

ARTICLE XVI - GENERAL PROVISIONS

16-1. BUILDING PERMITS:

- 16-1.1 Buildings or structures shall be started, reconstructed, enlarged, or altered only after a building permit has been obtained from the administrator.
- 16-1.2 Each application for a building permit shall be accompanied by three (3) copies of a scale drawing and the required permit charges or fees. The scale drawing shall show plan and profile views of the proposed building or structure. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right of way of any street or highway adjoining said parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit. If such proposed structure, alteration, or use is in conflict with the provisions of this Ordinance, the Zoning Administrator shall refuse a permit for such a structure, alteration, or use, and from such decision of the Zoning Administrator an appeal shall lie to the Board of Zoning Appeals. Should the permit be granted, any aggrieved person may also appeal to the Board of Zoning Appeals. Procedures for appeals shall be in accordance with Section 17-4.¹³
- 16-1.3 Any proposed deviation from original building permit must be submitted to the administrator for approval. Any request for deviation from the original building permit which would change the size or outside appearance of a building or structure must be made by way of reapplication. In such case, the reapplication shall be considered in the same way as the original application including publication of a notice as specified in 16-1.2. Building permits, when granted, shall be valid for a period as specified in the Town Building Code.⁷

16-2. CERTIFICATE OF OCCUPANCY:

- 16-2.1 Land and buildings may be used or occupied and building structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the administrator. Such a certificate shall state that the building or the proposed use, or the use of the land and buildings, complies with the provisions of this Ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a building permit. The certificate shall be issued with

ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this Ordinance.

16-3. SPECIAL EXCEPTIONS:^{35 48 90}

16-3.1 A special exception means a special use, that is a use not permitted in a particular district except by the issuance of a special exception permit granted under the provisions contained herein. The granting of a special exception permit shall be made under suitable regulations and safeguards as may be established by the Town Council who must consider in granting a special exception permit its relation to the public health, safety, morals, and general welfare of the community. In consideration of the granting of a special exception permit, consideration must also be given as to the effectiveness of the exception in meeting the overall objectives of the Zoning Ordinance. A special exception is distinguished from a variance in that special exceptions are generally permissible under the Zoning Ordinance while variances authorize a use which would otherwise be prohibited by the Ordinance. No specific standards are set forth herein on granting a special exception permit since it would be impractical to provide standards in the Zoning Ordinance that would be applicable to all situations wherein a special exception permit is being requested and where it is necessary for the Town Council to exercise their legislative judgment or discretion. However, the Planning Commission may recommend, and the Town Council may adopt at its discretion, suitable regulations, safeguards, requirements, or physical conditions or improvements which must be completed within a set timeframe of the granting of the special exception permit; and, if the regulations, safeguards, requirements, or physical conditions or improvements are not met within the set time period, the special exception permit will be considered to be revoked and the use in violation of the Zoning Ordinance. The Planning Commission and Town Council may consider the following standards in consideration of the issuance of the special exception permit: (a) length of time for the special exception permit; (b) the limitation of the special exception permit to a specific ownership; (c) a periodic review of the special exception with provisions for termination of the special exception permit; (d) physical improvements required for the granting of the special exception permit; (e) specific restrictions on the special excepted use for granting of the permit. Applications for a special exception permit shall be made to the Zoning Administrator who shall forward them to the Planning Commission for review. The application for a special exception permit shall include all matters of pertinent information that may be required by the Town Council, Planning Commission, and Zoning Administrator in the course of their review. The Planning Commission shall conduct a public hearing at its discretion in the manner normally prescribed by law and shall forward its recommendation to the Town Council for their review. Likewise, the Town Council shall conduct a public hearing at its discretion on the matter, in a manner prescribed by law, and shall accept, deny, or modify the

recommendation in any manner they deem appropriate in their sole discretion. Neither the Planning Commission nor the Town Council will accept and consider substantially the same application for a special exception permit for a period of 11 months.⁸⁰ Special exception permits granted by the Town Council, which have not been acted upon by the applicant after a period of two (2) years, shall be considered null and void.⁹⁰

16-4. USES NOT PROVIDED FOR:

16-4.1 If in any district established under this Ordinance, a use is not specifically permitted or prohibited and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the Planning Commission which shall make its recommendation to the governing body within thirty (30) days.

16-5. WIDENING OF HIGHWAYS AND STREETS:

16-5.1 Whenever there shall be plans in existence, approved by either the State Department of Highways or by the governing body, for the widening of any street or highway, within the Town of Wytheville, the Planning Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening.

16-6. OFF-STREET PARKING STANDARDS:

16-6.1 There shall be provided at the time of erection of any main building or at the time any main building is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles, independent of the use of other required spaces.¹⁵

A. In all Residential districts, there shall be provided, either in a private garage and/or on the lot, space for parking two (2) automobiles for the first dwelling unit in a new building. Space for one and one-half (1-½) additional automobiles will be provided for each additional unit in a new building, or each dwelling unit added in the case of the enlargement of an existing building. Where the computation results in a fractional space being required, the next whole number shall be deemed to be the number of spaces required.

B. Tourist homes, tourist courts, hotels and motels shall provide on the lot, parking space for one (1) automobile for each room accommodation.

C. For church, high school and college auditoriums and for theaters, general auditoriums, stadiums, and other similar places of assembly,

at least one (1) parking space for every three (3) persons for which seats are provided in said facility or main seating area.¹⁵

- D. For hospitals, at least one (1) parking space for each authorized bed, including infants' cribs and children's beds.
- E. For medical and dental clinics, at least fifteen (15) parking spaces. Three (3) additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of two (2) doctors and/or dentists.
- F. For apartments, at least one and one-half (1-½) parking spaces for each individual sleeping or living unit. For apartment motels, at least one and one-half (1-½) parking spaces for each sleeping room, up to and including the first twenty (20) sleeping rooms, and one and one-half (1-½) parking spaces for each two (2) sleeping rooms over twenty (20). Where computation results in a fractional space being required, the next whole number shall be deemed to be the number of spaces required.
- G. For mortuaries and liquor stores, at least thirty (30) parking spaces.
- H. For retail stores selling direct to the public, one (1) parking space for each two hundred (200) square feet of retail floor space in the building.
- I. Parking space required for dwellings shall be on the same lot with the dwelling. In the case of buildings other than dwellings, spaces may be located as far away as five hundred (500) feet.
- J. Where it may be impossible or impractical for parking spaces to be provided as required for retail stores, offices,¹⁰ and other unusual business as appropriate to B-2 DT Business zone,¹¹ application may be submitted for deviation from the requirements. The application should state the extent to which parking can be furnished by the applicant upon the property or upon other property within five hundred (500) feet; and also, the extent to which public or private parking is available to the use in the immediate vicinity. If it can be shown to the satisfaction of the administrator that the required parking cannot be reasonably provided on the property, or within five hundred (500) feet thereof, and that parking is being provided to the maximum extent practicable, then a deviation may be granted. Such deviation may reduce the requirements to the extent that public and private parking spaces are available to the use in the immediate area.

- K. Every parcel of land hereafter used as a public parking area shall be surfaced with crushed rock, gravel, asphalt, or concrete. It shall have appropriate bumper guards where needed as determined by the administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in any residential district.
- L. Any other commercial building not listed above hereafter erected, converted, or structurally altered shall provide one (1) parking space for each two hundred (200) square feet of business floor space in the building. Any establishment hereafter erected that serves meals, lunches, or drinks to patrons either in their cars or in the building shall provide one (1) parking space for each one hundred (100) square feet of business floor space in the building; provided there shall be at least one (1) parking space for each serving unit. In restaurants a serving unit shall be two (2) stools, one (1) booth or one (1) table. For restaurants with walk-up windows or serving counters, there must be fifteen (15) spaces for each such window or counter. For dance halls and recreational areas, one (1) parking space for each one hundred (100) square feet of floor area. Two (2) or more establishments may provide necessary parking space on a single parcel of land.
- M. Required parking spaces shall be maintained in connection with the buildings which they are to serve and in the manner indicated by the minimum requirements of off-street parking and space regulations. Substitution of equivalent spaces in conformity with the off-street parking regulations may be allowed by the Board of Zoning Appeals.
- N. Space shall be provided for the loading and unloading of trucks and commercial vehicles serving commercial buildings.

16-6.2 Parking Area Landscaping Requirements:^{50 53}

A. Surface Parking Area Perimeter Landscaping Requirements:

- (1) All commercial and multiple-family parking areas which exceed twenty (20) spaces, or 5,000 square feet of parking and drive area shall be subject to the requirements of this section, except those in the B-2 DT District.

B. Where Parking Area is Adjacent to the Right of Way:

- (1) Each off-street parking area which is adjacent to a public right of way shall be separated by a landscaped strip of not less than eight (8) feet in width. Such strip shall contain an earthen berm with ground cover, compact green hedge, or mulch with

deciduous trees spaced at a minimum of thirty (30) foot intervals or a fraction thereof. In spaces less than thirty (30) feet, at least one deciduous tree shall be placed in the landscaped strip. Alternative proposals may be presented for consideration; however, this standard shall be used as a guide for the landscaping practices. All deciduous trees shall conform to the standard set below. At the owner's or developer's option, twenty-five (25) percent of the deciduous tree requirement may be replaced with evergreen trees. All trees shall be maintained in accordance with the provisions of this section.

