-way not having sidewalk facilities or 30 feet or more from the center line of any street right-of-way less than 50 feet in width, except that signs advertising sale or rent of premises may be erected up to the property line. There shall be no setback for buildings in this district adjoining a sidewalk. This shall be known as the "setback line". Any business adjoining a residential district must have a setback equal to half of the residential requirement.

K. Assumes farm dwelling as "Single Structural Use."

L. Add 15 feet to side-street side on corner lots (Amended 9/9/99).

M. End dwellings (Added 9/9/99).

N. End dwellings/Interior dwellings (Added 9/9/99).

O. Carports, which are roofed structures with 3 or 4 open sides, can be any distance from a house; however, they must meet the side yard requirements (Added 9/9/99).

P. An accessory permit must be obtained if a single-family house is made into two (2) dwelling units (Added 9/9/99).

TABLE 7-2

TOWN OF TIMBERVILLE
LOT REGULATIONS FOR MANUFACTURED HOMES, PARKS, AND SUBDIVISIONS

	MANUFACTURED HOME PARK	LOT SIZE WITHIN PARK	MANUFACTURED HOME SUBDIVISION	SUBDIVISION MANUFACTURED HOME LOT
Area	130,680 square feet (3 acres)	4,000 square feet	435,600 square feet (10 acres)	6,000 square feet
Setback (see 701.01-3)	25 feet	N/A	25 feet	20 feet
Frontage at the Setback Line	150 feet	50 feet	150 feet	50 feet
Yard:				
One Side	25 feet	10 feet	25 feet	12 feet
Both Sides	50 feet	25 feet	50 feet	24 feet
Rear	25 feet	10 feet	25 feet	20 feet
Height	35 feet	35 feet	35 feet	35 feet
Accessory Buildings	35 feet in height	Not to exceed height of manufactured home	35 feet in height	35 feet in height

703.00 OFF-STREET PARKING

Off-street automobile storage or parking space shall be provided on every lot on which any permitted or conditional use is established in accordance with this Ordinance.

703.01 General Requirements. For the purpose of this Ordinance, the following general requirements are specified:

703.01-1 The term "off-street parking space" shall mean a space at least ten (10) feet wide and twenty (20) feet in length with a minimum net area of two hundred (200) square feet, excluding area for egress and ingress and maneuvering of vehicles. A minimum of twenty-two (22) feet between parking rows back-to-back shall be clear for maneuvering into and out of parking spaces;

703.01-2 Parking spaces for all dwellings shall be located on the same lot with the main buildings to be served;

703.01-3 If an off-street parking space cannot be reasonably provided on the same lot on which the main use is conducted, such space may be provided on other off-street property, provided such space lies within six hundred (600) feet of the property line of such main use;

703.01-4 The required number of parking spaces for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use at the same time;

703.01-5 Area reserved for off-street parking in accordance with the requirements of this Ordinance shall not be reduced in the area, encroached upon or changed to any other use unless the use which it serves is discontinued or modified;

703.01-6 Off-street parking, existing at the effective date of this Ordinance in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or use. Existing off-street parking that is provided in an amount less than the requirements stated hereinafter shall not be further reduced.

703.02 Site Requirements. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements:

703.02-1 Any off-street parking areas for more than five (5) vehicles shall be surfaced with an asphaltic, bituminous, cement or other properly bound pavement so as to provide a durable and dustless surface;

703.02-2 Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in a residential district. Excluded from this requirement are private driveways and parking lots which have five (5) or less parking spaces;

703.02-3 Off-street facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys, and surfaced with erosion-resistant material in accordance with applicable specifications. Off-street parking area shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies;

703.02-4 Off-street parking spaces in commercial and industrial districts and residential districts with more than five (5) spaces shall be clearly marked by painted lines, curbs, or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation;

703.02-5 Access to the parking lot from adjacent streets shall be provided in accordance with the following requirements or as required by the Virginia Department of Transportation:

A. Access shall be provided by means of not more than two (2) driveways for the first one hundred twenty (120) feet of frontage along any one (1) street, and shall have not more than one (1) additional driveway for each additional one hundred fifty (150) feet of street frontage.

B. Entrances or exits shall have access widths along the edge of the street pavement of not more than forty (40) feet as measured parallel to the street, and shall be located not closer than twenty (20) feet to street intersections nor ten (10) feet to adjoining property lines.

C. Access driveways shall not be closer than twenty (20) feet from adjacent driveways at any point from the edge of the pavement to the right-of-way line.

703.03 Parking Space Requirements for All Districts. In all districts, there shall be provided off-street automobile storage or parking space with vehicular access to a street or alley, and shall be equal in area to at least the minimum requirement for the specific land use set forth.

703.03-1 Dwellings:

LAND USE	PARKING REQUIREMENTS
A. One (1) and two (2) families	Two (2) spaces for each dwelling unit
B. Multi-family, townhouses	Two (2) spaces per dwelling unit
C. Hotels, motels, inns-bed and breakfast	One (1) space for each bedroom plus one (1) additional space for each two (2) employees
D. Manufactured home parks/subdivisions	Two (2) spaces per manufactured home
E. Travel trailer parks	One (1) space for each travel trailer, motor home, or camper
F. Boarding and rooming houses, dormitories	One (1) space for each bedroom

703.03-2 Public Assembly:

LAND USE	PARKING REQUIREMENTS
A. Newly constructed churches and other places of worship	One (1) space for each ten (10) seats in the main auditorium or sanctuary
B. Private clubs, lodges, and fraternal or sororal buildings not providing overnight accommodations	One (1) space for each six hundred (600) square feet
C. Theaters, auditoriums, coliseums, stadiums, and similar places of assembly	One (1) space for each ten (10) seats
D. Schools, including kindergartens, playschools, and day care centers	One (1) space for each four (4) seats in assembly hall, or one (1) space for each employee, including teachers and administrators, plus five (5) spaces per classroom for high school and colleges, whichever is greater
E. Skating rinks, dance halls, exhibition halls, pool rooms, and other places of amusement or assembly without fixed seating arrangements	One (1) space for each two hundred (200) square feet of floor area
F. Bowling alleys	Two (2) spaces for each alley
G. Libraries, museums	One (1) space for each five hundred (500) square feet of gross floor area

703.03-3 Health Facilities:

LAND USE	PARKING REQUIREMENTS
A. Hospitals and similar uses	One (1) space for each two (2) beds, plus one (1) space for each staff doctor, plus one (1) space for each four (4) employees on the maximum working shift
B. Kennels and animal hospitals	A net parking area equal to thirty (30) percent of the total enclosed or covered area
C. Medical, dental, and health offices and clinics	At least ten (10) spaces. Three (3) additional parking spaces shall be furnished for each doctor and dentist having offices in such clinics in excess of three (3) doctors or dentists plus one (1) space per each two (2) staff and employees.
D. Homes for adults and similar uses	One (1) space for each four (4) beds plus one (1) space for every three (3) employees

703.03-4 Businesses:

LAND USE	PARKING REQUIREMENTS
A. Automobile repair establishments	One (1) space for each three hundred (300) square feet with a minimum of ten (10) spaces
B. Food stores	One (1) space for each two hundred (200) square feet of floor area designated for retail sales only.
C. Restaurants, including bars, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments	One (1) space for each four (4) seats provided for patron use, plus one (1) space per employee on average shift
D. Office buildings, including banks, business, commercial and professional offices and buildings but not including medical, dental, and health offices and clinics	One (1) space for each three hundred (300) square feet of ground floor area, plus one (1) space for each five hundred (500) square feet of upper floor space
E. General business, commercial or personal service establishments catering to the retail trade	One (1) space for each two hundred (200) square feet of floor area designated for retail sales
F. Governmental offices	One (1) space for each three hundred (300) square feet of ground floor area, plus one (1) space for each five hundred (500) square feet of upper floor area and one (1) space for each governmental vehicle
G. Shopping centers	One (1) space per two hundred (200) square feet or retail sales area
H. Furniture stores	One (1) space for each one thousand (1,000) square feet of gross floor area
I. Public utilities, such as telephone exchanges and substations, radio and television stations, and electric power and gas substations	One (1) space for each employee on the maximum shift plus a parking area equal to twenty-five (25) percent of the gross floor area
J. Mortuaries and funeral parlors	Five (5) spaces per parlor unit or chapel unit, or one (1) space per four (4) seats, whichever is greater

703.03-5 Industries:

LAND USE	PARKING REQUIREMENTS
A. Manufacturing and industrial establishments not catering to the retail trade	One (1) space for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle or mobile equipment operating from the premises
B. Wholesale establishments	One (1) space for every fifty (50) square feet of customer service area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises

703.04 Off-Street Loading and Unloading Space. Off-street loading and unloading spaces shall be provided as hereinafter required by this Ordinance.

703.04-1 Floor area over ten thousand (10,000) square feet. There shall be provided for each hospital, hotel, commercial, or industrial building, or similar use requiring the receipt or distribution of materials or merchandise, and having a floor area of more than ten thousand (10,000) square feet, at least one (1) off-street loading space for each ten thousand (10,000) square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley;

703.04-2 Floor area less than ten thousand (10,000) square feet. There shall be provided for each hospital, hotel, commercial, or industrial building requiring receipt or distribution of materials or merchandise and having a floor area of less than ten thousand (10,000) square feet, sufficient off-street loading space (not necessarily a full space if shared by an adjacent establishment) so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley;

703.04-3 Size of off-street loading spaces shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty (50) feet in length;

703.04-4 Connection to Road or Alley. Each required off-street loading space shall have direct access to a road or alley or have a driveway which offers satisfactory ingress and egress for trucks;

703.04-5 Permanent Reservation. Area reserved for off-street loading in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the use which is served is discontinued or modified, except where equivalent loading space is first provided that meets the requirements herein.

704.00 HOME OCCUPATIONS

This Ordinance uses a permit approach to the control of home occupations. The use of permits is to insure compatibility of home occupations with surrounding residential uses. Custom or traditions are not to be considered as criteria for the evaluation of home occupations. The Planning Commission shall have approval authority for home occupations. (Amended & adopted 8/8/2024)

704.01 Special Requirements. Home occupation, where permitted, must meet the following special requirements:

704.01-1 The applicant must be the owner of the property on which the home occupation is to be located, or must have written approval of the owner of the property if the applicant is a tenant;

704.01-2 The home occupation shall be operated only by the members of the family residing on the premises and no article or service shall be sold or offered for sale except as may be produced by members of the family residing on the premises;

704.01-3 The home occupation, when restricted to the main building, shall not occupy more than fifty (50) percent of the floor area within said building;

704.01-4 The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, radioactivity, or other conditions detrimental to the character of the surrounding area, and in general, shall give no evidence of nonresidential character of use other than through the use of a sign meeting requirements for professional name plates, as stipulated in Section 705.03-3;

704.01-5 The building in which the home occupation is to be located must be an existing structure ready for occupancy and not a proposed structure;

704.01-6 Additional off-street parking may be required by the Zoning Administrator after review of the application;

704.01-7 The applicant for a home occupation permit shall present evidence that the Timberville Fire Department has reviewed the proposed use of the structure. If necessary, the applicant must obtain Health Department approval (Amended 9/9/99);

704.02 Expiration and Revocation. A Zoning Permit for home occupations shall expire or be revoked under the following conditions:

704.02-1 Whenever the applicant ceases to occupy the premises for which the home occupation permit was issued. No subsequent occupant of such premises shall engage in any home occupation until he shall have been issued a new permit after proper application;

704.02-2 Whenever the holder of such a permit fails to exercise the same for any period of six (6) consecutive months;

704.02-3 Whenever the Governing Body finds that the holder of the permit has violated the conditions of the permit for one (1) or more of the "special requirements in Section 704.00.

705.00 SIGNS

705.01 Intent. The purpose of the following sign requirements is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the scenic and natural beauty of the Town of Timberville. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public right-of-way, provide more open space, curb the deterioration of the natural environment, and enhance community development.

705.02 General Requirements.

705.02-1 Except as provided in Section 705.03 below no outdoor advertising sign or structure shall be erected without a Zoning Permit. Failure to adhere to the requirements of this Ordinance automatically cancels such permit and said structure shall be removed forthwith; (Corrected 9/8/2016).