- (2) Each off-street parking area not adjacent to a public right of way shall be separated from the property line by a landscaped strip of not less than eight (8) feet. Such landscaped strip shall be planted with at least one (1) deciduous tree for every thirty (30) lineal feet of strip. Where two parking lots are adjacent, the strip may be eight (8) feet total or four (4) feet from the property line for each lot.

C. Surface Parking Area Interior Landscaping Requirements:

- (1) At least one planting island with minimum nominal dimensions of nine (9) feet by eighteen (18) feet shall be provided for every twelve (12) parking or loading spaces proposed. Where the calculation of the planting island requirements result in a fraction of an island, the number of islands required shall be rounded to the lowest number of islands unless the number is zero (0), in which case the number shall become one (1). Each island up to 350 square feet or fraction thereof shall be planted with at least one (1) healthy, deciduous tree meeting the requirements of 16-7A.1(a) above.
- (2) The owner shall have the option of providing lineal planting islands perpendicular to the parking spaces with a minimum width of five (5) feet in lieu of the nine (9) foot by eighteen (18) foot planting islands. In the lineal islands, there shall be planted at least one (1) deciduous tree for every thirty (30) feet or fraction thereof. The applicant may aggregate some or all of the landscaping islands to preserve existing trees located within such a parking area or area to become parking.
- (3) Twenty-five (25) percent of the required trees in the planting islands may be substituted with an evergreen tree of at least six (6) feet in height. All shall comply with the provisions of Article 16-7 Paragraph 1(b) above.

- (4) Shrubs and ground cover shall be installed in each planting island to provide full coverage of the area and placed to complement the tree landscaping.
- (5) Landscaping material shall be located within planting islands in a manner which will protect the plants from automobile bumpers and allow for the mature size of the species.

D. Tree Standards and Maintenance Requirements:

- (1) Each tree shall be a minimum of two and one-half (2-½) inches in caliper measured six (6) inches from the ground. All trees shall be maintained and guaranteed by the installer for a period of one year and shall be appropriately watered, pruned, and protected during the one-year period. All trees shall also be appropriately protected from traffic and vehicle bumper overhangs by curbing, stop blocks, or other acceptable means. Trees and landscape
- (2) strips shall be appropriately maintained by mowing, weeding, mulching, trimming, pruning, etc. for the life of the property.

E. Deviations from the Required Parking Landscape Plans:

- (1) Minor deviations from the provisions of this section may be permitted by the Zoning Administrator if the proposed landscaping provides island and strip planting area equal to or greater than that required herein. Any development or redevelopment of any site shall incorporate the applicable landscaping improvements identified in the original plan and shall incorporate the requirements of this section in the new or revised plan.
- (2) Redevelopment shall be defined as any construction work which removes and replaces the paving and curb and gutter for an area greater than 5,000 square feet. It shall not be constructed to mean patching, overlay parking, sealing, or marking the pavement for parking lots.

F. Special Exceptions for Parking Standards:

- (1) The Town Council may upon the application of the property owner grant special exceptions modifying the requirements of this section in accordance with the procedures and limitations established for special exception permits in Section XVI. Special exceptions shall be granted only if the applicant has clearly demonstrated a situation of extreme topography, unusual lot shape, or extraordinary circumstance. In addition, the required

special exception shall only be granted if the Town Council finds its proposed development will not be inconsistent with the Comprehensive Plan and other sections of this ordinance and otherwise will not result in inadequate on-site amenity or any condition which will adversely affect nearby property. Requests for special exceptions shall be granted in the whole, or in modified form with conditions, or denied by the Town Council after consideration of the requisites presented above.

16-7. QUALITY AND CHARACTER OF CONSTRUCTION:

16-7.1 The provisions of this section apply to buildings hereafter erected, reconstructed, or altered.

16-7.2 The quality and character of construction, particularly in respect to safety from fire and other hazards of buildings and equipment therein, shall be in conformity with the provisions of the Ordinance covering "The Building Code" for the Town of Wytheville. Any restrictions of the Building Code shall not be deemed to be modified by any provisions of this Ordinance; and such restrictions shall be controlling except insofar as this Ordinance imposes greater restrictions by reason of the use or location of the building, in which case the provisions of this Ordinance shall control.

16-7.3 In order that values of existing property may not be liable to depreciation because of possible inferior quality of future adjacent building construction in the same class or district in any block, it is the intent of the Ordinance that the quality and character of construction of any building shall be equal to or better than the average of such quality of existing buildings of the same character in the same class district of the block, or the existing buildings in the adjoining block of the same class district if there are no existing buildings in the same block.

16-8. SPECIAL FLOOD PROTECTION PROVISIONS TO MEET REQUIREMENTS OF NATIONAL FLOOD INSURANCE PROGRAM:^{31 60}

16-8.1 Purpose:

A. 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:

- (1) 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.

- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.
- (3) 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.
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

16-8.2 Applicability:

- A. These provisions shall apply to all lands within the jurisdiction of the Town of Wytheville and identified as being in the one hundred (100) year floodplain by the Federal Insurance Administration.

16-8.3 Compliance and Liability:

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

16-8.4 Abrogation and Greater Restrictions:

- A. 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.

16-8.5 Severability:

A. 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.

16-8.6 Penalties:

A. Any person who fails to comply with any of the requirements or provisions of this Ordinance or directions of the Zoning Administrator or any other authorized employee of the Town of Wytheville shall be guilty of a misdemeanor of the first class and subject to the penalties therefore.

B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this Ordinance may be declared by the Wytheville Town Council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this Ordinance.

16-9. FLOODING RELATED DEFINITIONS.⁶⁰

A. **Base Flood/One Hundred Year Flood:** Means the flood having a one (1) percent chance of being equaled or exceeded in any given year. [Often referred to as the 100-year flood].

B. **Base Flood Elevation (BFE):** The Federal Emergency Management Agency designated 100-year water surface elevation plus one (1) foot.

C. **Basement:** Any area of the building having its floor sub-grade (below ground level) on all sides.

D. **Board of Zoning Appeals:** The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

E. **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.

- F. **Floodplain or flood-prone area:** Any land area susceptible to being inundated by water from any source.
- G. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- H. **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.
- I. **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistance 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](#).
- J. **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 FIRM 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.
- K. **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.

L. **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.

M. **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 structures continued designation as a *historic structure*.

16-10. ESTABLISHMENT OF FLOODPLAIN DISTRICTS:⁶⁰

16-10.1 Description of Floodplain Districts:

A. Basis of Districts:

(1) The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the Town of Wytheville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 2, 2008, as amended.¹⁴

(2) The Floodway District is delineated, for purposes of this Ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this district are specifically defined in Table 3 of the above referenced Flood Insurance Study and shown on the

accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.

- (3) The Flood-Fringe District shall be that area of the one hundred (100) year floodplain not included in the Floodway District. The basis for the outermost boundary of the District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study and as shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.
- (4) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town of Wytheville.
- (5) The Community shall require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. [\[Code of Federal Regulations 44CFR 60.3\(b\) section \(3\).\]](#)

B. Overlay Concept:

- (1) 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.

- (2) 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.
- (3) 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 inapplicable.

16-10.2 Official Flood Zone Map:

- A. The boundaries of the 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 Wytheville offices.

16-10.3 District Boundary Changes:

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

16-10.4 Interpretation of District Boundaries:

- A. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Final interpretations shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The 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.

16-11. FLOODPLAIN DISTRICT PROVISIONS:⁶⁰

16-11.1 General Provisions:

A. Permit Requirement:

- (1) 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, such as the current edition of the [Virginia Uniform Statewide Building Code](#) and the Town of Wytheville 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. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or Relocation of Watercourse:

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

C. Drainage Facilities:

- (1) Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Site Plans and Permit Applications:

- (1) All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 1. For structures to be elevated, the elevation of the lowest floor (including basement).
 2. For structures to be flood proofed (nonresidential only), the elevation to which the structure will be flood proofed.
 3. The elevation of the one hundred (100) year flood.
 4. Topographic information showing existing and proposed ground elevations.

E. Recreational Vehicles:

- (1) Recreational vehicles placed on sites either:
 - (a) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or
 - (b) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the current edition of the [Virginia Uniform Statewide Building Code](#)
- (2) 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.

16-11.2 Floodway District:

- A. In the Floodway District no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100) year flood elevation.

16-11.3 Permitted Uses in The Floodway District:

- A. The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:
 - (1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - (3) Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
 - (4) Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

16-11.4 Flood Fringe and Approximated Floodplain Districts:

- A. In the Flood Fringe and Approximated Floodplain Districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the current edition of the [Virginia Uniform Statewide Building Code](#).
- B. Within the Approximated Floodplain District, all new subdivision proposals, and other purposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100)-year flood elevation more than one foot at any one point. The engineering principle--equal reduction of conveyance--shall be used to make the determination of increased flood heights.
- C. Within the floodway area delineated by the applicant, the provisions of Section 16-11.2 shall apply.

16-11.5 Design Criteria for Utilities and Facilities:

A. Sanitary Sewer Facilities:

- (1) All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water Facilities:

- (1) All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage Facilities:

- (1) All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Wytheville Town Council may require a

primarily underground system to accommodate frequent floods and a secondary surface system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities:

- (1) All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas, should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and Sidewalks:

- (1) Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

16-12. PROVISIONS FOR VARIANCES IN FLOODPLAIN DISTRICTS – FACTORS TO BE CONSIDERED:⁶⁰

16-12.1 In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.

- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The 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.
- M. Such other factors which are relevant to the purposes of this ordinance.

16-12.2 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.

16-12.3 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.

16-12.4 Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

16-12.5 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.

16-12.6 A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any

variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

16-13. EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS:⁶⁰

16-13.1 A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one-hundred-year flood elevation.
- B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, elevation and/or flood-proofing should be considered to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and the current edition of the [*Virginia Uniform Statewide Building Code*](#).

16-14. PROVISIONS FOR CONDITIONAL ZONING DISTRICTS:

16-14.1 It is the general policy of the Town of Wytheville in accordance with the provisions of [§ 15.2-2296](#) of the Code of Virginia to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning application for the protection of the community that are not generally applicable to land similarly zoned. The provisions of this section and the following sections shall not be used for the purpose of discrimination in housing. The provisions of this ordinance shall not be used to allow a use not otherwise enumerated in that Zoning district.

16-14.2 Same; Conditions as Part of a Rezoning or Amendment to Zoning Map:

- A. This section includes and provides for the voluntary proffering in writing by the owner, of reasonable conditions, prior to a public hearing before the Town Council, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment of a zoning map; provided that:
- (1) The rezoning itself must give rise for the need for the conditions;
 - (2) Such conditions shall have a reasonable relation to the rezoning;
 - (3) Such conditions shall not include a cash contribution to the Town of Wytheville;
 - (4) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities except as provided in the Subdivision Ordinance and in [Article 6. Land Subdivision and Development](#) of the Code of Virginia;
 - (5) Such conditions shall not include payment for or construction of off-site improvements except as provided in the Subdivision Ordinance and in [Article 6. Land Subdivision and Development](#) of the Code of Virginia;
 - (6) No condition shall be proffered that is not related to the physical development or physical operation of the property; and
 - (7) All such conditions shall be in conformity with the Comprehensive Plan.
- B. Once proffered and accepted as part of an amendment to the Zoning Ordinance, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised Zoning Ordinance.

16-14.3 Same; Enforcement and Guarantees:

- A. The zoning administrator shall be vested with all necessary authority on behalf of the Town of Wytheville to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any non-compliance with such conditions;
 - (2) The bringing of a legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and
 - (3) Require a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.
- B. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

16-14.4 Same; Records:

- A. The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

16-14.5 Same; Petition for Review of Decision:

- A. Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of this article may petition the Town Council for the review of the decision of the zoning administrator. All such petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within thirty (30) days from the date of the decision for which review is sought, and such petitions shall specify the grounds upon which the petitioner is aggrieved.

16-14.6 Same; Application for Review:

- A. Application for a conditional use permit shall be made on a form prescribed by the zoning administrator.

16-14.7 Same; Amendments and Variations of Conditions:

A. There shall be no amendment or variation of conditions created pursuant to the provisions of Section 16-14.2 until after a public hearing before the Town Council advertised pursuant to the provisions of [§ 15.2-2204](#) of the Code of Virginia.

16-15. USES NOT PERMITTED IN ANY ZONING DISTRICT:⁵⁶

16-15.1 Purpose:

A. The purpose of this section is to prevent uses in any zoning district that are incompatible with the intent of this ordinance and, therefore, are not permitted unless a special exception permit is issued.

16-15.2 Definitions:

- A. **Existing Dwelling:** A structure designed for residential use, which is occupied, or has been issued a certificate of occupancy or a building permit prior to the date on which a completed application for an intensive livestock facility has been received.
- B. **Intensive Livestock Facility:** A livestock operation with accessory uses or structures which at any one time has at least 300 animal units as referenced in the below chart and where such animals are or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the lot or facility.

Table of Livestock Facility Equivalents	
Type of Facility	Equivalent of 300 Animal Units
Livestock	300 slaughter and feeder cattle
Livestock	750 swine each weighing over 55 pounds
Livestock	150 horses
Livestock	3,000 sheep or lambs
Dairy	200 mature dairy cattle (whether milked or dry cows)
Poultry	16,500 turkeys
Poultry	30,000 laying hens or broilers

- C. **Livestock:** Includes all domestic or domesticated: bovine animals, including but not limited to cattle; equine animals, including but not limited to horses; ovine animals, including but not limited to sheep; porcine animals, including but not limited to hogs; poultry, including but not limited to turkeys, laying hens, or broilers.
- D. **Livestock Market:** A commercial facility that is intended for regular and continual delivery, showing and sale or auction, and shipping of domestic animals. This shall include all incidental facilities and structures including parking lots, barns, show rinks, bleachers, silos, holding pens, animal waste management system, etc.

16-15.3 Uses Not Permitted:

- 1. Livestock Market
- 2. Intensive Livestock Facility

16-15.4 Special Exceptions:

- A. These uses may be permitted in an A-1 Agricultural District only with a special exception permit. The special exception permit shall address the following:
- B. **Area:** Livestock markets shall comprise a minimum of 25 contiguous acres. Intensive livestock facilities shall comprise a minimum of 100 contiguous acres.
- C. **Traffic:** Livestock markets shall show that appropriate access for traffic to and from the market is available and the routes are limited to arterial streets.
- D. **State and Federal Laws and Regulations:** Applicants for or owners of livestock markets or intensive livestock facilities shall provide evidence that all State and Federal laws, statutes, or regulations for environmental quality, pollutant discharge, etc. have been met.
- E. **Noise and Odor:** Applicants for or owners of livestock markets or intensive livestock facilities shall provide information concerning methods to control odor, insects, and fecal contamination of groundwater and adjacent properties, and shall provide information that conforms to the following minimum separation distance from the real estate upon which the operation is conducted:
 - (1) Existing dwelling or residentially zoned property: 1,200 feet
 - (2) Roads or streets: 150 feet

- (3) Property lines: 150 feet
- (4) Existing business zones/Existing industrial zones/Existing medical arts zones: 600 feet
- (5) Existing residential dwelling or business owned by the operator/owner: 600 feet
- (6) Schools, churches, recreation parks or areas, public wells, or springs: 1,200 feet

16-16. BUFFER YARDS AND SCREENING⁶⁸

16-16.1 Buffer Yard--Purpose:

- A. The purpose of buffer yards is to limit the view and reduce the noise between abutting incompatible uses, and to ease the transition from one zoning district to another. Buffer yards are intended to provide a physical integration of uses which promote the public health, welfare, and safety by:
 - (1) Preventing visual pollution;
 - (2) Preventing the overcrowding of land;
 - (3) Preventing the undue congregation of people and vehicles; and
 - (4) Promoting the peaceful enjoyment of property within the Town of Wytheville.

16-16.2 Definitions:

- A. **Density:** The number of dwelling units permitted per net acre of land.
- B. **Development:** (1) Any human-caused change to improved or unimproved real estate that requires a permit or approval from any Town, State, or Federal agency, including but not limited to the placing, construction, repair, or renovations to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations and storage of material. (2) The subdivision and severance of land.
 - (1) In A-1 Agricultural districts, the construction of fences, plowing, planting of crops, and grazing of animals shall not constitute “development” for the purposes of this section.

- (2) Also, the construction of agricultural buildings greater than 20 feet from the property line shall not constitute “development” for the purposes of this section.

C. **Intensity:** The magnitude of activity affecting the development of densities, traffic flow, commercialism, tourism, and land use.

16-16.3 Buffer Yards – When Required:

A. A buffer yard shall be required with the development of any lot or property in any zoning district when the lot or property in that district abuts a zoning district of lower intensity.

- (1) When a public right-of-way separates the development of property of higher intensity, the following criteria shall apply, regardless of whether the zoning line is on one side or the other or the center of the public right-of-way:

- (a) If the right of way for an alley, street or highway is less than fifty (50) feet in width, a buffer yard with screening shall be provided for that portion of the higher intensity use abutting the right of way, alley, street, or highway.¹⁰³

- (b) If the right of way for an alley, street or highway is fifty (50) feet or more in width, no buffer yard or screening shall be required for the portion of the higher intensity use abutting the right of way, alley, street, or highway.¹⁰³

- (c) When a site plan is submitted to further develop a property or accommodate a change in land use, buffer yard and screening requirements may only be applied to those portions of the property that abut properties of lesser intensity that are directly affected by the proposed improvements or change in land use, as determined by the Zoning Administrator.

16-16.4 Zoning District Intensities:

A. For purposes of this section, intensities of the zoning districts shall be ranked according to the chart below. Category 1 shall be the least intensive, and Category 8 shall be the most intensive. When a zoning district of greater intensity is rezoned or developed adjacent to a zoning district of lesser intensity, a buffer yard and screening shall be provided.

Table of Zoning District Intensities		
Intensity Ranking	Category	Zoning Districts
Lower Intensity ↓ ↓ ↓ Higher Intensity	1	R-1, R-1A, R-1M
	2	R-2, R-3
	3	A-1
	4	R-2 FH
	5	R-3 MH
	6	MA-1
	7	B-1, B-2, B-2 DT
	8	M-1, M-1M, M-2

16-16.5 Buffer Yard Specifications:⁹⁹

- A. A buffer yard shall be a minimum of 20'-0" wide and shall be continuous except as provided above. The buffer yard shall contain vegetative screening that shall consist of at least two rows of specified trees spaced at least 5 feet apart. Trees in each row shall be spaced at 20'-0" on center maximum, staggered from the opposite row such that the effect is a staggered row of trees spaced a maximum of ten (10) feet apart. Trees shall be a minimum of five (5) feet tall at the time of planting and shall be healthy nursery stock. The trees shall be selected from the list of trees approved in Appendix A and shall consist of at least sixty percent (60%) evergreen, no more than twenty percent (20%) semi-evergreen and no more than twenty percent (20%) deciduous. The planting of these percentages of trees shall be even spaced. The applicant may choose from the appropriate tree species listed in Appendix A. Tree and shrub species shall be of the types and sizes that will provide the required screening. The Zoning Administrator shall determine the appropriate selection and may require revisions to the plans submitted for review prior to approval. Planting shall occur at an appropriate time of year to ensure healthy tree growth. When it is determined that the use to be separated by the buffer yard is so intense as to render the use of the vegetative screen ineffective, an architectural screen of at least five (5) feet in height shall be utilized.