705.02-2 For the purpose of computing sign area, only one (1) side of a "V-type" or double-faced sign shall be considered;

705.02-3 Roof top signs or roof top sign structures shall not extend more than twenty (20) feet above the roof line. Roof top signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured;

705.02-4 No sign or sign structure shall be located in such a manner as to materially impede the view of any road intersection, or in such a manner as to materially impede the view of the intersection of a road with a railroad grade crossing, or be located as to impede the safe flow of traffic;

705.02-5 No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape;

705.02-6 No portion of any sign structure except official road markers, which shall adhere to the applicable state and local laws, shall be less than ten (10) feet above the level of an adjacent sidewalk or other pedestrian thoroughfare, no less than sixteen (16) feet above the level of an adjacent public driveway, alley or street;

705.02-7 All signs, whether permanent or temporary, shall comply with the applicable requirements of the Building Code;

705.02-8 In the event any sign is to be relocated, it shall be required that the owner of said sign obtain a new Zoning Permit;

705.02-9 All sign structures may be erected up to a height of thirty-five (35) feet; (Amended 9/14/2006)

705.02-10 All signs coming within the jurisdiction of State and Federal laws along Interstate highway and Federal-aid primary highway systems shall conform to said laws in lieu of any other sign regulations in this Ordinance;

705.02-11 All signs in existence at the time of the passage of this Ordinance, which do not conform to this Ordinance, shall be classified as nonconforming, but may be continued providing they are properly maintained during the life of such advertisement or advertising structure;

705.02-12 Informational signs of a public or quasi-public nature identifying or locating civic, educational, or cultural purpose, and signs drawing attention to public parking lots, restrooms, or to other public convenience relating to such places or activities are permitted. Such signs shall not exceed an area of six (6) square feet, shall not be illuminated, shall contain no advertising matter, and shall be set back not less than five (5) feet from the fronting highway. Nothing contained herein shall be construed to limit the effect of Section 705.02-13; (Corrected 9/8/2016).

705.02-13 Official notices or signs posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties, or by trustees under deeds of trust, deeds of assignment, or other similar instruments. Such signs shall not exceed an area of six (6) square feet, shall not be illuminated, and shall contain no advertising matter other than that which may be required by law.

705.03 Permissible Signs in All Districts. The following signs are allowed in all districts and shall be exempt from permit requirements:

705.03-1 Real estate signs advertising sale, rental, or lease of the land or building upon which signs are located provided that:

A. In residential districts, real estate signs shall not be in excess of six (6) square feet;

B. In business districts, there shall be no sign in excess of thirty-two (32) square feet and no more than three (3) such signs on any single lot;

C. In industrial districts, there shall be no sign in excess of ninety (90) square feet and no more than three (3) such signs on any single lot;

705.03-2 Directional signs for parks and playgrounds and other permitted nonresidential uses, provided that such signs shall not exceed four (4) square feet in area;

705.03-3 Professional name plates not exceeding two (2) square feet in area, such signs to be non-illuminated;

705.03-4 One (1) sign or bulletin board indicating the name of the institution or civic association not exceeding ten (10) square feet in area on premises of public or semipublic facilities;

705.03-5 Signs located on the premises relating to active construction projects;

705.03-6 Memorial signs or tablets, including names of buildings and date of erection when cut into masonry, bronze, or other materials;

705.03-7 Traffic or other public signs or notices posted or erected by or at the direction of a governmental agency;

705.03-8 Customary signs, in conjunction with residential usage, including mailbox lettering, names of residents, house number, names of farms and estates, and other similar usage not exceeding ten (10) square feet;

705.03-9 One (1) subdivision identification sign at the main entrance or entrances to the subdivision provided that such sign shall not exceed one hundred (100) square feet, may be illuminated, shall be so designed as to be in the public interest, and shall make no reference to the sale or lease of the lots or houses located within said identified subdivision;

705.03-10 Temporary signs, including political advertisements:

A. Not allowed longer than sixty (60) days.

B. Shall be removed by sign owner within five (5) days after the date of the event or activity to which the sign makes reference, or if he fails to do so, by the Zoning Administrator at the owner's expense, five (5) days following registered notification of the owner.

C. No temporary sign shall exceed thirty-two (32) square feet per sign area.

D. All portable and vehicular signs shall adhere to the requirements set forth herein except for those signs not exceeding forty (40) square feet and attached to vehicles which are used primarily for other purposes than displaying an outdoor advertising sign.

E. Yard sale signs are permitted within five hundred (500) feet of location of yard sale. Signs will not exceed four (4) square feet. Signs will not be erected more than seven (7) days prior to the date of the yard sale and must be removed by owner within twenty-four (24) hours of the close of the yard sale. Restrictions of Section 705.06-5 apply.

705.04 Signs as Permitted Uses. The following signs are permitted uses in the following districts without a public hearing:

705.04-1 Residential Districts. Within any residential district, the following signs are permitted:

A. One (1) sign for each subdivision relating to the sale of property within said subdivision, provided that such sign shall be within said subdivision, shall not exceed thirty-two (32) square feet per sign area, shall not be illuminated, shall be maintained at subdivider's expense, and shall be removed by subdivider when eighty (80) percent of the lots in said subdivision are sold.

B. Where multi-family dwellings are a permitted use, one (1) sign for identifying multi-family dwellings of more than six (6) units, provided that such sign shall be located only on the premises of the multi-family dwellings, shall not exceed nine (9) square feet in area, shall indicate nothing other than the name and/or address of the premises and the name of

the management, and may be illuminated only by indirect illumination.

C. Directional signs for parks and playgrounds and other permitted nonresidential use, provided that such signs shall not exceed four (4) square feet in area, shall be within one (1) mile of the use, and shall not be illuminated.

705.04-2 Business Districts. Within any Business District, the following signs are permitted:

A. One-Story Buildings - The total area of all signs facing a street, alley, or parking area shall not exceed two (2) square feet for each foot of building width facing such street, alley, or parking area;

B. First Floor Businesses in Multi-Story Buildings - The total area of all signs facing a street, alley, or parking area shall not exceed two (2) square feet for each foot of building width facing such street, alley, or parking area, provided that all such signs shall be kept within a height of twenty (20) feet above the sidewalk;

C. Upper Stories of Multi-Story Buildings Containing One (1) or More Businesses Above the First Floor - The total area of all signs facing a street, alley, or parking area on any wall above the twenty (20) foot height specified in 705.04-2B above shall not exceed forty (40) square feet or one-fortieth (1/40) of the area of that wall above such twenty (20) foot height, whichever is greater;

D. Multi-Story Buildings Occupied by One (1) Business Only. Where entire buildings over one (1) story in height are occupied by one (1) business, a total sign area of one hundred (100) square feet facing any street, alley, or parking areas, or of one-fortieth (1/40) of the wall area facing such street, alley, or parking area, whichever is greater, may be substituted for the allowable sign areas specified in 705.04-2B and 705.04-2C above, and in such case, the sign may be located without regard to the twenty (20) foot height provisions contained in 705.04-2B above;

E. Signs Hung on Marquees - No sign shall be hung on a marquee, canopy, or portico if said sign shall extend beyond the established setback line. The area of any such sign shall be included in determining the total area of signs erected or displayed;

F. Projection and Height of Signs - A sign may be erected or displayed flat against a wall or at an angle thereto, but no sign shall project beyond the established setback line. The bottom of a sign, the area of which extends six (6) square feet, erected flat against a wall, shall not be less than eight (8) feet above the sidewalk, alley, or parking area. The bottom of a sign projecting from a wall shall not be less than ten (10) feet above a walkway or parking area, nor less than fourteen (14) feet above an alley;

G. Roof Signs - Roof signs, not exceeding a total area of one hundred (100) square feet, may be erected or displayed in the B-I Business District only, provided that the area of any roof sign shall be included in the total area of signs permitted by this section and shall not be in addition thereto. Roof top signs or roof top sign structures shall not extend above the highest point of the structure. Roof top signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured; (Amended 9/8/2016).

H. Freestanding Signs - Freestanding signs upon a lot may be erected or displayed only where drive-in service or parking is provided, leaving a distance between the building and a side lotline of twenty-five (25) feet or more, or where a building is setback twenty-five (25) feet or more from the front lotline, provided that not more than two (2) such freestanding signs shall be permitted for any building or building unit having a street frontage with such drive-in service area, parking area, or building setback. No signs other than those indicated on the sign application shall be attached to a freestanding sign. Freestanding signs shall be monument style with dimensions no larger than eight (8) feet in height by twenty (20) feet in width and shall be erected no higher than ten (10) feet above grade, nor project beyond the established setback line. A single cylindrical or rectangular pole as a sign base is prohibited. The maximum base height of a monument sign shall be no more than 3 feet or 2/5 the height of the sign face, whichever is less. Freestanding signs may be erected up to twenty-five (25) feet in height with a conditional use permit. Where signs are erected as freestanding signs upon the lot, the total area of all signs permitted by this section shall be two (2) square feet for each foot of lot frontage, provided that signs erected or displayed on any building or buildings on such lot shall conform to the requirements and restrictions contained in the other paragraphs of the section; (Amended 4/13/2023).

I. Identification Signs - Identification signs for shopping centers consisting of five (5) or more separate businesses and having a continuous street frontage of at least two hundred (200) feet shall be permitted, and the area of such signs shall not be included in the total area of signs otherwise permitted in this section for the separate businesses. The total area of such identification signs for any shopping center shall not exceed one (1) square foot for each foot of street frontage, nor shall the total area of such signs facing any street, alley, or parking area exceed one hundred fifty (150) square feet;

J. Advertising Theatre Acts, etc. - Signs advertising the acts or features to be given in a movie theatre or theatres may be displayed on permanent frames erected on theatre buildings in accordance with the provision of this section as to size and location provided that the bottom of any such frame erected flat against a wall may not be less than eight (8) feet above the sidewalk, alley, or parking area; provided further that when the area of any such frame facing a street, alley, or parking area does not exceed twenty-four (24) square feet, and the area of any such frames facing such street, alley, or parking area does not exceed forty-eight (48) square feet the area of the

signs displayed thereon shall not be included in determining the total area of signs erected or displayed;

705.04-3 Industrial Districts. Within any industrial district, the following signs are permitted.

A. Business sign or signs having a maximum aggregate area not to exceed thirty-five (35) square feet provided that no sign shall project more than five (5) feet beyond the face of the building.

705.05 Signs as Conditional Use. The following signs may be permitted as conditional uses:

705.05-1 Signs related to conditional use. Except as hereinafter provided within any residential district, signs relating to buildings and uses permitted conditionally are permitted as conditional uses, provided that they shall not exceed twenty (20) square feet per sign area; shall indicate nothing other than the activity engaged in, the name of the owner, firm, organization, or agency, and the hours of activity, shall be limited to two (2) signs per use; and may be indirectly illuminated at the discretion of the Governing Body. In business and industrial districts, signs relating to buildings and uses permitted conditionally shall be permitted as conditional uses, provided that all requirements of sign area and character for permitted signs are met;

705.05-2 Directional signs related to conditional use. Within any residential district, directional signs for uses and buildings permitted conditionally are permitted as conditional uses, provided that they shall not exceed four (4) square feet per sign area, shall be within one (1) mile of the use, and shall not be illuminated;

705.05-3 Outdoor advertising signs, one (1) for each lot of one hundred (100) feet or less of lot frontage with one (1) additional such sign for each additional one hundred (100) feet or less of lot frontage under single or separate ownership at the time of the passage of the Ordinance, and provided said sign shall not exceed four hundred (400) square feet in area per sign structure facing. Where two (2) signs, each not exceeding two hundred (200) square feet in area, are supported by the same structure, one above the other, they shall be considered as a single outdoor advertising sign.

705.05-4 Billboards and general advertising signs in business and industrial districts. Maximum size is two hundred (200) square feet.

705.06 Signs Prohibited in all Districts. The following signs are prohibited in all districts:

705.06-1 Any sign erected or painted upon a fence, tree, fire escape, or utility pole;

705.06-2 Any sign which uses the word "stop" or “danger” prominently displayed or which is a copy or imitation of official traffic control signs;

705.06-3 Any sign which contains flashing or intermittent illumination except for digital displays/screens (Amended 4/13/2023);

705.06-4 Any sign which is mobile and is designed to and effectively does distract the attention of passing motorists on any highways by loud and blatant noises, movable objects, or flashing lights except for digital displays/screens (Amended 4/13/2023);

705.06-5 Any sign other than emergency or maintenance work signs belonging to a private individual(s), business or other organization, which is placed in the State Road System right-of-way without the expressed written permission of the Virginia Department of Transportation.