Such architectural screen shall be an opaque fence of treated wood, vinyl, brick, or other decorative masonry and shall be constructed to provide an attractive and durable barrier. See Section 16-20 for general fencing and screening regulations.¹⁰⁵ Landscaping consisting of approved specified trees or shrubs shall be placed at a minimum of twenty (20) feet on center on both sides of the screen.

16-16.6 Buffer Yards – General Standards:

- A. Buffer yards shall contain vegetative and architectural screening that achieves appropriate screening of the different uses or densities. Trees used for screening, other than that specified, shall be suitable as determined by the Zoning Administrator.
- B. The maximum slope of any buffer yard shall be 2H:1V. Additional width shall be added to any portion of any buffer yard which exceeds this slope such that the minimum buffer yard width is met by land less steep than 2H:1V.
- C. The buffer yard shall be located entirely within the higher intensity zoning district and abutting the zoning district line, or adjacent right-of-way if such right-of-way separates the lot from the zoning district line. However, the buffer yard may be placed in the lower intensity zoning district or partially within both zoning districts if both sides of the zoning district line and entire buffer yard width are within common ownership and a permanent easement is provided over any portion of the buffer yard not within the higher intensity zoning district.
- D. A driveway required to serve the principal structure on the site may exist in the buffer yard. This driveway shall run substantially perpendicular to the buffer yard.
- E. Buffer yards shall be maintained in a natural condition free of structures, loading or storage areas, parking, roads, or driveways except as provided for in (d) above.
- F. Buffer yards required by this section shall be applied equally to all similarly situated properties. Modifications to these standards may be granted in writing by the Zoning Administrator if the Zoning Administrator finds any of the following circumstances exist on the proposed building site, or surrounding properties:
 - (1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section.

- (2) Innovative architectural design or landscaping is employed on the building site to achieve an equivalent buffering and screening effect.
- (3) The required screening would be ineffective due to the proposed topography of the site, and/or the location of the improvements on the site.
- (4) The topography or other conditions of adjacent and surrounding sites is such as to render required screening ineffective.
- (5) Site conditions exist that would not permit the placement of screens, or in the case of vegetative screens would hinder their survival. If such conditions exist, the Zoning Administrator may require alternative screens be provided.

- G. When property lines abut an adjacent jurisdiction, the Administrator shall determine the specific screening and buffering requirements along that property line after consideration of the zoning designation and/or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the Town.
- H. When buffer yards abut a public right of way, the width of the buffer yard may be required to be increased to accommodate safe sight distances around the screening required.
- I. Buffer yards and screening shall be continuous and in place at the time of occupancy. If screening is not complete due to the season or other considerations, a bond for the full value of the screening shall be obtained and kept in effect until the screening is complete. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
- J. Any features required by this section shall be maintained for the life of the use by the owner of the property on which they are required.

16-1.7 Recommended Trees/Shrubs for Buffer Yard Plantings. (See Chart below.)

Appendix A: Recommended Trees/Shrubs for Buffer Yard Plantings.

Common Name	Species	Noteworthy Cultivars	Other Information
Evergreen Species (greater than or equal to 60%)			
Douglas Fir	<i>Pseudotsuga menziesii</i>		Prefers acidic or neutral soil that is well-drained, though it can also be found in its native habitat of rocky mountain slopes. It is sensitive to drought.
Eastern Red Cedar	<i>Juniperus virginiana</i>		A tree species with a number of different cultivars/varieties. In its native form, it is well suited for those poor, rocky sites with thin and/or dry soils. Eastern red cedar prefers a relatively higher pH and is a suitable choice around limestone outcroppings.
White Pine	<i>Pinus strobus</i>		To be located where maintenance is possible with suitable equipment and 25 feet away from structures, fences, etc. i.e., similar to WCC's location.
Concolor Fir	<i>Abies concolor</i>		Tolerates nearly any type of well-drained soil, including loam, sand, or acidic soil. However, clay may present a problem.
Norway Spruce	<i>Picea abies</i>		Grows in acidic, loamy, moist, sandy, well-drained and clay soils. It has some drought tolerance. Various fungal diseases are becoming more prevalent.
Deodar Cedar	<i>Cedrus deodara</i>		Less cold tolerant, only recommended for warmer microclimates. Grows in acidic, loamy, moist, sandy, well-drained and clay soils. It prefers moist soil but has good drought tolerance.
Atlas Cedar	<i>Cedrus atlantica</i>	'Glauca'	A bold, pyramidal form with sparkling silvery blue foliage. A spectacular specimen for large landscape areas. Drought tolerant, when established.
False Cypress	<i>Chamaecyparis pisifera</i>		Extremely adaptable, but prefers moist, loamy, well-drained, lime-free soils.
Leyland Cypress	x <i>Cupressocyparis leylandii</i>		Noted for rapid growth & slender shape. It grows well in a wide variety of soil and climate conditions and makes an excellent wind break. Susceptible to wind damage and dieback when mature.
English Yew	<i>Taxus baccata</i>		Most parts of the plant are poisonous, with toxins that can be absorbed through inhalation and through the skin.
Hicks Yew	<i>Taxus x media</i>	'Hicksii'	An excellent evergreen shrub for tall hedges and privacy screens. Most parts of the plant are poisonous.

Appendix A: Recommended Trees/Shrubs for Buffer Yard Plantings.			
Common Name	Species	Noteworthy Cultivars	Other Information
Northern White Cedar	<i>Thuja occidentalis</i>		As a native tree can reach up to 60 feet. Often called American Arborvitae. Adaptable to most soil types and is somewhat shade tolerant. Grows well in wetter to average soil moisture conditions.
Eastern Arborvitae	<i>Thuja occidentalis</i>	'Techny'	Has dense foliage. Medium to tall hedges or screens.
Eastern Arborvitae	<i>Thuja occidentalis</i>	'Nigra'	Good for tall hedges. Not recommended for dry locations.
Eastern Arborvitae	<i>Thuja occidentalis</i>	'Emerald-Green' or 'Smaragd'	Smaller form with dense foliage. Slower growing but will provide a dense hedge with closer plantings.
Giant Arborvitae	<i>Thuja plicata</i> x	'Green Giant'	A large fast growing and disease resistant evergreen screen. Moderate drought tolerance.
Rocky Mountain Juniper	<i>Juniperus scopulorum</i>	'Wichita Blue'	Prefers good drainage. Beautiful blue foliage. Mature height up to 15 feet.
American Holly	<i>Ilex opaca</i>		Pyramidal evergreen that bears dark green, non-glossy, spine-tipped leaves. Moist, well-drained, acidic soils. Prefers sandy, sandy loam, medium loam. Not good in clay.
Smooth Cypress (Arizona)	<i>Hesperocyparis arizonica</i> , AKA <i>Cupressus arizonica</i>	var. 'glabra'	Arizona cypress is drought-tolerant, fast-growing, and relatively short-lived (30-50 years). It is very widely used as an ornamental and for windbreaks in its native range.
Nellie R Stevens Holly	<i>Ilex</i>	'Nellie R Stevens'	Vigorous growing with a broad pyramidal tree-like form, dense branching, and lustrous, dark green, leathery foliage. An excellent hedge, screen, or specimen.
Foster #2 Holly	<i>Ilex x attenuata</i>	'Fosteri'	Not very cold or wind tolerant. These require some type of shelter from cold and wind. Recommended to be planted where not in western exposure.
Semi-Evergreen Species (no more than 20%)			
Pin Oak	<i>Quercus palustris</i>		Pin Oak is native and is faster growing. It has a graceful slender appearance. Tolerates wet feet and requires acidic soils but is adaptable to drier conditions.
Dawn Redwood	<i>Metasequoia glyptostroboides</i>		Deciduous conifer; ideal for wet planting conditions.
Bald Cypress	<i>Taxodium distichum</i>		Deciduous conifer; ideal for wet or dry planting conditions.
European Beech	<i>Fagus sylvatica</i>		Dense foliage is retained on branches during part or all of the winter. The cultivar 'Purpurea' has purple foliage.

Appendix A: Recommended Trees/Shrubs for Buffer Yard Plantings.			
Common Name	Species	Noteworthy Cultivars	Other Information
American Beech	Fagus grandifolia		Dense foliage is retained on branches during part or all of the winter.
Deciduous Species (no more than 20%)			
Flowering Dogwood	Cornus florida		Select disease resistant varieties.
Kousa Dogwood	Cornus kousa		Some varieties have winter (bare) architecture as attractive as Flowering Dogwood; Kousa has red crabapple-like berries and starts flowering at about the time Flowering Dogwood ceases flowering.
Pagoda Dogwood	Cornus alternifolia		Should be planted near the edges of the buffer yards to appreciate its pagoda-like form.
Redbud	Cercis canadensis		A suitable candidate for rocky outcrop buffer yards, especially when paired with Eastern Red Cedar. See above.
Downey Serviceberry	Amelanchier arborea		Grows well in acidic, moist and well-drained soils.
Shadblow Serviceberry	Amelanchier canadensis		It is a shrubby tree that can be left alone to grow into a suckering shrub or pruned to a multi or single-stemmed tree.
Flowering Crabapple	Malus species		Beautiful flowering tree but susceptible to leaf damage by insects and disease.
Silverbell	Halesia caroliniana		
Carolina Silverbell	Halesia tetraptera		
Shrubs (less than 10%)			
Osmanthus	Osmanthus heterophyllus		
Viburnum	Viburnum rhytidophyllum	Leatherleaf	
Carolina Cherry Laurel	Prunus laurocerasus	'Schipkaensis'	Grows to 4-5 feet. Good mix for foreground planting with taller trees in background.

16-17. RETAINING WALLS:⁶⁹

16-17.1 Purpose:

- A. In order to encourage the reasonable development of property along major streets and provide for reasonable access thereto, to encourage development that relates to the scale and elevation of the adjacent streets, and assure that utilities are accessible, this article regulates the construction,

- B. height, location, and material of retaining walls along all arterial streets in the town.

16-17.2 Definition:

- A. Retaining Wall: A wall or similar structure built or designed to retain or restrain forces of soil or other materials at a grade change to hold the soil or other materials on the up-hill side from slumping, sliding, or falling; a wall or terraced combination of walls used to retain more than 18 inches of materials and not used to support, provide a foundation for, or provide a wall for a building or structure.

16-17.3 No retaining wall in excess of 4'-0" in height may be constructed unless it conforms to the following:

- A. The retaining wall shall be designed by a professional engineer who is licensed to practice in Virginia.
- B. The plans for such retaining walls shall be submitted to the Town of Wytheville Building Official for review and approval and issuance of a building permit.
- C. The retaining wall must be set back at least four (4) feet from the property line, right of way, or easement line. For a retaining wall over four (4) feet in height, the retaining wall shall be set back at least four (4) feet from the property line, public street, rights of way, utility easements, etc. and an additional two (2) feet for each one (1) foot of height of the retaining wall. In cases where the retaining walls have footings, buttresses, or other supports, the setback shall be from the nearest component of the retaining wall. [For example, an 8-foot retaining wall must be set back four (4) feet + (2 X 8) = 20 feet from the property line.]
- D. A "Guardrail Safety" fence, as described in Section 16-20.6 Chart 2, is required when pedestrians or children may be expected to be near the top of the wall. Guardrail safety fences shall be 42" in height +/- 3". In no case shall fences, rails, or other extensions of the retaining wall extend from the top of the retaining wall more than 4'-0".¹⁰⁵ All fences, retaining walls, or barriers shall be designed to meet applicable building codes and shall be decorative in nature. No chain link fences, woven wire fences, barbed wire fences shall be permitted.

16-18. ENTRANCE CORRIDOR OVERLAY DISTRICT¹⁵

16-18.1 Purpose:

A. The entrance corridor overlay district is intended to implement the Comprehensive Plan goal of protecting the town’s historic, architectural, and cultural resources by ensuring a quality of development compatible with those resources through these regulatory measures. The purpose of this article is to protect and enhance the town’s entrance corridors’ attractiveness; to sustain and enhance the economic benefits accruing to the town from tourism; to support and stimulate development complimentary to the prominence afforded properties and districts having historic, architectural, or cultural significance; all of the foregoing being deemed to advance and promote the health, safety, and welfare of the general public.

16-18.2 Applicability:

- A. Subject to subsection (b) below, an entrance corridor overlay district is hereby established upon and along the following streets or highways, which are deemed by the Town Council to be significant routes of tourist access or to designated historic districts, buildings, or structures within the town (“Entrance Corridor Streets”):
- (1) Peppers Ferry Road from Interstate 77 to 11th Street
 - (2) West Lee Highway (Route 11 West), from the B-2 DT General Business District Downtown line approximately midblock between Monroe and North Streets to the corporate limit line.⁷⁶
 - (3) Route 21 South from 14th Street to the corporate limit line⁸¹
- B. Entrance corridor overlay districts are hereby established upon the lots and parcels of land contiguous to the streets enumerated above, from the edge of the pavement or back of curb to the depth of 200 feet. The portion of the development that falls within any portion of the 200-foot mark shall comply with these requirements.
- C. The entrance corridor overlay districts are hereby established over the existing zoning district classifications of the land contiguous to the street enumerated above. The regulations set forth within this article shall apply to all such land in addition to the regulations of the underlying zoning district and in addition to other generally applicable Zoning Ordinance provisions (e.g., generally applicable standards governing parking, landscaping, signs, etc.). In the event of a conflict between the regulations set forth within this article and those set forth

within the regulations of the underlying zoning district classification, or elsewhere within this Zoning Ordinance, the more restrictive regulation shall govern.

16-18.3 Specific Requirements for Corridor Overlay Development:

- A. **Landscaping Buffer:** Landscaping buffer areas shall be provided on all properties along the route. The buffer shall be twenty (20) feet in width measured from, and parallel to, the curb line or if there is no curb, the edge of permanent pavement. There shall be no development in the buffer yard area, except for signs and entrances as permitted in the Buffer Yard Regulations and permitted herein.
- B. **Screening of Utilitarian Areas:** Utilitarian areas, such as dumpster pads, transformers, storage areas, etc., exposed to view from the Corridor shall be screened with a fence or vegetation (according to the standards for Buffer Yard Regulations, Section 16-16 of the Zoning Ordinance). See Section 16-20 for general fencing and screening regulations.¹⁰⁵
- C. **Sign Requirements:** Signs shall conform to the requirements of Article XXI.¹⁰⁸ See Article XXI, Chart 21-6, Signs in the Entrance Corridor Overlay District and, in the MA-1 Medical Arts District for Entrance Corridor Signage Regulations.¹⁰⁸
- D. **Underground Utilities:** Underground utilities shall be required for all new development.
- E. **Lighting:** Lighting shall consist of decorative lights and poles (no wood poles and “cobra-heads”) with “cut-off” heads that direct the light toward the ground to avoid light pollution.

16-18.4 Review for Conformance with the Specific Requirements:

- A. Review of development for conformance with the requirements herein shall be administrated by the Director of Planning or his designee.¹⁰⁵
- B. **Standards for Considering Conformance:** The Director of Planning, in conducting an administrative review, and the BZA on review of an appeal, shall consider the entrance corridor requirements enumerated herein.

16-19. SMALL-LOT/SMALL-HOME OVERLAY ZONE⁹⁴

16-19.1 Purpose:

- A. The purpose of the Small-Lot/Small-Home Overlay Zone is to provide increased opportunities for high quality, affordable single-family home ownership and infill through alternative design criteria.

16-19.2 Applicability:

- A. At the discretion of the Planning Commission and the Town Council, Small-Lot/Small-Home Overlay Zoning Districts can be placed over any existing zoning district, in which single family dwellings are regulated by the R-3 Residential standard. These zones include R-3 Residential, M-1 Industrial, B-1 Business, B-2 Business and B-2 DT General Business - Downtown. The Small- Lot/Small-Home Overlay may also be placed on A-1 Agriculture Zoning Districts.
- B. Provisions of the Small-Lot/Small-Home Overlay Zone only apply to lots and/or dwellings created for the purpose of single-family residential development. No manufactured homes or on-frame modular homes are permitted in the Small- Lot/Small-Home Overlay Zone when using provisions of this Overlay Zone.
- C. Lots and dwellings created for the purpose of single-family residential development may utilize the provisions of the underlying zoning district in addition to all other generally applicable Zoning Ordinance provisions (e.g., generally applicable standards governing parking, landscaping, signage, etc.), however, at such time that a lot or dwelling is created utilizing any provision of the Small-Lot/ Small-Home Overlay Zone (e.g., reduced lot area, reduced setbacks, reduced floor area, reduced frontage, etc.), then all remaining provisions and restrictions of the Small-Lot/Small-Home Overlay Zone shall be enforced.
- D. Subject to the provisions of this section, the Small-Lot/Small-Home Overlay Zone is hereby established upon certain properties within the town, as follows:
 - (1) West Jefferson Street, Railroad Avenue and South 8TH Street;
 - (2) West Jefferson Street, South 14TH Street, South 18TH Street and West Washington Street; and,
 - (3) West Jefferson Street, South 12TH Street, South 10TH Street and West Union Street.⁹⁷

16-19.3 Minimum Requirements for Small-Lot/Small-Home Overlay Development:

- A. **Lot Area Regulations:** For each lot containing or intended to contain a single-family dwelling, the minimum lot area shall be four thousand (4,000) square feet.
- B. **Floor Area:** Each single-family dwelling shall have a minimum floor area outside the walls, excluding garages, porches, carports, and terraces, of not less than five hundred (500) square feet.
- C. **Ground Area:** Each residence shall occupy a minimum ground area outside the walls, excluding garages, porches, carports, and terraces, of not less than three hundred fifty (350) square feet.
- D. **Front Yard Setback:** No building shall be erected, reconstructed, or altered nearer than fifteen (15) feet to the street line on which it faces.
- E. **Side Yard Setback:** The minimum side yard shall be five (5) feet and the total width of the two required side yards shall be ten (10) feet.
- F. **Rear Yard Setback:** Each dwelling shall have a rear yard with a minimum depth of twenty (20) feet.
- G. **Frontage:** The minimum lot width at the setback line shall be thirty-five (35) feet.
- H. **Water & Sewer & Utilities:** Each dwelling must be connected to public water and sewer unless otherwise permitted by the Virginia Department of Health to connect to private water and sewer systems. All electric, phone, internet, etc. service lines shall be installed underground.
- I. **Front Porch:** Each dwelling must have a covered front porch with a minimum area of sixty (60) square feet and no dimension less than six (6) foot wide.
- J. **Roofing:** Each dwelling must have an architectural grade roof utilizing three- dimensional shingles, tiles, slate or standing or raised seam metal roof with no exposed fasteners.
- K. **Exterior Wall Materials:**
 - (1) **Required Exterior Wall Materials:** Each dwelling must be covered in brick, wood “clapboard” type siding, wood composite “clapboard” type siding, cement board “clapboard” type siding, Cellular PVC “clapboard” type siding, stone, or glass. Traditional vinyl siding may be used with the following conditions:

- (a) Product thickness must be 0.044 inch or greater.
- (b) Substrate must be 7/16-inch structural sheathing.
- (c) The siding must be nailed up by hand using galvanized nails.
- (d) Nail spacing for horizontal siding must be a maximum of sixteen (16) inches on center.
- (e) Nail spacing for vertical panels must be a maximum of twelve (12) inches on center.