705.07 Maintenance and Removal of Signs:

705.07-1 All signs and sign structures shall be kept in repair and in proper state of preservation. All signs must adhere to the provisions of the Building Code;

705.07-2 Signs which are no longer functional or are abandoned shall be repaired, removed, or relocated at the owner's expense in compliance with the provisions of this Ordinance within thirty (30) days following dysfunction.

706.00 MANUFACTURED HOMES

Manufactured homes are permitted only in R-4 zoning districts. (Amended 11/8/2007) Any manufactured home placed in the Town of Timberville after the date of enactment or amendment of this Ordinance shall meet the following requirements:

706.00-1 All manufactured homes shall meet the plumbing requirements and the electrical wiring and connection, blocking, and anchoring requirements of the Virginia State Building Code and shall display the seal of a testing laboratory approved by the State of Virginia (Amended 9/9/99);

706.00-2 All manufactured homes shall be completely skirted, such that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the Building Official;

706.00-3 All manufactured homes shall be supplied with public water and wastewater disposal or such individual service evidenced by permits from the Health Department;

706.00-4 Provide required off-street parking. Each off-street parking area shall be paved or graveled and have unobstructed access to a public street. (Amended & adopted 8/8/2024)

706.01 Manufactured Home Lot Requirements:

706.01-1 Individual manufactured home lot requirements are found in Table 2.

706.02 Manufactured Home Park and Setback Requirements. All manufactured home parks shall meet the following minimum area and setback requirements:

706.02-1 All manufactured home parks shall have a minimum area of at least three (3) acres. A minimum of three (3) spaces shall be completed and ready for occupancy before the first occupancy is permitted;

706.02-2 The overall density of any manufactured home development shall not exceed seven (7) units per gross acre. The density of any particular acre within such park shall not exceed eight (8) units per gross acre;

706.02-3 No main or accessory building shall be located closer than twenty-five (25) feet to any property line of a manufactured home park;

706.02-4 All manufactured home parks for which permits are granted under this section will be subject to periodic inspection.

706.03 Manufactured Home Stand Requirements. All manufactured home stands shall meet the following requirements:

706.03-1 The area of any manufactured home stand shall not be less than four thousand (4,000) square feet;

706.03-2 No manufactured home or permanent building shall be closer than ten (10) feet to any stand line;

706.03-3 The minimum length of a manufactured home stand shall be eighty-five (85) feet, the minimum width shall be forty (40) feet;

706.03-4 The rear yard of each manufactured home stand may be provided with a clothesline, which shall be exempt from setback and other requirements of manufactured home accessory structures.

706.04 Manufactured Home Accessory Structures. All manufactured home accessory structures erected or constructed after the date of enactment or amendment of this Ordinance must meet the following requirements:

706.04-1 All manufactured home accessory structures must meet the plumbing, electrical connection, wiring, construction, and other applicable requirements of the Building Code;

706.04-2 Except in the case of an awning, ramada, or other shade structure, where a manufactured home accessory structure is attached to the manufactured home unit, a substantial part of one wall of the accessory structure shall be flush with part of the manufactured home unit, or such accessory structure shall be attached

to the manufactured home unit in a substantial manner by means of a roof. All manufactured home accessory structures, whether attached or detached, shall be designed and constructed as freestanding structures. No detached manufactured home accessory structure, except ramadas, shall be erected closer than seven and a half (7 1/2) feet to a manufactured home;

706.04-3 Manufactured home accessory structures, except ramadas, shall not exceed the height of the manufactured home;

706.04-4 No manufactured home accessory structure shall be erected or constructed on any manufactured home lot or stand except as an accessory to a manufactured home.

706.05 Manufactured Home Park Application and Site Plan. Applicants for manufactured home parks shall meet the following special requirements:

706.05-1 Site plans shall be legibly drawn at a scale consistent with its purpose;

706.05-2 The following information shall be required of site plans:

A. The date of the site plan, the name of the surveyor, and the number of sheets comprising the site plan;

B. The scale and the north designation;

C. The name and signature of the owner and the name of the proposed park, said name shall not closely approximate that of any existing manufactured home park or subdivision in the Town of Timberville;

D. A vicinity map showing the location and area of the proposed park;

E. The boundary lines, area, and dimensions of the proposed park with the locations of property line monuments shown;

F. The names of all adjoining property owners;

G. Proposed layout including interior streets with dimensions and such typical street cross sections and centerline profiles as may be required in evaluating the street layout; water, sewer, drainage, and utility lines, facilities and connections with dimensions shown; location and type of solid waste collection facilities; interior monuments and lot lines, dimensions, and areas of manufactured home lots, common open space and recreation areas, common parking areas, and other common areas; locations and dimensions of manufactured home stands and parking spaces, management offices, laundry facilities, recreation buildings, and other permanent structures; location and nature of fire-fighting facilities, including hydrants, fire extinguishers, and other fire fighting equipment; location of fuel storage facilities and structure of high flammability; and location and dimensions of landscaping amenities, including street lights, sidewalks, planted areas, play or common areas, significant natural features to be retained, and fencing and screening;

706.05-3 The site plan shall be accompanied by a narrative statement describing how the standards and requirements set forth herein are to be met; a statement from the Health Official certifying approval of the proposed site plan and water and sewer systems; and where appropriate, statements from the Highway Engineer certifying approval of the street and drainage; water and sewer, or utility system layouts by the owner/operator.

706.06 Manufactured Home Park Design Standards.

706.06-1 Streets. An internal street system shall be provided to furnish convenient access to manufactured home stands and other facilities in the park, shall be designed such that connection to existing drainage and utility systems is convenient and shall meet the following requirements in addition to such other reasonable standards and requirements as may be established by the Governing Body;

A. All internal streets shall be permanently paved with a durable, dust-proof, hard surface. Minimum pavement widths shall be twenty-four (24) feet for streets providing access to forty (40) or more manufactured home stands, and eighteen (18) feet for streets providing access to less than forty (40) manufactured home stands. Widths shall be measured from curb face to curb face. Curbs and gutters shall be provided and built to all applicable regulations;

B. Dead-end streets shall be limited in length to six hundred (600) feet, shall be provided with cul-de-sacs with turning areas of not less than forty (40) feet in radius;

C. Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grades and alignments;

D. Driveway entrances to manufactured home parks from any public street or road shall conform to the current construction standards of the Virginia Department of Transportation.

706.06-2 Vehicle Parking. Off-street parking shall be provided for the use of occupants at the minimum ratio of 2.0 car spaces (each space containing a minimum of one hundred eighty [180] square feet) for each manufactured home. Each off-street parking space shall be paved or graveled and have unobstructed access to a public street. On-street parking is prohibited unless the paved street on which the manufactured home fronts is expanded to accommodate additional parking lanes or parking bays; (Amended & adopted 8/8/2024)

706.06-3 Lighting. All streets and walkways within the manufactured home development shall be lighted;

706.06-4 Disposition of Garbage and Rubbish. It shall be the responsibility of the manufactured home park to collect or cause to provide for adequate collection containers for park residents;

706.06-5 Installation of Storage Tanks. Gasoline, liquefied petroleum, gas, or oil storage tanks shall be so installed as to comply with all County, State, and Federal fire prevention and protection regulations and Environmental Protection Standards;

706.06-6 Open Spaces. Where manufactured home lot sizes are relied on primarily to provide for open space, lots and stands shall be so grouped as to maximize the amount of usable space, while meeting the minimum yard requirements set forth in Section 707.01 of this Ordinance;

706.06-7 Record of Tenants for Manufactured Home Parks. The operator of a manufactured home park shall keep an accurate register of all tenants occupying manufactured homes located in the park. The register shall show the name and permanent residence address of the owner and occupants of any manufactured home located in the park, the make and registration of any manufactured home, the time and date of arrival and departure, and such other information as might be necessary to provide information about the occupants of the manufactured home. These records shall be open to the law enforcement officers and public officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park;

706.06-8 Certificate of Use and Occupancy Required. No manufactured home or accessory structure shall be occupied in any manufactured home park until a certificate of occupancy shall have been issued by the county building inspector to the effect that the manufactured home park or the portion thereof for which such certificate is requested is in compliance with all applicable provisions of this chapter and the Uniform Building Code. Such certificate shall not be issued until after the same has been approved by the Health Department, Zoning Administrator, and other agencies concerned.

706.07 Manufactured Home Subdivision Requirements:

706.07-1 Manufactured home subdivisions shall meet the requirements of Article 9 and Table 2.

707.00 NON-CONFORMING LOTS, BUILDINGS, AND USES

It is the intent of this Ordinance to recognize that the elimination of existing lots, buildings, and structures or uses that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is, therefore, the intent of this Ordinance to permit these non-conformities to continue, but not to encourage their survival,

permit their expansion, or permit their use as grounds for adding other structure or uses prohibited elsewhere in the same district.

Therefore, any structure or use of land existing at the time of the enactment of this Ordinance and amendments thereto, but not in conformity with its regulations and provisions, may be continued subject to the following provisions:

707.01 Lots of Record. Where a lot of record at the time of enactment of this Ordinance does not contain land of sufficient area or width to permit conformity with the dimensional requirements of this Ordinance, the following provisions shall apply:

707.01-1 When two (2) or more adjoining and vacant lots with continuous frontage are in single ownership at the time of enactment of this Ordinance or amendments thereto, and each of such lots have a width or lot area less than is required by the district in which they are located, such lots shall be platted and reparcelled so as to create one (1) or more lots which conform to the minimum lot width and area requirements of the district prior to use or transfer of ownership of such parcels (Amended 11/8/2007);

707.01-2 Where a single non-conforming lot of record at the time of enactment or amendment of this Ordinance is not of continuous frontage with other lots in the same ownership, such lot may be used as a building site provided that yard dimensions and requirements other than those applying to area or width of the lot shall conform to the regulation for the district in which such lot is located. Variances of yard requirements may be obtained only through appeal to the Board, as outlined in Section 807.00 herein.

707.02 Nonconforming Structures. Where a lawful structure exists at the time of enactment or amendment of this Ordinance that could not be built in the district in which it is located by reason of restrictions on lot coverage, height, yard dimensions, or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

707.02-1 Any structure or portion thereof declared unsafe by the Building Official must be restored to a safe condition or removed, provided that the requirements of this section are met, and that the cost of restoration of the structure to a safe condition shall not exceed fifty (50) percent of its replacement cost at the time of the Building Official declaration;

707.02-2 Nonconforming structures may be enlarged or altered only if they are no closer to the front and side lot lines than the existing nonconforming dwellings. In addition, any dwelling or portion thereof may be altered to decrease its nonconformity (Amended 9/9/99);

707.02-3 Notwithstanding the provisions of Section 708.02-2 above, whenever repairs on or installation of plumbing fixtures in residential structures is required by law or administrative action of the Health Official or the Building Official, such alterations shall be permitted, provided that where such alterations require an

addition to the structure, such addition shall be no nearer the lot line than permitted by the requirements of this Ordinance. Where an existing residential structure exceeds these requirements, the said addition shall extend no nearer the lot line than the existing building line;

707.02-4 Should a nonconforming structure be moved, it shall thereafter conform to the yard dimension requirements of the district in which it is located after it is moved;

707.02-5 Should a nonconforming structure or nonconforming portion of a structure be destroyed by any means, it shall be reconstructed in conformity with provisions of this Ordinance, so far as practical, but not to any greater degree of non-conformity.

707.03 Nonconforming Uses of Land. Where a lawful use of land exists at the time of enactment or amendment of this Ordinance that would not be permitted by the regulations imposed herein and where such is either: (1) an accessory use not involving the use of a separate accessory structure; or (2) a principal use not involving an individual structure, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

707.03-1 No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the time of enactment or amendment of this Ordinance;

707.03-2 No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the time of enactment or amendment of this Ordinance;

707.03-3 In the event that such use ceases for reasons other than destruction for a period of more than one hundred and eighty (180) days, for agricultural operations three hundred and sixty five (365) days, any subsequent use shall conform to all requirements of this Ordinance for the district in which the land is located. In the event that the non-conforming use of a property is ceased due to the death of the last surviving owner, the above time limits are held in abeyance until a new owner of record is recorded at the County Courthouse or three (3) years from the death of the owner, whichever occurs first;

707.03-4 No additional structure not conforming to the requirements of this Ordinance shall be constructed in connection with such nonconforming use.