(2) **Prohibited Exterior Wall Materials:**

- (a) Plywood and other similar sheet siding materials such as the following T1-11 siding.
- (b) Industrial style metal siding.
- (c) Exposed fastener metal wall and roofing panels.
- (d) Other Pressed Board Siding (PBS) type materials that are manufactured in sheets.

L. **Foundations:** All foundations must be enclosed with permanent masonry walls. All above grade CMU foundation walls must be parged and painted, or covered with brick or stone veneer.

M. **Exposed Wood Surfaces:** Treated wood surfaces, where exposed, must be stained, painted, or encapsulated in a decorative material.

N. **Additional Required Building Details:** Each dwelling must incorporate at least two of the following elements

- (1) Decorative molding/framing details around all front façade windows and doors.
- (2) Decorative door design including transom and/or side lights.
- (3) Decorative roofline elements, such as brackets, dormers, and chimneys.
- (4) Decorative building materials, including decorative masonry, brick, tile, and stone.

16-19.4 Review for Conformance with the Specific Requirements:

- A. Review of development for conformance with the requirements herein shall be administrative by the Director of Planning or his designee.

16-20. FENCING REGULATIONS:¹⁰⁵

16-20.1 Fencing Definitions:

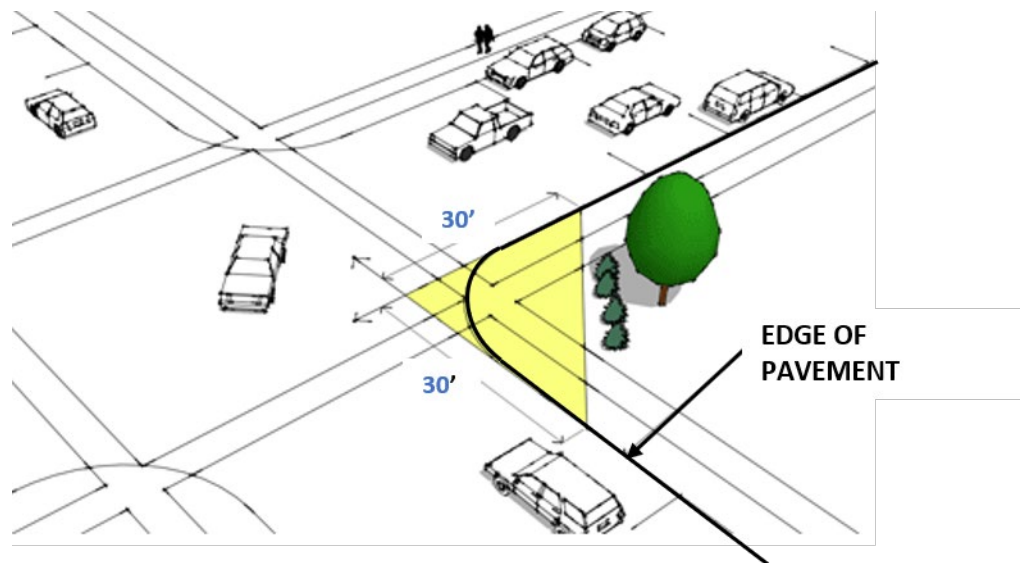
- A. **Access Control Fence:** Fencing primarily intended to control entry or exit from a specified area. Typically, these fences are from four (4) to eight (8) feet tall and located along rear or side property lines or other areas on site to restrict access to rear and side yard areas.
- B. **Agricultural Fence:** Fences that provide a separation between agricultural uses and other uses to prevent movement of grazing animals or to restrict access to agricultural production areas. These fences are typically located along front, side, and rear property lines of sites in agricultural zones, or occasionally to separate an agricultural use on an undeveloped parcel or portion of a parcel in another zone.
- C. **Animal Control Kennels and Cages, Commercial:** Fencing for the purpose of commercially housing or controlling pets, livestock, or other animals. Pet shelters, pet boarding facilities, veterinary hospitals, pet grooming facilities, and breeding facilities are examples.
- D. **Animal Control Kennels and Cages, Private:** Fencing for the purpose of housing or controlling small pets or other animals for private enjoyment. Dog kennels, dog runs, and similar fence structures are examples.
- E. **Architectural Buffer Yard Screen:** Where a buffer yard is required as a screen between a proposed higher intensity use, such as commercial, industrial, or multi-family use, and any lower density use, a fence may be included within the buffer yard for access control or for screening. The combination of landscape buffer and fence must be effective in blocking views of the site from the adjoining lower density use areas. Architectural Buffer Yard Screen Fences are generally located along the property line or elsewhere, when necessary, to improve the effectiveness of screening.
- F. **Character or Image Fencing:** Fencing that is intended to communicate an image, style, or other nonverbal message about the business or industry located on the relevant property. Examples

include use of picket fencing to convey the image of hominess for a boutique shop or use of rail fencing to create a rural image at a store selling landscaping products.

- G. **Construction Fence:** These are temporary fences to protect areas such as construction sites, staging areas, and special events.
- H. **Detention Pond Safety Fence:** Detention pond safety fences are to be located at the top of the detention pond structure when required due to site conditions or the basin geometry. The purpose of these fences is to prevent drowning accidents.
- I. **Division Fence or Boundary Fence:** Fences located on property boundaries. See the Code of Virginia § 55.1-2821. Obligation to provide division fences. Property owners are obligated to share the expense of these fences equally, unless one property owner chooses to let their property lie open or the two parties agree otherwise.
- J. **Dumpster Enclosure:** A fence or wall intended to enclose any trash or recycling containers. Dumpster enclosure fences must meet the standards for Screen Fences as defined herein.
- K. **Excessive Height Fences:** Fences taller than eight (8) feet, which are necessary for the function of a permitted use.
- L. **Fence or Wall:** A constructed barrier of any material or materials enclosing, dividing, or screening an area of land. This definition does not include “Retaining Wall.”
- M. **Guardrail Safety Fence:** Sturdy fencing materials may be used to protect pedestrians from high drop-offs found along retaining walls, steep slopes, quarries, and similar landscape features.
- N. **High Security Production Area Fence:** These are fences protecting outdoor production or material loading areas requiring restricted access. The need for secure production or shipping and receiving is often driven by aspects of the production process that may be hazardous to the public.
- O. **HVAC Screen Fence:** These are fence enclosures intended to screen heating, ventilation, and cooling equipment from view.
- P. **HVAC Security Fence:** These are fence enclosures intended to protect sensitive or essential heating, ventilation, and cooling equipment from unwanted access.

- Q. **Managed Care Safety Fence:** This is fencing of outdoor spaces for the safety of vulnerable individuals including children, elderly, and others in a managed care or day care facility. Examples include memory care, daycare, preschool, school, group homes, and pool safety fences.
- R. **Open:** For the purpose of this section, the term “open” shall mean when the fence or wall is viewed perpendicular to its length from one side, the view through the fence is not fully obstructed. The percentage of solidity must be less than 50% and must be uniform along the length of the fence or wall.
- S. **Ornamental Materials:** Fencing materials designed and assembled in such a manner that the main purpose is to decorate or enhance the appearance of the fence. Fences consisting of sheet metal, welded or woven wire, or galvanized chain link mesh are excluded under this definition.
- T. **Outdoor Café Fence:** This is fencing designed to enclose outdoor eating areas on properties where a food service use is present and where the eating area does not encroach on any publicly controlled sidewalk space.
- U. **Outdoor Product Sales or Display Fence:** Some products can be offered for sale in an outdoor setting. Examples include certain farm equipment, plants, and landscaping materials. Fencing of these areas is primarily for inventory control and control of access. Screening of these areas is not generally desired by the retailer although it may be desired by neighbors and the general public.
- V. **Public Facility Fence:** Some public facilities require control of access not only along rear and side property lines, but along the street right-of-way as well. This may include public works service yards, parks, cemeteries, and similar public facilities.
- W. **Recreation Equipment Fence:** Some sports venues require fencing as part of the game equipment or for the convenience of the game. Sports facilities that may require fencing include, but are not limited to, baseball fields, basketball courts, tennis courts, and soccer fields. Fencing for recreational equipment may require appropriate safety padding to protect participants from injury.
- X. **Screen Fence:** These fences are intended to screen views of unattractive objects or activities from the street or adjacent properties.

- Y. **Sidewalk Café Fence:** Temporary or moveable fences or other space-defining structures that are designed to designate space for dining or café use upon a public sidewalk within the B-2 DT zoning district.
- Z. **Sight Triangle:** Triangular area adjacent to the intersection of any street established by measuring a distance of thirty (30) feet from the point of intersection of two (2) streets along the edge of pavement of each of the intersecting streets and connecting the ends of each. (See figure below.)



- AA. **Solid:** (same definition from the current Zoning Ordinance but includes walls) - For the purpose of this section, the term “solid” shall mean when the fence or wall is viewed perpendicular to its length from one side, no break or opening may be seen. The percentage of solidity must be uniform along the length of the fence or wall.
- BB. **Storage Screen Fence:** These fences are intended to both secure and screen from view storage areas and self-service storage facilities. Objects to be screened may include any products, vehicles, or other equipment that is intended to be stored outside of an enclosed building or other structure as well as the grounds around entrances to individual self-service storage units.
- CC. **Utilitarian Style:** Fences constructed of galvanized chain link mesh, welded or woven wire, wood snow fences, sheet metal, or other similar materials that are designed solely for functionality.
- DD. **Utility Security Fence:** These fences secure utility or fuel storage structures to protect the public from injury or to assure the safety of public and private utility facilities. This category of fencing protects

facilities such as water, sewer, gas, electric, communications, and fuel storage sites.

16-20.2 General Fencing Provisions:

- A. The provisions of this section do not apply to retaining walls. See Section 16-17 Retaining Walls, for additional information.
- B. **Location:** Fences and walls shall be wholly contained within the owner's property, except for Division or Boundary Fences, which may be located on adjoining property lines. For the purpose of establishing fence locations, "wholly contained" shall mean at least one (1) foot within the property line.
- C. **Permit Required:** A building permit and fee are required for all fences described herein except for portable kennels not affixed to the ground or runs of thirty (30) feet or less of decorative open fencing that is less than four (4) feet tall.
- D. No fence or wall shall be permitted within the Town right-of-way and any fence or wall located within the Town right-of-way is subject to removal at the owner's expense. This provision does not imply that temporary fences necessary for construction activity or special events cannot be installed along a public right-of-way with appropriate traffic management plans that are approved by the Town of Wytheville Engineer, Public Works Director, and Zoning Administrator.
- E. All fences and walls are subject to compliance with all applicable provisions of the Uniform Statewide Building Code.
- F. No fence shall obstruct views at any entrance onto public right-of-way or located in the sight triangle of any street intersection.
- G. When fences and walls are constructed on lots on which no structure exists, "Front Yard" is deemed to be the minimum front yard setback required in the zoning district in which the fence or wall is being placed.
- H. The "attractive side" of a fence must face outward along any street, including corner and double frontage lots, and when protecting a pool. It is recommended to face the "attractive side" out in all other instances, although there is no requirement.
- I. When a fence is intended to provide multiple functions as defined by the fence types found in the chart at the end of this section, the more restrictive guidelines for all applicable fence types shall apply. If the applicable guidelines appear to be in conflict, the Zoning

Administrator or his or her designee shall review the circumstances and render a final opinion on requirements for said fence.

- J. Barbed wire, razor wire, or other sharply pointed materials may be used in industrially zoned districts provided said material is over seven (7) feet above the ground and any projections at the top shall be over the fence owner's property and not overhang onto abutting property.
- K. Barbed wire may also be used in agricultural fencing in the A-1 Zoning District and to repair or replace grandfathered agricultural fencing in other zoning districts.

16-20.3 Provisions for Fences in Residential Districts (R-1, R-1A, R-1M, R-2, R-2 FH, R-3, and R-3 MH):

- A. Fence locations by height and degree of opacity within residential districts are as follows:
 - (1) **Front Yard:**
 - (a) Fences and walls up to four (4) feet in height and up to 50% solid may be erected in the front yard of any lot.
 - (b) No fence or wall more than four (4) feet in height or more than 50% solid shall be erected in any front yard except as required to meet screening requirements in specific zoning district regulations.
 - (2) **Side Yards:**
 - (a) Fences and walls up to four (4) feet in height and up to 100% solid may be erected in the side or rear yards of any lot.
 - (b) A fence or wall up to 100% solid, more than four (4) feet in height and up to eight (8) feet in height may be erected in the side yard provided that the fence is at least fifteen (15) feet behind the front yard setback line of the existing structure, and street side corner parcels have a setback of at least five (5) feet from the public right-of-way in residential districts.
 - (3) **Rear Yard:**
 - (a) A fence or wall up to eight (8) feet in height and up to 100% solid may be erected in any rear yard.

**16-20.4 Provisions for Fences in Business and Industrial Districts
(B-1, B-2, B-2 DT, MA-1, M-1, M-1 M, and M-2):**

A. Required Fencing, Screening, And Enclosure:

- (1) Activities incidental to permitted uses, which are not conducted wholly within a completely enclosed building, shall be conducted within an area enclosed on all sides by a fence that meets the guidelines for an “Access Control” fence as described in Chart 2 of Section 16-20.6.
- (2) In cases where activities described in Section 16-20.4 A.1 could pose a hazard to individuals entering the site, the fence enclosure shall also meet the guidelines for a “High Security Production Area” fence as described in Chart 2 of Section 16-20.6. Potentially hazardous outdoor uses include, but are not limited to, manufacturing or assembly of products, servicing or repair of equipment, refinement or machining of materials, storage or staging of equipment, or transfer of raw materials and chemicals.
- (3) In cases where visibility of activities described in Section 16-20.4 A.1 are of a nature that would adversely affect the value or enjoyment of adjoining property, the required fence must also meet the guidelines for a “Screen” fence as described in Chart 2 of Section 16-20.6. Outdoor uses requiring screen fencing shall include, but not be limited to, storage of materials or products not intended for retail sale, storage of trucks or other service vehicles, junk yards, storage of inoperative vehicles, automobile graveyards, towing and wrecker service yards, and outdoor assembly or manufacturing of products. Screen fences required under this provision must be maintained in good repair continuously while the potentially offensive uses are present.
- (4) Outdoor retail sales display areas shall be conducted wholly within an area enclosed on all sides by a fence that meets the guidelines for an “Outdoor Product Sales or Display” fence as described in Chart 2 of Section 16-20.6. Signs that require an unobstructed view, sales of automobiles, sales of manufactured homes, or sales of accessory buildings are exempted from the fencing requirement.
- (5) Signs that require an unobstructed view, and employee and visitor parking areas are exempt from the fencing and screening requirement.
- (6) Utilities and other equipment, such as HVAC units, that require natural air circulation, an unobstructed view, or other technical

consideration necessary for proper operation, should be sited to allow adequate space for safe operation while still meeting requirements for fencing and screening. The Zoning Administrator may grant an exception where evidence is provided that unobstructed access or view of the public utility or other equipment is required for safe operation. This exception does not include storing of any materials.

B. Fence locations by height and degree of opacity within business and industrial districts are based on the following guidelines:

(1) Front Yard:

- (a) Fences and walls up to four (4) feet in height and up to 50% solid may be erected in the front yard of any lot.
- (b) No fence or wall more than four (4) feet in height or more than 50% solid shall be erected in any front yard except as required to meet screening requirements in specific zoning district regulations.
- (c) Certain open style safety fence types up to eight (8) feet tall, including agricultural, detention pond safety, public facility, and utility security fences, are permitted in front yards within business and industrial districts. In no case shall these fences encroach on sight triangles or block sight lines at any entrance.

(2) Side Yards:

- (a) Fences and walls up to four (4) feet in height and up to 100% solid may be erected in the side or rear yards of any lot.
- (b) A fence or wall up to eight (8) feet in height and 100% solid may be erected in the side yard provided that the fence is at least fifteen (15) feet behind the front yard setback line of the existing structure and street side corner parcels have a setback of at least ten (10) feet from the public right-of-way in nonresidential districts.

(3) Rear Yard:

- (a) A fence or wall up to eight (8) feet in height and up to 100% solid may be erected in any rear yard.

16-20.5 Property Areas:

- A. The following chart describes the five (5) areas used to regulate fence height and location on parcels within the Town of Wytheville. The five (5) diagrams that follow the chart offer a graphic representation of each of the five areas.

Chart 1: Description of The Five (5) Regulatory Areas for Fencing of Parcels

Area Label	Area Description
A	Entire parcel except in sight triangles.
B	Behind front yard setback line.
C	Fifteen (15) feet behind front yard setback line, with a street side setback from the public right-of-way on side corner parcels of five (5) feet in residential zones and ten (10) feet in other zones.
D	Only within building envelope (front, side, and rear yard setback lines).
E	Entire parcel and may encroach on right-of-way provided that installation is temporary, and that plans to safely accommodate pedestrian and vehicular traffic are approved by the Town of Wytheville Engineer, Public Works Director, and the Zoning Administrator.