707.04 Nonconforming Uses of Structure. Where a lawful use involving an individual structure or structures in combination exists at the time of enactment or amendment of this Ordinance that would not be permitted in the district in which it is located under the requirements of this Ordinance, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

707.04-1 No structure existing at the time of enactment or amendment of this Ordinance devoted to a nonconforming use shall be enlarged, extended, moved, or structurally altered, except repairs on or installation of plumbing fixtures required by law or administrative action of the Health Official or the Building Official or

the changing of interior partitions or interior remodeling or in changing the use of the structure to a conforming use;

707.04-2 A nonconforming use of a structure may be extended to include use of the entire structure, but shall not be extended to include either additional structures or land outside the structure;

707.04-3 When a nonconforming use of a structure or structures and premises in combination is discontinued or abandoned for one (1) year or for eighteen (18) months during any three (3) year period, except when government action impedes access to the premises or when a nonconforming use is superseded by a permitted use, the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located. In the event that the non-conforming use of a structure or structures is ceased due to the death of the last surviving owner of the property, the above time limits are held in abeyance until a new owner of record is recorded at the County Court House or three (3) years from the death of the owner, whichever occurs first;

707.04-4 Upon application to the Board of Zoning Appeals, as provided in Article 8 of this Ordinance, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use if the Board shall find that the proposed use is equally appropriate or more appropriate to the district than the existing use. The Board may impose such conditions relating to the proposed use as it may deem necessary in the public interest and may require a cash bond or equivalent, a surety bond of a surety company, or a certified check payable to the Treasurer of the Town of Timberville, be supplied in an amount equal to the estimated cost of complying with the conditions imposed to insure that the conditions imposed are being and will continue to be met.

708.00 SPECIAL REGULATIONS FOR TOWNHOUSES

708.01 No more than ten (10) and no less than three (3) townhouses shall be included in any townhouse grouping.

708.02 Attached dwellings shall be separated by a noncombustible party wall to the roofline, with a fire resistance of not less than two hours duration.

708.03 Each townhouse shall front on a dedicated public street. Minimum standards of development shall apply as in all other sections of this document. (Amended & adopted 8/8/2024)

708.04 Common areas shall be maintained by and be the sole responsibility of the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to homeowner's association whose members shall be all the individual owners of the townhouses in the townhouse development. Said land shall be conveyed to and be held by said homeowner's association solely for recreational and parking purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a homeowner's association, deed restrictions and covenants shall provide, among other things, that any assessments, charges for

cost of maintenance of such common areas shall constitute a pro-rata lien upon the individual townhouse lots. Maintenance of townhouse exteriors, lawns, refuse handling, taxes, lighting, and drainage shall be provided in a similar manner so as to discharge any responsibility from the Town of Timberville.

708.05 Facades of dwelling units in a townhouse development shall be varied by changed front yards of not less than two (2) feet and variations in materials or design, so that no more than four (4) abutting units will have the same front yard depth or essentially the same architectural treatment of facades and roof lines.

708.06 Any utility entering a unit must do so on the property of that unit.

709.00 FENCES

709.01 No fragile, readily flammable material such as paper, cloth or canvas shall constitute a part of any fence, nor shall any such material be employed as an adjunct or supplement to any fence;

709.02 Lots in residential districts shall have no planting, fence, or obstruction to vision more than three (3) feet high, less than twenty (20) feet from the intersection of a street line and driveway. Fences parallel to front property lines cannot exceed three (3) feet unless installed at front yard setback line or further back.

709.03 In the case of corner lots in residential districts, there shall be no planting, fence or obstruction to vision more than three (3) feet high, less than twenty (20) feet from the intersection of two street lines or driveway and street line;

709.04 Fences shall not exceed a height of six (6) feet as measured from the top most point thereof to the ground or surface, along the center line of the fence, in a commercial or residential zone.

709.05 Fences surrounding industrial sites, public playgrounds, institutions, or schools may not exceed a height of fourteen (14) feet.

710.00 SIDEWALKS REQUIRED (Added 11/8/2007)

710.01 No permit shall be issued for the construction of a new building on property located on an arterial or collector street and zoned General Business District B-1 or Planned Business District B-2 unless a sidewalk exists adjacent to the property along the arterial or collector street, or both in the case of a corner lot, or unless the plans for the building provide for the construction of such a sidewalk.

710.02 No certificate of occupancy shall be issued for any building described in 710.01 if the building plans provide for construction of a sidewalk along an arterial or collector street unless the sidewalk has been constructed or the property owner has provided a bond, letter of credit or other instrument acceptable to the zoning administrator guaranteeing construction of the sidewalk within six (6) months of issuance of the certificate of occupancy.

711.00 STANDARDS FOR SOLAR ENERGY SYSTEMS

711.01 In addition to the zoning regulations of the district in which the solar energy system is to be located, the following requirements shall apply to all solar energy systems:

A. Solar energy systems shall be installed in compliance with applicable provisions of the USBC and the VSFPC.

B. A solar energy system may be installed on the roof of any building or structure, whether principal or accessory.

1) The height of a solar energy system installed on the roof of a single- or two-family dwelling, or on the roof of an accessory building or structure on the same lot as such dwelling, may extend up to five (5) feet above the highest point of the roof of the building or structure on which it is installed.

2) Except as limited by subparagraph (i), above, a rooftop solar energy system may extend up to fifteen (15) feet above the highest point of the roof of the building or structure on which it is installed.

C. A solar energy system may be attached and incorporated as part of any building facade (for example: roof tiles, window shutters, canopies, etc.).

D. A solar energy system may be freestanding (ground mounted) but shall not be located within any setback or in any yard which fronts on a public right of way. If the solar panels are six (6) feet or less, they may be located in any side or rear yard. No freestanding solar energy system shall occupy more than 0.25 acres.

E. Except as provided in paragraph (2)(a), above, a solar energy system, together with its support, shall not itself exceed a height of fifteen (15) feet unless otherwise required by the USBC or VSFPC for a specific use.

712.00 OUTDOOR LIGHTING

712.01 All outdoor lighting, including the placement, orientation, distribution patterns and fixture types of outdoor lights, shall be installed to protect the adjacent properties from light trespass and light pollution to the fullest extent possible. This includes pole-mounted lights and wall-mounted lights (wall packs). Copies of the manufacturer cut sheet of each type of light used shall be provided at either the site plan or building plan review phase. A photometric plan shall be included with all engineered site plans where these fixtures are proposed and shall include:

A. A site plan, drawn to scale, showing property boundaries, buildings, structures, landscaping, parking areas and proposed exterior lighting fixtures;

B. Location of all posts, canopies, supports, and light fixtures, including the mounting height of each fixture;

C. Specifications of the illuminating devices, lamps, supports, and other devices. This may include but is not limited to manufacturers catalog cuts and drawings, including sections where required;

D. Plan shall show locations of all outdoor lighting fixtures and a numerical twenty-five foot (25') by twenty-five foot (25') (maximum) grid of lighting levels, in footcandles, that the fixtures will produce on the ground (photometric plan). The photometric plan will indicate the footcandle levels within the lighted area of the site. The plan shall include lighting levels at all property boundaries, public streets, etc. where measurable lighting extends.

712.02 All new lighting fixtures shall conform to the following requirements:

A. Lighting fixtures shall be approved by the International Dark-Sky Association (IDA), or equivalent. Lighting fixtures not approved by the IDA shall be full cut-off design.

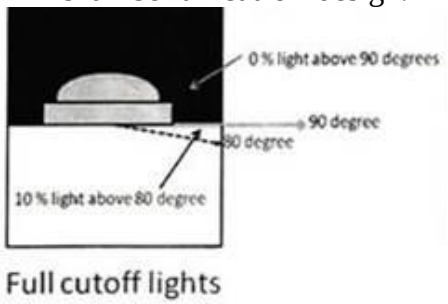


Figure 7-1

B. Lighting fixtures shall be installed in a fixed position which orients the light downward. Incidental lighting fixtures, which do not cause glare or any light trespass onto adjacent parcels, are exempted from these requirements.

C. Lighting fixtures, except for those required under paragraph (g), shall be so arranged that light is directed away from adjacent properties.

D. Lighting fixtures shall provide only 0.5 footcandle maximum at the property line.

E. No lighting shall produce illumination or glare on streets detrimental to the safety and convenience of the public.

F. Lighting shall be provided for sidewalks and pedestrian facilities adjacent to streets.

G. Lighting of the surfaces of pedestrian areas required by paragraph (e) shall provide minimum average maintained illuminance and average to minimum uniformity ratio not exceeding the ratios shown in Table 7-3.

Street Classification	Minimum Maintained Average Illuminance (*fc*)	Average to Minimum Uniformity Ratio
Major (Arterial)	0.9	3.0
Collector	0.6	3.5
Local	0.5	6.0

Table 7-3 Lighting Requirements

H. At At crosswalks, parking lots, and other areas where pedestrians are likely to enter vehicular traffic areas, higher lighting intensity levels should be provided.

I. Vegetative screening used to meet the requirements of this section shall be effective year-round.

J. All outdoor lighting, including display lighting, shall be turned off after the close of business hours, except that needed for safety and security, in which case lighting shall be reduced to the minimum level necessary.

K. Canopy lighting shall be recessed and/or shielded so that all light emitted is projected directly beneath the canopy and not beyond it. All parts of the light fixtures must be recessed into the horizontal ceiling of the canopy, and the vertical edges of the canopy shall be lower than the horizontal ceiling in which the lighting is affixed.

L. Lighting posts and fixtures shall be placed such that landscaping, vegetation, and signage do not interfere with the effectiveness of the lighting.

M. All lighting shall be maintained and replaced or supplemented as necessary to continue to comply with this article. All structural features installed to satisfy the requirements of this article shall be maintained, repaired, replaced, painted, or otherwise enhanced as necessary to continue to perform the function for which they are intended.

ARTICLE 8
ADMINISTRATION

These regulations shall be administered in accordance with the provisions below.

801.00 **ZONING ADMINISTRATOR**

801.01 Appointment. The Zoning Administrator shall be appointed by and shall serve at the pleasure of the Town of Timberville, which shall fix the compensation of the Zoning Administrator.

801.02 Powers and Duties Relating to Zoning. The Zoning Administrator is authorized and empowered on behalf of and in the name of the Timberville Governing Body to administer and enforce the provisions set forth herein to include receiving applications, inspecting premises, issuing Zoning Permits and Certificates of Occupancy for uses and structures which are in conformance with the provisions of this Ordinance. The Zoning Administrator shall have all necessary authority on behalf of the Timberville Governing Body to administer and enforce this Ordinance, including the ordering, in writing, the remedy for any condition found in violation of this Ordinance, and the bringing of legal actions, including injunction, abatement, or other appropriate action or proceeding, to insure compliance with this Ordinance. The Zoning Administrator does not have the authority to take final action on applications or matters involving variances nor on conditional uses or other special exemptions, on which final action is reserved to the Board of Zoning Appeals or Governing Body.

801.03 Zoning Administration Process. Figure 1 outlines the administrative process to be followed under various provisions of this Ordinance.

802.00 ZONING AND BUILDING PERMIT PROCEDURES

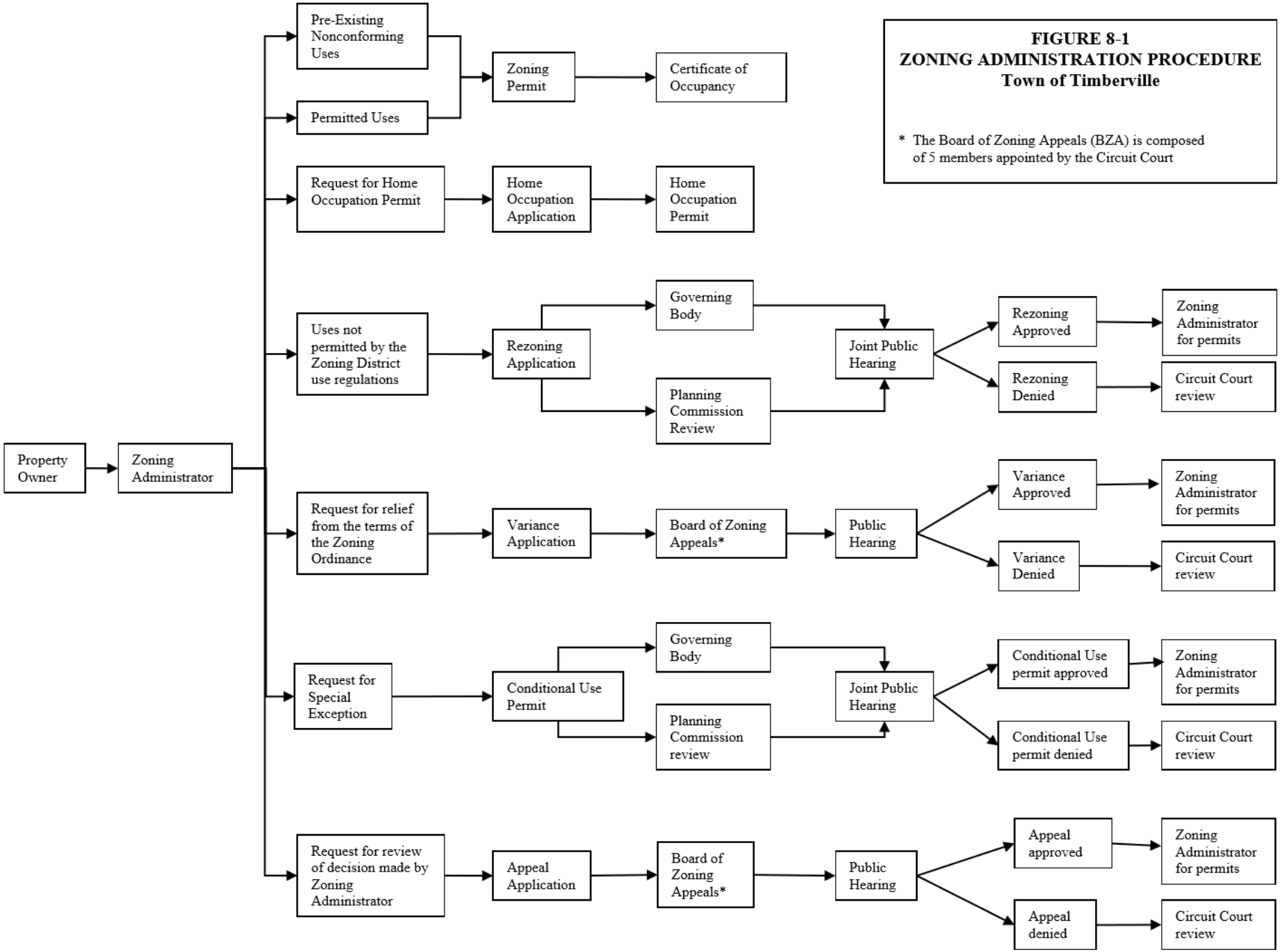
Zoning Permits shall be issued in accordance with the following provisions and procedures:

802.01 Issuance and Display. The Zoning Administrator shall issue a Zoning Permit for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. The Zoning Permit shall indicate whether the use is a permitted use, a conditional use, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction.

802.02 Application Procedure for Permitted Uses. Applications for a Zoning Permit shall be submitted to the Zoning Administrator according to the following provisions:

FIGURE 8-1
ZONING ADMINISTRATION PROCEDURE
Town of Timberville

* The Board of Zoning Appeals (BZA) is composed of 5 members appointed by the Circuit Court



802.02-1 An application for a Zoning Permit for a permitted use shall be accompanied by two (2) copies of an acceptable site plan with such reasonable information shown thereon as shall be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application;

802.02-2 Each application for a Zoning Permit, upon issuance of the permit, shall be accompanied by payment of a fee;

802.02-3 If the proposed use or construction described in the application required by Section 802.02-1 are in conformity with the provisions set forth herein, and other regulations of the Town of Timberville and other appropriate codes including, but not limited to, the required:

(a) Health Department approval
(b) Highway Department
(c) Flood Insurance - Floodplain Ordinance
(d) Erosion and Sediment Control Ordinance Plan

The Zoning Administrator shall sign and return one (1) copy of the site plan to the applicant and shall issue a Zoning Permit. The Zoning Administrator shall retain the application and the original copy of the site plan for his records;

802.02-4 If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the Zoning Administrator shall not issue a Zoning Permit, but shall return one (1) copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this Ordinance with which the submitted plan does not comply. The Zoning Administrator shall retain the original copy of the site plan and one (1) copy of the refusal.

802.02-5 Foundation Surveys.

The following shall apply to structures that are required to have a foundation or footer inspection prior to proceeding with construction above the foundation, slab or piers.

(a) Construction shall not continue on a new building, or building addition, the placement of a manufactured home in a manufactured home park constructed after 1995, or the placement of a manufactured home on private property until the Zoning Administrator has received a survey prepared by a certified land surveyor licensed to practice in the Commonwealth of Virginia. Such

survey shall show that the foundation, slab, or piers as constructed meets Town setback regulations.

(b) A permit shall not be issued for the placement of a manufactured home in a manufactured home park that existed prior to 1995 until after the Town has determined that there is sufficient space for the requested unit, and that the placement complies with the building code.

(c) If the applicant submits to the Zoning Administrator certification from a certified land surveyor that the building, structure, or manufactured home is a minimum of one (1) foot from all setback lines, or such greater setbacks as otherwise required in the ordinances, Section 802.02-5(a) above may be waived in the sole discretion of the Zoning Administrator.

(d) If, in the opinion of the Zoning Administrator, there appears no evidence of a setback violation, the Zoning Administrator, in his or her sole discretion may waive all requirements of this Section. (Amended 5/11/2006)

802.03 Application Procedures for Conditional Uses. Applications for a Conditional Use Permit for a conditional use shall be submitted to the Zoning Administrator, who shall refer the application to the Planning Commission for a recommendation to the Timberville Governing Body. The Governing Body will hold a public hearing and make a decision on the application. Applications for Zoning Permits for conditional uses must be submitted in accordance with the following procedures:

802.03-1 An application shall be accompanied by two (2) copies of an acceptable site plan drawn in accordance with applicable provisions of Section 802.00 of this Ordinance, with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: the lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses, fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application;

802.03-2 Each application for a Zoning Permit for a conditional use or other special exception shall be accompanied by payment of a fee as set forth in Article 10 to help defray the cost of publicizing and conducting the public hearing;

802.03-3 (Repealed 9/9/99);

802.03-4 The application shall be sent to the Commission for review and recommendation, and said Commission shall have sixty (60) days within which to submit a report to the Governing Body. If the Commission fails to submit a report within a sixty

(60) day period, it shall be deemed to have approved the proposed conditional use;

802.03-5 The Governing Body shall consider the proposed conditional use or other special exception after notice and public hearing in accordance with Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended, and shall take action on the proposed conditional use within thirty-five (35) days from the date of the public hearing;

802.03-6 In evaluating the proposed conditional use or other special exception, the Governing Body shall address the following concerns:

(a) The effect of the proposed use or special exception, on existing and projected traffic volumes in the neighborhood;

(b) The current and future need for the proposed use in the Town of Timberville; and

(c) The character of the existing neighborhood and the effect of the proposed use or special exception on existing property values;

(d) The impact of the proposed use or special exception on the health, safety, and welfare of the neighborhood.

802.03-7 Conditions set forth in Article 802.03-6 for the various conditional uses are minimum. In approving a proposed conditional use or other special exception, the Governing Body may stipulate such additional requirements as are necessary to protect the public interest. The Governing Body may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the Governing Body;

802.03-8 If the Governing Body approves the application for a Zoning Permit for a proposed conditional use, the Zoning Administrator shall issue a Conditional Use Permit, indicating the conditional nature of the use and setting forth any special conditions stipulated by the Governing Body;

802.03-9 If the Governing Body disapproves the application for a Zoning Permit for a proposed conditional use or other special exception, the Governing Body shall inform the applicant of the decision in writing within thirty-five (35) days from the date of the public hearing, stating the reasons for disapproval. The Zoning Administrator shall retain the original copy of the site plan and one (1) copy of the refusal and shall keep them as a public record;

802.03-10 A property owner, or his appointed agent, shall not initiate action for a Conditional Use Permit relating to the same conditional use affecting the same

parcel of land more often than once every twelve (12) months;

802.03-11 A conditional use permit must be put into effect six (6) months after the date the permit is issued, unless otherwise provided in the permit itself. Expiration of a conditional use permit shall occur with the discontinuance or suspension for a period of one (1) year of an activity which was authorized by a conditional use permit;

802.03-12 Renewal of a conditional use permit does not require a public hearing unless the original conditions in the permit are changed; however, notice of the renewal will be shown on the agenda of the Governing Body;

802.03-13 Upon change of ownership, a conditional use permit shall convey to the new owner of the property as long as the conditional use remains unchanged. (Amended 5/11/2006)

802.04 Application Procedures for Ordinance or Map Amendment (Rezoning). The Timberville Governing Body may, from time to time, amend these regulations or district maps whenever the public necessity, convenience, general welfare, or good zoning practice require. Any resolution or motion by the Governing Body or Planning Commission proposing the rezoning shall state the above public purposes therefore. (Amended 9/9/99)

802.04-1 Applications for amendments initiated by any person, firm, or corporation owning the subject property shall be submitted in writing to the Zoning Administrator and shall be accompanied by two (2) copies of an acceptable site plan, where applicable, of the proposed amendment with such reasonable information shown thereon as shall be required by the Zoning Administrator. Where site plans are required, they shall show the requirements as set forth in Section 802.02-1. Proposals for amendments not initiated by either the Commission or the Governing Body shall be accompanied by payment of a fee as set forth in Article 10;

802.04-2 The Commission shall consider the proposed amendment after notice and public hearing in accordance with Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended. The Commission shall then present the proposed amendment along with site plans and explanatory materials, where applicable, to the Governing Body with its recommendations. If the Commission fails to submit its recommendations within sixty (60) days of the first meeting of the Commission after the proposed amendment has been referred to it, the Commission shall be deemed to have approved the proposed amendment;

802.04-3 (Repealed 9/9/99);

802.04-4 The Timberville Governing Body shall consider the proposed amendment after notice and public hearing in accordance with Sections 15.2-2204 and 15.2-2205

of the Code of Virginia, 1950, as amended, and shall take action on the proposed amendment within thirty-five (35) days from the date of the public hearing. The Governing Body and the Planning Commission may hold a joint public hearing in accordance with Sections 15.2-2204 and 15.2205 of the Code of Virginia, 1950, as amended;

802.04-5 Any petition for an amendment may be withdrawn prior to action thereon by the Governing Body at the discretion of the person, firm, or corporation initiating such a request upon written notice to the Zoning Administrator;

802.04-6 No more than one application for any amendment affecting a specific parcel of land may be initiated during any single twelve (12) month period.

802.05 Procedures for Proffering Conditions to Zoning District Regulations:

802.05-1 Intent. The intent of this section is to provide (pursuant to Sections 15.2-2296 through 15.2-2301 of the Code of Virginia, 1950, as amended) to the zoning district regulations or the zoning district map;

802.05-2 Proffer of Conditions. An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this Ordinance, as part of an amendment to the zoning district regulations or the zoning district map. The proffered conditions shall be in writing and shall be made prior to the public hearing before the Governing Body. In addition:

(a) The rezoning itself must give rise to the need for the conditions.
(b) The conditions proffered shall have a reasonable relation to the rezoning.
(c) The conditions proffered shall not include a cash contribution to the Town.
(d) The conditions do not provide vested interest to the property owner(s).

802.05-3 Expiration. Any zoning permit shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the permit has issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year.