16-20.6 Chart 2: Fence Types, Zoning Districts Where Permitted and Special Requirements by Fence Type

Purpose of Fence	Zoning Districts Where Permitted	Special Requirements	Height	Opacity	Allowable Site Areas
Access Control	All	<ul style="list-style-type: none"> This general category of fences may be subject to requirements for other fence types, such as screening and material quality based on site conditions, zoning regulations, and intended uses. 	Up to 8 feet	Open or Solid	C
Agricultural	A-1	<ul style="list-style-type: none"> Agricultural fencing should be open and allow visibility from offsite. Provisions for installation of agricultural fence in nonagricultural zones shall not constitute permission to maintain cattle or other livestock in nonagricultural zones. 	Up to 8 feet	Open	A
	All zones when proposed agricultural use is permitted in that zone.				
Animal Control Kennels and Cages, Commercial	A-1, B-2, M-1, M-2	<ul style="list-style-type: none"> Fences shall be open to allow observation of the animals. Exceptions may be granted when required for the safety or wellbeing of the animals. 	Up to 8 feet	Open	D
Animal Control Kennels and Cages, Private	3 or fewer dogs – All zones	<ul style="list-style-type: none"> Fences shall be open to allow observation of the animals. Exceptions may be granted when required for the safety or wellbeing of the animals. 	Up to 8 feet	Open	≤3 dogs C
	4 or more dogs – A-1, B-2, M-1, M-2		Up to 8 feet	Open	≥4 dogs D
Architectural Buffer Yard Screen	All	<ul style="list-style-type: none"> All screen fences should be 80% or more solid. 	Up to 8 feet	≥ 80% Solid	C
Character or Image	All	<ul style="list-style-type: none"> Ornamental and durable materials are required. Utilitarian fence materials such as chain link or other wire fence are not allowed. 	≤ 4 feet	≤ 50% Solid	A
				> 50% Solid	B
			> 4 feet	Open or Solid	C
Construction	All	<ul style="list-style-type: none"> These fences are temporary only. All temporary construction fences encroaching on the right-of-way or sight triangle require a Traffic and Access Control Plan to be approved by the Town of Wytheville Engineer, Public Works Director, and Zoning Administrator. The plan must provide safe passage for both vehicular and pedestrian traffic through adjacent streets and sidewalks. Temporary pedestrian facilities, traffic control devices and/or detours may be required. Permits for temporary construction fences are valid for up to six (6) months. For construction projects that continue for more than six (6) months, renewals will require a reevaluation of the effectiveness of the Traffic and Access Control Plan. 	Up to 8 feet	Open or Solid	E
Detention Pond Safety	All	<p>Safety fences are not typically required for stormwater detention ponds except when any one or more of the following conditions are present:</p> <ul style="list-style-type: none"> Ponded depths greater than 3 feet are expected. Side slopes of 3:1 or steeper are present. The basin is situated in close proximity to schools or playgrounds, pedestrian areas, or other areas where children are expected to frequent. It is recommended by the responsible design engineer or, if the Town will become responsible for maintenance of the facility, then by a representative of the Town of Wytheville. 	Up to 8 feet	Open	A

16-20.6 Chart 2: Fence Types, Zoning Districts Where Permitted and Special Requirements by Fence Type

Purpose of Fence	Zoning Districts Where Permitted	Special Requirements	Height	Opacity	Allowable Site Areas
Dumpster Enclosure	B-1, B-2, B-2 DT, MA-1, M-1, M-1M, M-2, R-3	<ul style="list-style-type: none"> All screen fences should be 80% or more solid. Dumpster enclosures are required for all commercial and industrial uses, and for all multi-family uses with five (5) or more units. Dumpster enclosures must screen all four (4) sides of the dumpster(s) by utilizing a solid gate at the access point unless the dumpster access is not visible from any street. Where the dumpster access is not visible from any public street or right-of-way, the solid gate may be omitted but screening of the remaining three (3) sides is required. 	Up to 8 feet	≥ 80% Solid	C
Excessive Height Fences	B-1, B-2, B-2 DT, M-1, M-1M, M-2	<ul style="list-style-type: none"> Fences taller than 8 feet are treated as a building and must meet applicable building setback requirements. Excessive Height Fences are subject to the same building and site plan review requirements as buildings and other site structures. Ornamental materials shall be used when located along arterial and collector roadways. 	> 8 feet	Open or Solid	D
Guardrail Safety	All	<ul style="list-style-type: none"> Guardrail fences are required by code to be 42 inches tall. Must utilize vertical balustrades with no openings larger than four (4) inches wide to discourage climbing. Retaining walls and steep slopes over four (4) feet in height must be engineered by an appropriate licensed professional. A guardrail fence is required when a pedestrian area is located above the wall, the wall is near a school, playground, or other area where children are expected to frequent. A guardrail fence is required when recommended by the responsible design engineer, or if the Town will become responsible for maintenance of the facility, by a representative of the Town of Wytheville. 	42 inches	Open	A
High Security Production Area	M-1, M-1M, M-2	<ul style="list-style-type: none"> Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a solid board fence, or a slatted chain link fence of at least six (6) feet in height. Fence system shall include lockable gates. Gates for pedestrian access shall be self-closing and locking. Fence shall be designed to prevent climbing through the design or use of barbed wire that is above seven (7) feet in height and does not extend beyond the property line. 	Up to 8 feet	Open or Solid (Unless screening is required for the use.)	D
HVAC Screen	All	<ul style="list-style-type: none"> All screen fences should be 80% or more solid. 	≤ 4 feet	≥ 80% Solid	B
			> 4 feet	> 80% Solid	C
HVAC Security	All	<ul style="list-style-type: none"> When located between the building and the street, an HVAC Screen Fence is required. 	Up to 8 feet	Open or Solid	C
Managed Care and Safety (Includes memory care, daycare, preschool, school, group home, and pool safety fences.)	All	<ul style="list-style-type: none"> These safety fences are subject to all applicable building and safety code requirements. Openings should not be greater than four (4) inches. Gates should be self-closing and self-latching/locking. The fence should not be climbable. Fence material shall be open to allow visibility to monitor the space and should not be obstructed by landscaping, except that solid fence materials may be used when necessary to protect the security of residents or neighbors. 	Up to 8 feet	Open (Solid fence may be used when required for the safety of residents or neighbors.)	C
Outdoor Café	B-1, B-2, B-2 DT, M-1, PUD	<ul style="list-style-type: none"> Applies to onsite outdoor eating areas in commercial and industrial zones, and in Planned Unit Developments. Ornamental materials are required. 	Up to 4 feet	Open or Solid	A
Outdoor Product Sales or Display	B-1, B-2, B-2 DT, M-1	<ul style="list-style-type: none"> Ornamental materials are required when located facing a public roadway. 	Any Height	Open or Solid	D
Public Facility	All			Open Utilitarian Style	C

16-20.6 Chart 2: Fence Types, Zoning Districts Where Permitted and Special Requirements by Fence Type

Purpose of Fence	Zoning Districts Where Permitted	Special Requirements	Height	Opacity	Allowable Site Areas
		<ul style="list-style-type: none"> Ornamental materials shall be used when located along arterial and collector roadways and in residential zones. 	Up to 8 feet	Open Ornamental materials	A
Recreation Equipment	All	<ul style="list-style-type: none"> Recreation equipment fence shall incorporate appropriate padding and similar safety devices to protect participants in sporting activities and events. 	Any Height	Open	D
Screen	All	<ul style="list-style-type: none"> All screen fences should be 80% or more solid. Screen fences must effectively block the view of the area to be screened from the street and/or other adjacent off-site areas. For fence types that look different on one side than the other side, the more attractive side should face the street. Such screen fence shall be constructed of opaque materials such as treated wood, vinyl, brick, masonry, or other similar material and shall be constructed to provide an attractive and durable barrier. Slatted chain link fence may be used only in business and industrial zones where no existing residential use is present on adjacent parcels, no residentially zoned areas are adjacent, and no arterial street frontage is present. Screen fencing must be located to provide the best possible screening of the area intended to be screened. On sloping sites, this may require a location away from the property line, such as at the top of a graded slope created to form a building pad. Where a screen fence is required by this ordinance, the minimum height is six (6) feet. 	Up to 8 feet	≥ 80% Solid	C
Sidewalk Café	B-2 DT	<ul style="list-style-type: none"> A renewable one (1) year permit is required. Renewal reviews will be conducted concurrently with Special Exception Permit Reviews. Applies only to outdoor eating areas located on public sidewalks in traditional downtown urban settings. Free flow of pedestrian traffic along the sidewalk must be maintained. Typically, that requires a minimum of six (6) feet with eight (8) feet or more preferred. Fence must be self-supporting and fully removeable without damage to sidewalk materials. All materials must be ornamental, high quality, and durable. Moveable planters with small shrubs may be used in lieu of traditional fencing to define eating areas. These guidelines may be used for sidewalk eating areas located in privately-owned shopping venues. 	≤ 4 feet	Open	E
Storage Area	B-1, B-2, B-2 DT, M-1, M-1M, M-2	<ul style="list-style-type: none"> Storage screen fences are required when outdoor storage is present. Entrances to individual enclosed self-service storage units shall be enclosed within a fence. Ornamental materials shall be used when located along arterial and collector roadways. Where possible, building perimeters may serve as all or part of the storage area fencing. 	Up to 8 feet	Open or Solid	C
Utility Security	All	<ul style="list-style-type: none"> Ornamental materials screen fence is required for residential zones, and along collector roads and arterial streets. Where utilitarian style fencing such as chain link is used, a front yard setback, equal to or greater than the front yard building setback, and landscape screen shall be provided. 	Up to 8 feet	Solid Utilitarian Style	C
				Solid Ornamental Materials	A

13
7
35
48
90
80
90
15
15
10
11
50
53
31
60
60
60
14
60
60
60
56
68
103
103
99
105
69
105
15
76
81
105
108
108
105
94
97
105