803.00 CERTIFICATE OF OCCUPANCY

Certificates of Occupancy shall be issued by the County Department of Building in accordance with the following provisions:

803.01 Certificate of Occupancy Required. A Certificate of Occupancy shall be required in advance of occupancy or use of:

803.01-1 A building hereafter erected;

803.01-2 A building hereafter altered so as to affect height, or the side, front, or rear yard dimensions;

803.01-3 A change of type of occupancy or use of any building or premises.

803.02 Issuance of Certificate of Occupancy. The County Department of Building shall sign and issue a Certificate of Occupancy, as stated on the application for such certificate and signed thereto by the owner or his appointed agent, is found to conform to the applicable provisions set forth herein and if the building, as finally constructed, complies with the sketch or plan submitted for the Zoning Permit. The Certificate of Occupancy shall be issued through and counter-signed by the Zoning Administrator. The Certificate of Occupancy will be mailed to the Zoning Administrator for issuance to the property owner.

803.03 Denial of Certificate of Occupancy. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provision set forth herein.

804.00 BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall consist of five (5) members who shall be appointed by the Circuit Court of Rockingham County. The Town of Timberville shares a Board of Zoning Appeals with the Town of Broadway.

804.01 Initial Appointment. The initial appointment of the Board shall be as follows: One (1) member for one (1) year; one (1) member for two (2) years; one (1) member for three (3) years; one (1) member for four (4) years; and one (1) member for five (5) years.

804.02 Terms of Office. Appointments shall be for five years each. The Secretary of the Board of Appeals shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office. A member whose term expires shall continue to serve until his successor is appointed.

804.03 Public Offices Held. No member shall hold any public office except that one (1) member shall be a member of the Planning Commission of Timberville or Broadway.

804.04 Compensation. Members of the Board may receive such compensation as may be authorized by the Governing Body.

804.05 Support. Within the limits of funds appropriated by the Governing Body, the Board of Appeals may employ or contract for secretaries, clerks, legal council, consultants, and other technical and clerical services.

804.06 Vacancies. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Members shall be removable for cause by the circuit court upon written charges and after hearing held after at least fifteen (15) days notice.

805.00 RULES OF PROCEDURE

The Board shall observe the following procedures:

805.01 Said Board shall adopt rules in accordance with the provisions of this Ordinance and consistent with other ordinances of the Town of Timberville and general laws of the Commonwealth for the conduct of its affairs.

805.02 Said Board shall elect a Chairman, Vice Chairman, and Secretary from its own membership who shall serve annual terms as such and may succeed themselves.

805.03 Said Board will keep a full public record of its proceedings and shall submit a report of its activities to the Governing Body at least once each year.

805.04 All meetings of said Board shall be open to the public.

805.05 Any member of said Board shall be disqualified to act upon a matter before said Board with respect to property in which the member has an interest.

805.06 The meetings of said Board shall be held at the call of the Chairman and at such other times as a quorum of said Board may determine.

805.07 The Chairman, or in his absence the Vice Chairman or acting Chairman, may administer oaths and compel the attendance of witnesses.

805.08 A quorum shall be at least three (3) members.

805.09 A favorable vote of three (3) members of said Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which said Board is empowered.

806.00 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following duties and powers:

806.01 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Ordinance.

806.02 To authorize upon original application in specific cases, such variance from the

terms of the 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:

806.02-1 When a property owner can show that this property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use 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 the Ordinance;

806.02-2 No such variance shall be authorized by the Board unless it finds: (1) that the strict application of the Ordinance would produce undue hardship; (2) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (3) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variation;

806.02-3 No such variance shall be authorized except after notice and hearing as required by Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended;

806.02-4 No variance shall be authorized unless the Board finds 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;

806.02-5 In authorizing a variance, the Board may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

807.00 APPLICATION FOR VARIANCES

Application for variances from this Ordinance may be made by any property owner, tenant, governmental official, department, board, or bureau.

807.01 Application. Application shall be made to the Zoning Administrator. The application shall be accompanied by an acceptable site plan with such reasonable

information shown thereon as may be required by the Zoning Administrator. Such site plan shall include other requirements as set forth in Section 802.02-1. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy of the application and materials to the local Planning Commission, which may send a recommendation to the Board within thirty (30) days or appear as a party at the hearing.

807.02 Notification of Adjacent Property Owners. Owners of adjacent properties will be notified in writing in accordance with Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended. (Amended 11/11/2004)

807.03 Hearing and Action. The secretary shall place the matter on the docket to be acted upon by the Board. No such variance shall be authorized except after notice and hearing as required by Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended. The Board shall decide same within thirty (30) days from the date of such hearing.

807.04 Limitation of Hearings. A property owner, or his appointed agent, shall not initiate action for a hearing before the Board relating to the same parcel of land more often than once every twelve (12) months without specific approval of the Board.

807.05 Withdrawal of Application. Any petition for a hearing before the Board may be withdrawn prior to action thereon, by said Board at the discretion of the person, firm, or corporation initiating such request upon written notice to the Secretary of said Board.

807.06 Fee. Each application for a variance shall be accompanied by payment of a fee as set forth in Article 10 to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

808.00 PROCEDURE FOR REQUESTING A HEARING BEFORE THE BOARD OF ZONING APPEALS

Requests for a hearing before the Board of Zoning Appeals for an administrative review shall observe the following procedures:

808.00 An appeal to the Board may be taken by any person aggrieved by, or by an officer, department, board, or bureau of the Town of Timberville affected by a decision of the Zoning Administrator within thirty (30) days after the decision.

808.01 Applications for appeal shall be submitted to the Zoning Administrator, who shall refer the application to the Board, such applications shall specify the

grounds for appeal.

808.02 The Zoning Administrator shall transmit within ten (10) working days to the Board all of the papers constituting the record upon which the action being appealed was taken.

808.03 An appeal shall stay all proceedings in furtherance of the action being appealed unless the Zoning Administrator certifies to the Board that by reason of acts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a Court of Record, and on notice to the Zoning Administrator and for good cause shown.

808.04 The Board shall fix a reasonable time for the hearing of appeals; the Board shall consider appeals after notice and hearing as required by Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended, and decide the same within thirty (30) days from the date of such public hearing.

808.05 In exercising the powers granted the Board in Section 806.00 of this Ordinance, the said Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination of the Zoning Administrator, and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a Zoning Permit.

808.06 Any application for appeal before the Board may be withdrawn prior to action hereon by said Board at the discretion of the person, firm, or corporation initiating such a request upon written notice to the Secretary of said Board.

808.07 Each application for an appeal shall be accompanied by payment of a fee as set forth in Article 10 to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

809.00 DECISION OF BOARD OF ZONING APPEALS

809.01 Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board, or bureau of the Town of Timberville may present to the Circuit Court of Rockingham County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the Town offices.

809.02 Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the aggrieved's attorney, which shall not be less than ten (10) days and may be extended by the Court.

The allowance of the writ shall not stay proceedings upon the decision being appealed, but the Court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.

809.03 The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision being appealed.

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

809.05 Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision being appealed.

810.00 ADMINISTRATION OF THE SUBDIVISION REGULATIONS

810.01 Subdivision Ordinance Administrator. The Subdivision Administrator shall be appointed by and shall serve at the pleasure of the Timberville Governing Body, which shall fix the compensation of the Administrator.

810.02 Powers and Duties Relative to Subdivision Administration. The Subdivision Administrator is authorized and empowered on behalf of and in the name of the Timberville Governing Body to administer and enforce the provisions set forth in Article 9 of these regulations, other pertinent provisions, and Section 15.2-2240 et. seq., Code of Virginia, 1950, as amended. The Administrator may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority, by the agent, shall have particular reference to the resident Highway Engineer and the Health Official.

810.03 Subdivision Administration Process. Figure 1 outlines the administrative process to be followed under the provisions of the Subdivision Regulations found in Article 9.

ARTICLE 9
SUBDIVISION REGULATIONS

901.00 SUBDIVISION REQUIREMENTS

Under the authority to establish subdivision regulations recorded in Article 1, Section 102, and the purposes outlined in Article 2 at Sections 201.08 and 201.09, the regulations established herein constitute minimum requirements which shall apply to all subdivisions, except as hereinafter provided.

902.00 STATUTORY PROVISIONS

The following statutory provisions shall be effective in the Town of Timberville:

902.01 No person shall subdivide land without making a plat of such subdivision, recording it in the Office of the Circuit Court of Rockingham County and without fully complying with the provisions of this article.

902.01-1 The term "subdivision" shall not include a bona fide division or partition of agricultural land into parcels of less than two (2) acres for agricultural purposes or for building sites for the farmstead or tenant houses. Plats of divisions so excused will contain notice that the plat has not been approved for residential purposes and must be approved by the agent prior to recordation (Added 9/9/99);

902.01-2 The term "subdivision" shall not include a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the owner. Only one (1) such division shall be allowed per family member, and shall not be for the purpose of circumventing the provisions of the Subdivision Ordinance. A plat of the division is required to be approved by the agent prior to recordation (Added 9/9/99);

902.01-3 The agent may, however, permit the separation of one (1) parcel from a tract of land (i.e., lot division) without complying with all requirements of the Land Development Regulations if it is not in conflict with the general meaning and purpose of these Regulations (Added 9/9/99)."

902.02 No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the local Planning Commission or by the Governing Body or its duly authorized agent of the Town of Timberville wherein the land to be subdivided is located, or by the commissions, Governing Bodies, or agents, as the case may be, of each county or municipality having a subdivision ordinance, which any part of the land lies.

902.03 No person shall sell or transfer any land of a subdivision before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto or bona fide divisions in accordance with the authority referenced in Article 1, Section 102.10.

902.04 Any person violating the foregoing provisions of this section shall be subject to a fine of not more than five hundred dollars ($500) for each lot or parcel of land so subdivided or transferred or sold, and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

902.05 No Clerk of any Court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein, and the penalties provided by Section 17-59 of the Code of Virginia, 1950, as amended, shall apply to any failure to comply with the provisions of this subsection.

903.00 PLATTING REQUIRED

Whenever the owner or proprietor of any tract of land within the Town of Timberville desires to subdivide the same, he shall submit a plat of the proposed subdivision to Timberville through the designated Administrator. The administrative process for the "Subdivision Regulations, Town of Timberville" is found in Article 8, Section 810. No such plat of a subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Administrator in accordance with the regulations set forth in this Ordinance. No lot shall be sold in any such subdivision before the plat shall have been recorded in the office of the Clerk of Court of the Town of Timberville, Virginia.

903.01 No One Exempt. No person shall subdivide any tract of land that is located within the Town of Timberville, except in conformity with the provisions of this Ordinance and the applicable provisions of the Code of Virginia, 1950, as amended.

903.02 Mutual Responsibility. There is a mutual responsibility between the subdivider and the Town of Timberville to divide the land so as to improve the general use patterns of the land being subdivided.

903.03 Land Must Be Suitable. The Governing Body shall not approve the subdivision of land if from adequate investigation conducted by the public agencies concerned it has been determined that in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed.

903.04 Improvements. All required improvements shall be installed by the subdivider at his cost. Specifications and requirements set forth in this regulation shall be followed. The subdivider's performance bond shall not be released until construction has been inspected and approved by the appropriate official.

903.04-1 The subdivider or developer shall pay all of the cost of providing reasonable and necessary sewerage and drainage, lighting, and water facilities located outside the property limits of the land controlled by him but necessitated or required by the construction or improvement of his subdivision or development; provided, however, that no such payment shall be required until such time as the Governing Body or a designated department or agency thereof shall have established a general sewer and drainage improvement program for an area having related and common sewer and drainage conditions and within which the land owned or controlled by the subdivider or developer is located. Each such payment received shall be expended only for the construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider or developer, in lieu of such payment other methods of performance guarantee satisfactory to the Governing Body shall be posted conditioned on payment at the commencement of such construction.

903.05 Necessary Changes. No change, erasure or revision shall be made on any final plat, nor on accompanying data sheets after approval by the Governing Body has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing on behalf of the Governing Body.

903.06 Private Contracts. This regulation bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement, or restriction implied herein to any public official. When this Ordinance calls for more restrictive standards than are required by private contract, the provisions of this Ordinance shall control.

904.00 GENERAL REQUIREMENTS

The general specifications and requirements set forth in this section shall be followed:

904.01 Alleys. Alleys should be avoided whenever possible, if permitted the right-of-way will not be less than twenty (20) feet.

904.02 Block Length. The maximum length of blocks shall be twelve hundred (1,200) feet, and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

904.03 Block Orientation. Where a proposed subdivision adjoins a major road, the town may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

904.04 Block Width. Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

904.05 Cul-De-Sacs. Streets designed to have one end permanently closed must be terminated by a turn-around of not less than one hundred (100) feet in diameter.

904.06 Lot Shall Abut on a Street. Each lot shall abut on a developed public street dedicated by the subdivision plat, or on a street which has become public by right of use. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions to comply with Section 904.15-1 (Corrected 9/8/2016).

904.07 Lot Shape. The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to the topography and conform to the requirements of these regulations. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage by adding area that would be unusable for normal purposes.

904.08 Lot Side Lines. Side lines of lots shall be approximately at right angles, or radial to the street line.

904.09 Lot Size. Residential lot size shall be in accordance with the lot requirement for the zoning district in which the subdivision is to be located as prescribed in Article 7 of the Land Development Regulations.

904.10 Monuments. Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by this regulation are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Administrator before any improvements are accepted:

904.10-1 Location - Iron Pipe: All street corners, all points where the street line intersects the exterior boundaries of the subdivision, at right angle points, and points of curve in each street and all other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade line.

904.11 Remnants. Land subject to flooding, land deemed to be topographically unsuitable for residential occupancy, and all remnants of lots below minimum size left over after subdividing a tract must be added to adjacent lots, or become the property of a homeowner's association rather than allowed to remain as unusable parcels.

904.12 Reservation of Land for Public Purposes. The Town may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings, and similar public and semipublic uses, subject to the following regulations:

904.12-1 Subdividers shall not be required to dedicate land for parks or playgrounds, exclusive of street and drainage reservations, without reimbursement by the Governing Body. Where land is required in excess of this amount, the reimbursement by the Governing Body shall be based on a proportionate share of the: (1) cost of raw land; (2) cost of improvements, including interests or investments; (3) development costs; plus (4) not more than ten (10) percent profit on the total of such costs;

904.12-2 Subdividers shall not be required to reserve land for public purposes other than streets, drainage, parks and playgrounds except on a reimbursement basis. They shall be reimbursed by the jurisdiction or agency requiring the land. The amount of reimbursement shall be determined as in Section 904.12-1. They shall not be required to hold the land longer than eighteen (18) months following the recording of the plat for such purchase. If the land is not purchased within the said eighteen (18) months, it may be sold as lots for the same purposes the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserve land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat;

904.12-3 The Governing Body shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision;

904.12-4 Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the Zoning Ordinance.

904.13 Reserve Strips:

904.13-1 There shall be no reserve strips controlling access to public streets.

904.14 Street Alignment and Layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement just be such as to cause no unnecessary hardship to owners of adjoining property when they p1at their own land and seek to provide for convenient access to it. Where, in the opinion of the Town, it is desirable to provide for street access to adjoining property, proposed streets shall be extended

by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Administrator.

904.15 Street Design and Standards.

904.15-1 For all subdivisions, all streets shall have, as a minimum, a right-of-way width of fifty (50) feet and a pavement width of thirty (30) feet. These minimums may be increased in accordance with specifications directed by the Governing Body;

904.15-2 All streets and alleys, subgrade and base material, shall be developed according to standards in the Virginia Department of Transportation Highways Street Standards;

904.15-3 Concrete curbs and gutters shall be installed on both sides of all streets shown on the subdivision plat in accordance with State standards. In the case of newly platted streets in a subdivision in which each lot contains one acre or more, curb and gutter is not required but the development plan must provide storm drainage provisions satisfactory to the Governing Body;

904.15-4 Streets shall be surfaced in accordance with State standards;

904.15-5 Concrete sidewalks shall be provided on both sides of all streets;

904.15-6 The subdivider shall construct and surface all platted streets. Curbs and gutters shall be provided for each street. Sidewalks shall also be constructed at the subdivider's expense;

904.15-7 Curbs, gutters, and sidewalks shall be constructed such that there will be a driveway entrance for each lot;

904.15-8 Same as 606.06-7.

904.16 Street Identification Signs. (Amended 11/8/2007)

904.16-1 Temporary street identification and traffic control signs shall be placed at each intersection by the developer prior to any construction beginning in the subdivision. The developer shall contact the zoning administrator when temporary signs have been erected. No zoning permits shall be issued within a subdivision prior to verification by the agent that the signs have been erected. Developer shall be responsible for keeping these signs in place until such time as permanent signs are erected. (Added 11/8/2007)

904.16-2 Permanent signs conforming to standard Town approved design, in accordance

with Section 606.06-6, and Virginia Department of Transportation specifications shall be erected at the developer's expense. Signs must be erected prior to the bond being released by the Town. (Added 11/8/2007)

904.17 Street Names. Proposed streets that are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Town. Names of existing streets shall not be changed except by specific approval.

905.00 UTILITY REQUIREMENTS

905.01 Plans and Specifications for Utility Fixtures and Systems to be submitted for Approval. If the owners of any such subdivision desire to construct in, on, or under any streets or alleys located in such subdivision, any gas, water, sewer, or electric light or power works, pipes, wires, fixtures, or systems, they shall present plans or specifications therefore to the Governing Body of the Town of Timberville or its authorized agent for approval. The Governing Body shall have sixty (60) days in which to approve or disapprove the same. In the event of the failure of the Governing Body or its agent to act within such period, such plans and specifications may be submitted, after ten days to the Town, to the judge of the Circuit Court having jurisdiction within the Town for approval or disapproval, and approval thereof shall, for all purposes of this article, be treated and considered as the approval of the Town.

905.02 Septic Tanks. The Governing Body shall not approve any subdivision where sanitary sewers are not provided unless it shall receive in writing from the Health Department, a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health, and that approval by the Governing Body is only with the understanding that where septic tanks are to be installed, they must be approved on an individual basis by the Health Department.

905.03 Public Water and/or Sewer. Where public water and/or sewer is available, the service shall be extended to all lots within a subdivision by the developer.

905.04 Private Water and/or Sewer. Where public water and/or sewer is not available, nothing in this regulation shall prevent the installation of privately-owned water distribution systems or sewage collection and treatment facilities; provided, however, that any such installations must meet all of the requirements of the State Water Control Board, the State Health Department, and any other State or local regulations having authority over such installations.

905.05 Fire Protection. The installation of adequate fire hydrants in a subdivision at approved locations is required, provided that the necessary water supply is available.

905.06 Flood Control and Drainage. If any portion of the proposed subdivision is determined by the agent to be in the one hundred (100) year floodplain, the subdivider shall provide the necessary information to demonstrate that the presence of the one hundred (100) year floodplain was considered in the layout of the subdivision. The subdivider shall also provide the plans for meeting the statewide stormwater management criteria, or alternate criteria adopted by the Timberville Governing Body. The Flood Control and Drainage information shall include a property certified engineer's statement that such improvements, when properly installed will be adequate to meet the criteria as applied to the proposed development.

905.07 Utility Easements. The Town may require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than 20 (20) feet in width shall be provided for water, sewer, power lines, and other utilities to serve the subdivision when required.

905.08 Town not obligated to Pay for Grading, Paving, etc. Nothing herein shall be construed as creating an obligation upon the Town of Timberville to pay for grading or paving, or for streets, sidewalks, sewers, water systems, street lighting, curb and gutter improvements, or other construction.

906.00 RELATION TO EROSION AND SEDIMENT CONTROL LAWS

The General Assembly has determined that the lands and waters comprising the watersheds of the State are great natural resources, which are being adversely affected by the rapid shift in land use from agricultural to nonagricultural uses. The General Assembly found it necessary to establish and implement the Virginia Erosion and Sediment Control Law to control erosion and sedimentation from land-disturbing activities.

906.01 Subdivision Development Included as Land-Disturbing Activity. The Code of Virginia includes the term subdivision development along with activities disturbing ten thousand (10,000) or more square feet of land for commercial or noncommercial uses.

906.02 Erosion and Sedimentation Plan Required. At the time of filing the preliminary plat, an erosion and sedimentation control plan will also be filed (see Section 907.02-9) in accordance with the Town of Timberville Erosion and Sediment Control Ordinance and the provisions of the Virginia Erosion and Sediment Control Handbook.

907.00 PLAT REQUIRED - APPROVAL BEFORE SALE

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the Administrator for the approval of the subdivision by submitting four (4) copies of a preliminary plat including the lot, street, and utilities layout. No lot shall be sold until final plat for the subdivision shall have been approved and recorded;

907.01 Preliminary Sketch. The subdivider may, if he so chooses, submit to the Administrator a preliminary sketch of the proposed subdivision prior to his preparing detailed preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans, in general, are in accordance with the requirements of this Ordinance. Upon submission of any such preliminary sketch, it shall be studied and the subdivider advised where it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the Planning Commission with the preliminary plat. The preliminary sketch shall be as follows:

907.01-1 It shall be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to an appropriate scale i.e., two hundred (200) feet to the inch. It shall show the name, location, and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

907.02 Preliminary Plat. The subdivider shall present to the Administrator four (4) copies of a preliminary layout at an appropriate scale. The preliminary plat shall include the following information:

907.02-1 Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point, and scale;

907.02-2 Location of proposed subdivision by an inset map at a scale of not less than one inch equal to two thousand (2,000) feet showing adjoining roads, their names and number, towns, subdivisions, and other landmarks;

907.02-3 The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in twenty-five hundred (2,500); total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, and adjoining such boundaries;

907.02-4 All existing, platted, and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas, and parking spaces; culverts, drains, and water courses, their names and other pertinent data;

907.02-5 All parcels of land to be dedicated for public use and the conditions of such dedication;

907.02-6 Topography at an appropriate interval;

907.02-7 Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets together with proposed grade lines connecting therewith;

907.02-8 Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply;

907.02-9 Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required, (see Section 906.02);

907.02-10 Procedure. The Planning Commission and agent shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the Town of Timberville Land Development Regulations. The subdivider shall then be advised in writing within forty-five (45) days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the Administrator shall require an amount double bona fide estimate of the cost of improvements to be furnished by the subdivider;

907.02-11 No Guarantee. Approval by the Planning Commission and Administrator of the preliminary plat does not constitute a guarantee of approval of the final plat;

907.02-12 Six Months Limit. The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to file with the Administrator a final subdivision plat in accordance with this section. Failure to do so shall make preliminary approval null and void. The Administrator may, on written request by the subdivider, grant an extension of this time limit.

908.00 FINAL PLAT

Four (4) copies of tile final plat shall be submitted to the Administrator. The subdivision plats submitted for final approval by the Governing Body and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth at an appropriate scale, i.e., one hundred (100) feet to the inch on sheets not exceeding seventeen (17) inches by twenty-two (22) inches in size. When a subdivision cannot be platted on sheets of this size, it is suggested that it be platted in sections, numbering the sections numerically, as Section 1, 2, etc., of _____ subdivision.

908.01 Plat should contain at least the following information:

908.01-1 Name of subdivision, ward, town, state, owner, north point, scale of drawing, and number of sheets. If shown on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. A space containing the Certificate of Approval, (see Appendix A), shall be provided for the use of the approving authority;

908.01-2 Location of proposed subdivision by an insert map, at a scale of not less than one (1) inch equals two thousand (2,000) feet, indicating adjoining roads, their names and numbers, towns, subdivisions, and other landmarks;

908.01-3 A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the true meridian and showing the location of all monuments and their type of material. The survey may be related to the State Plan Coordinate Grid, if the Coordinates of two (2) adjacent corners of the subdivision are shown;

908.01-4 A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take knowledgements of deeds on the form shown in Appendix A;

908.01-5 When the subdivision consists of land acquired from more than one source of title, the outlines of various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat;

908.01-6 The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites, or other public areas; the number and area of all building sites; all existing public and private streets, their names, numbers, and widths; existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes, and underground conduits including their size and type; water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries;

908.01-7 All dimensions shown shall meet the standards published by the State Board of Licensing,

908.01-8 The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, tangent, chord, and chord bearings;

908.01-9 A professional engineer or surveyor shall certify that all required facilities are

designed and built to the requisite standards (see Appendix A).

909.00 CONSIDERATION OF FINAL PLATS

909.01 The Governing Body shall act on proposed final plats within sixty (60) days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. The specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat;

909.01-1 If the Governing Body fails to act on the proposed plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days written notice to the Governing Body may petition the Circuit Court of the Town to decide whether the plat should or should not be approved. The Court shall hear the matter and make and enter such order with respect thereto as it deems proper;

909.01-2 If the Governing Body disapproves a plat and the subdivider contends that such disapproval was not properly based on the Ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Circuit Court having jurisdiction of such land, and the Court shall hear and determine the case as soon as possible, provided that his appeal is filed with the Circuit Court within sixty (60) days of the written disapproval by the Governing Body;

909.01-3 The subdivider shall have not more than six (6) months after receiving final approval to file the subdivision plat for recordation. If a plat is not filed for recordation within the time limit, such approval shall be withdrawn and the plat marked void and returned;

909.01-4 Before the acceptance of dedication for public use of any right-of-way located within any subdivision which has been constructed or proposed to be constructed within the subdivision, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement financed or to be financed in whole or in part by private funds the owner or developer must: (1) certify to the Governing Body that the construction costs have been paid to the person constructing such facilities; or (2) furnish to the Governing Body a certified check, letter of credit, cash escrow, or contract for construction in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the Governing Body, in an amount sufficient for and conditioned upon the construction of such facilities;

909.01-5 Should the Town have accepted the dedication of a road for public use and such road is not acceptable into the State Highway System due to factors other than its quality of construction, the Town may require the subdivider or developer to furnish a maintenance and indemnifying bond or letter of credit with surety

satisfactory to the Governing Body, in an amount sufficient for, and conditioned upon, the maintenance of such road until such time as it is accepted into the State Highway System;

909.01-6 Recordation. The recordation of such plat shall operate to transfer, in fee simple, to the Town of Timberville such portion of the premises platted as is on such plat set apart for streets, alleys, or other public use and to transfer to the Town any easement indicated on such plat to create public right of passage over the same;

909.01-7 Conditions. The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this Ordinance, and has made arrangements for performance bonds to the satisfaction of the agent. Approval of final plat shall be written by the agent on the face thereof.

910.00 LOTLINE REVISION

A lotline on an existing parcel may be revised as long as the revision will not be in conflict with any provisions of the Town of Timberville Land Regulations.

910.01 Procedure. The property owner or proprietor of a tract of land in Timberville shall file a plat meeting the requirements of Section 908.00. The Planning Commission shall review the proposed revision and make recommendations to the Governing Body. The Governing Body consideration will follow the process outlined in Section 909.00

911.00 VACATION OF PLAT

A plat may be vacated by Ordinance of the Governing Body of the Town of Timberville in which the land shown on the plat or part thereof to be vacated lies, on motion of one of its members, or on application of any interested person. Such Ordinance shall not be adopted until after notice has been given as required by Sections 15.2-2204 and 15.2-2205. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Governing Body at which the adoption of the Ordinance is to be considered. An appeal from the adoption of the Ordinance may be filed within thirty (30) days with the Circuit Court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal, the court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the Ordinance is filed within the time provided or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation shall be recorded in the Clerk's Office of the Court in which the plat is recorded.

911.01 In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods: (a) by instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the Governing Body of the city in which the land shown

on the plat or part thereof to be vacated lies for the purpose of showing the approval of such vacation by the Governing Body. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the Clerk's office of any Court in which said plat is recorded; (b) by Ordinance of the Town of Timberville Governing Body on motion of one of its members or on application of any interested person. Such Ordinance shall not be adopted until after notice has been given as required by Sections 15.2-2204 and 15.2-2205 of the Code of Virginia, 1950, as amended. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Governing Body at which the adoption of the Ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the Ordinance. An appeal from the adoption of the Ordinance may be filed within thirty days (30) with the Circuit Court having jurisdiction over the land shown on the plat or part thereof to be vacated. Upon such appeal the Court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the Ordinance is filed within the time provided or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation shall be recorded in the Clerk's Office of any Court in which the plat is recorded.

912.00 ADVERTISING STANDARDS

912.01 A subdivider, when advertising a subdivided tract of land for sale, shall be specific as to whether or not officially approved water and sewage facilities are available;

913.00 EXCEPTIONS

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to and where because of topographical or other conditions peculiar to the site, in the opinion of the Town a departure may be made without destroying the intent of such provisions, the Administrator may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Administrator with the reasoning on which the departure was justified set forth. No exception to this Ordinance may be granted which is opposed in writing by the Town or Highway Engineer or Health Official.

ARTICLE 10
SCHEDULE OF FEES

The following fees are hereby established in order to help defray the expenses of administration, processing applications, publicizing and conducting public hearings, and performing necessary inspections.

1001.00 FEES RELATED TO ZONING

The following fees shall apply for applications relating to zoning regulations:

1001.01 Each application for a Zoning Permit shall be accompanied by payment of one dollar ($1.00) per one thousand dollars ($1,000) of estimated cost or thirty-five dollars ($35.00) whichever is greater. (Amended & adopted 8/8/2024)

1001.02 Each application for a conditional use permit shall be accompanied by payment of two hundred fifty dollars ($250.00) over and above that submitted as required in Section 1001.01. (Amended 5/11/2006)

1001.03 Each application for a hearing before the Board for an administrative review or a variance shall be accompanied by a fee of two hundred fifty dollars ($250.00) over and above that submitted as required in Section 1001.01. (Amended 5/11/2006)

1001.04 All costs for advertising shall be the responsibility of the applicant for any request, application, amendment, or action that requires a public hearing. (Adopted 8/8/2024)

1002.00 FEES RELATED TO AMENDMENTS

Each application for an amendment shall be accompanied by payment of two hundred fifty dollars ($250.00) (Amended 5/11/2006)

1003.00 FEES RELATED TO SUBDIVISIONS

The following fees shall apply for applications relating to subdivision regulations:

1003.01 Submission of a preliminary sketch shall be accompanied by payment of a fee of twenty-five dollars ($25.00) (Amended 9/9/99)

1003.02 Submission of a preliminary plat shall be accompanied by payment of a fee of two hundred dollars ($200.00) plus one dollar ($1.00) for each dwelling unit proposed on the development plan. (Amended 9/9/99)

1003.03 Submission of a final plat shall be accompanied by payment of a fee of two hundred dollars ($200.00).

1003.04 A request for vacation of a plat before sales shall be accompanied by a fee of one hundred dollars ($100.00); a request for vacation of a plat after sales shall be accompanied by a fee of two hundred dollars ($200.00). (Amended 9/9/99)

1003.05 A fee of twenty dollars ($20.00) will be charged for a lot division, to be paid with submission of final plat. (Amended 9/9/99)

1004.00 RETURN OF FEES

No portion of any fee payment shall be returned to any applicant, except that where an application requiring a public hearing is withdrawn prior to notification of public hearing, that portion of any fee payment relating to notice and conduct of public hearing shall be returned.

ARTICLE 11
VIOLATION AND PENALTY

1101.00 VIOLATION

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

1102.00 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrator. He shall record properly such complaint, immediately investigate, and take action thereon provided by these regulations.

1103.00 PENALTIES

Any person, firm, or corporation, whether as principal agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of these regulations shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to one hundred dollars ($100.00). Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of these regulations is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as herein provided.

ARTICLE 12
LEGAL STATUS PROVISIONS

1201.00 CONFLICT WITH OTHER LAWS

Wherever the requirements of these regulations are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, or ordinances, the most restrictive or that imposing the higher standards, shall govern.

1202.00 VALIDITY

Each phrase, sentence, paragraph, section, or other provision of these regulations is severable from all other such phrases, sentences, paragraphs, sections, and provisions. Should any phrase, sentence, paragraph, section or provision of these regulations be declared by the Courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of these regulations.

1203.00 REPEALED RESOLUTIONS AND ORDINANCES

These regulations are a comprehensive enactment of all of the resolutions and ordinances of the Town of Timberville Governing Body relating to zoning and subdivision regulations. All prior ordinances affecting zoning and subdivision regulations are hereby repealed.

1204.00 EFFECTIVE DATE

These regulations shall take effect and be in force from and after 12:01 a.m., August 8, 2024. A certified copy of the foregoing Land Development Regulations of the Town of Timberville shall be filed in the office of the Administrator and in the office of the Clerk of the Town of Timberville, Virginia. A recorded vote of the Governing Body taken upon the foregoing regulations resulted as follows:

Isaac Kelley (aye)_____

Sarah Berry (aye)_____

Sharon Jones (aye) _____

Debbie Jessup (aye)_____

Clarence Fox (aye)_____

_____

APPENDIX A
CERTIFICATES REQUIRED

Owner's Consent and Dedication

Know all men by these presents, that the subdivision of land as shown on this plat, containing ____ acres, more or less, and designated as _____ Subdivision, situated in the Town of Timberville, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof, that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations, and covenants as contained in a writing executed by the undersigned, under the date of _____, 19___, and the said ____ acres of land hereby subdivided having been conveyed to _____ by _____ by deed dated _____, 19___, and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book _____, Page ___.

Given under our hands this _____ day of _____, 19___.

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

Surveyor's Certificate*

I hereby certify that to the best of my knowledge and belief, all of the requirements of the Governing Body and ordinances of the Town of Timberville, Virginia, regarding the platting of subdivisions within the Town have been complied with.

Given under my hand this _____ day of _____, 19___.

_____
State Certified or Land Surveyor

* The foregoing plat is not approved until all signatures have been obtained.

Certificate of Approval

This subdivision known as _____ Subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be committed to record.

_____ *(Signed)* _____
(Date) Virginia Department of Transportation

_____ *(Signed)* _____
(Date) Health Officer

_____ *(Signed)* _____
(Date) Chairman, Town of Timberville
Timberville Planning Commission

_____ *(Signed)* _____
(Date) Mayor or Agent, Town of
Timberville Governing Body

APPENDIX B
SUBDIVISION CHECKLIST
PRELIMINARY AND (FINAL) APPROVAL

Four prints appropriate scale on sheets 17" x 23" showing the following:

_____ Dimension showing feet and decimals of a foot to closest two figures.

_____ Name of subdivision, owner, subdivider, surveyor, or engineer, date of drawing, number of sheets, north point, and scale.

_____ Vicinity map scaled not less than 2" equals one mile showing adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.

_____ Boundary survey (or survey of record) with an accuracy of not less than one in 5,000 and showing location of all monuments and their type of material.

_____ Total acreage.

_____ Acreage of subdivided area.

_____ Number, area, and frontage of all building sites.

_____ Existing buildings, names of owners, and their property lines.

_____ Boundaries of existing and proposed streets, names, numbers, and widths. (Amended & adopted 8/8/2024)

_____ Boundaries of existing or proposed easements, public areas, and parking spaces.

_____ Culverts, drains, watercourses, their names, and survey cross-section.

_____ Parcels to be dedicated for public use and conditions of such dedication.

_____ Topography.

_____ Elevations of existing and proposed ground surfaces at street intersections and points of major grade change.

_____ Proposed connections with existing sewers or waterlines or alternate means of sewage disposal and water supply.

_____ Common areas.

_____ Provisions for collecting and discharging surface drainage and preliminary design of any required structures.

_____ Space for signatures of approving authority.

_____ Certificate signed by surveyor or engineer setting forth source of title of owners of land to be subdivided and place of record.

_____ Statement that subdivision as it appears on plat is with the free consent and in accordance with the desires of the owners and signed by the owners.

_____ Outline of various tracts when land is acquired from more than one source.

_____ Easements 10 feet in width or more.

_____ Blocks 500 to 1,200 feet in length.

_____ Adequate space for off-street parking.

Street intersections, approach angles:

_____ Not less than 80º on major street.

_____ Not less than 60º on hillsides.

_____ Streets widths, major 80', feeder or collector 50', other 50', and alleys 20'.

_____ Cul-de-sac – 100' turnaround.

_____ Street names, same where alignment with existing streets, no names to be duplicated.

_____ Review and recommendation by Planning Commission

_____ Approval of Highway Department.

_____ Approval of Health Officer.

_____ Approval of Subdivision Agent.

_____ Fees have been deposited.

_____ Erosion and Sedimentation Control Plan.

_____ Compliance with zoning lot size conforms with zoning district requirement.