



**Town of Wytheville
Subdivision Ordinance**

ORDINANCE NO. 652

AN ORDINANCE TO REGULATE THE SUBDIVISION OF PROPERTY INTO LOTS, STREETS, ALLEYS AND OTHER PUBLIC AREAS, TO PROVIDE FOR THE MAKING AND RECORDING OF PLATS OF SUCH SUBDIVISIONS AND THE CERTIFICATION OF SAME AND PROVIDE FOR THE APPROVAL OF PLATS

WHEREAS, Article 11 of the Virginia Planning Act found in the Code of Virginia 1950, as amended, Section 15.1-465, et seq., the governing body of Wytheville, Virginia, is authorized to adopt regulations to provide:

- (a) For size, scale and other plat details;
- (b) For the orderly development of the general area;
- (c) For the coordination of streets within the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainages;
- (d) For adequate provisions for drainage and flood control and other public purposes, and for light and air;
- (e) For the extent to which and the manner in which streets shall be graded and improved and water and storm and sanitary sewers and other utilities or other facilities installed;
- (f) For the acceptance of dedication for public use of any right of way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewerage system or other improvement, financed or to be financed in whole or in part by private funds only if the owner or developer (1) certifies to the governing body that the construction costs have been paid to the persons constructing such facilities, or (2) furnishes to the governing body a certified check in the amount of the estimated costs of construction or a bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned;
- (g) For monuments of specific types to be installed establishing street and property lines;
- (h) That unless a plat be filed for recordation within a reasonable time after final approval thereof such approval shall be withdrawn and the plat marked void and returned to the approving official; and

- (i) For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this act.

THEREFORE, BE IT ORDAINED by the governing body of Wytheville, Virginia, that the following regulations are hereby adopted for the subdivision of land within the jurisdiction of Wytheville, Virginia, and from and after the effective date of this ordinance, every owner or proprietor of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the Clerk of the Court wherein deeds conveying such land are required by law to be recorded.

SECTION 1 - PURPOSE AND TITLE

1-1 PURPOSE

The purpose of this ordinance is to establish certain subdivision standards and procedures for Wytheville, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the 1950 Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when lands and acreage become urban in character as a result of development for residential, business, or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development for use; and to make possible the provision of public services in a safe, adequate and efficient manner. Subdivided land sooner or later becomes a public responsibility in that roads and streets must be maintained and numerous public services customary to urban areas must be provided. This ordinance assists the community in meeting these responsibilities.

For the purpose of this ordinance, a subdivision shall be the division of any tract, parcel or lot of land into two or more parts, except, however,

- (a) The term "subdivision" shall not include a bona fide division or partition of agricultural land for agricultural purposes or for the building site for members of the family owning any such agricultural lands.
- (b) The administrator may permit the separation of two or less parcels from a tract of land without complying with all the requirements of this ordinance if it is: (1) not in conflict with the general meaning and purpose of this ordinance; (2) no new streets are required to serve the parcel(s); and (3) residual properties will not be created which fail to meet subdivision or zoning requirements. Any person who may feel aggrieved by the decision of

the administrator may request review by the Planning Commission under the usual procedure which is applicable to any other type of subdivision.⁵

SECTION 2- ADMINISTRATION

2-1 ADMINISTRATOR

The agent appointed by the governing body is hereby delegated to administer this ordinance. In so doing, the agent shall be considered the agent of the governing body. The agent shall also consult with the Commission on matters contained herein.

2-2 DUTIES

The agent shall perform its duties as regards subdivisions and subdividing in accordance with this ordinance and the Land Subdivision and Development Act.

2-3 TO CONSULT

In the performance of its duties, the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent shall have particular reference to the Virginia Department of Transportation Resident Engineer and the health official.

2-4 ADDITIONAL AUTHORITY

In addition to the regulations herein contained for the platting of the subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance.

SECTION 3-DEFINITIONS

WORDS AND TERMS

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapproved"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

- 3-1 Agent: The representative of the governing body who has been appointed to serve as the agent of the Council and/or the Planning Commission in approving the subdivision plats.
- 3-2 Alley: A permanent service way providing a secondary means of access to abutting properties.
- 3-3 Building Line: The distance which a building is from the front lot line or front boundary line.
- 3-4 Commission: The Planning Commission of Wytheville, Virginia.
- 3-5 Cul-de-sac: A street with only one outlet having an appropriate turn-around for a safe and convenient reverse traffic movement.
- 3-6 Clean-out: A vertical section of pipe with a removable cap at ground surface level used for cleaning clogged sewer lines.
- 3-7 Developer: An owner of property being subdivided, whether or not represented by an agent.
- 3-8 Easement: A grant by a property owner of the use of land for a specific purpose or purposes.
- 3-9 Engineer: An engineer licensed by the Commonwealth of Virginia.
- 3-10 Governing Body: The Town Council of Wytheville, Virginia.
- 3-11 Health Official: The health director or sanitarian of Wythe County, Virginia.
- 3-12 Health Department (Department of Health) (State Health Department): The Commonwealth of Virginia Department of Health.
- 3-13 Highway Engineer: The Resident Engineer employed by the Virginia Department of Transportation (VDOT).

- 3-14 Jurisdiction: The area or territory subject to the legislative control of the governing body.
- 3-15 Lateral: The section of water or sewer line extending between the water main or sewer main to the property line.
- 3-16 Lot: A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory buildings.
- 3-17 Lot, Corner: A lot abutting upon two (2) or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.
- 3-18 Lot, Depth of: The mean horizontal distance between the front and rear lot lines.
- 3-19 Lot, Double Frontage: An interior lot having frontage on two (2) streets.
- 3-20 Lot, Interior: A lot other than a corner lot.
- 3-21 Lot of Record: A lot which has been recorded in the office of the clerk of the appropriate court.
- 3-22 Lot, Width of: The mean horizontal distance between the side lot lines.
- 3-23 Plat: Includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide".
- 3-24 Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.
- 3-25 Street: The principal means of access to abutting properties.
- 3-26 Street, Public Use of: The unrestricted use of a specified area or right of way for ingress and egress to two or more abutting properties.
- 3-27 Street, Major: A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.
- 3-28 Street, Other: A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.

- 3-29 Street, Service Drive: A public right of way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right of way by providing safe and orderly points of access to the highway.
- 3-30 Street Width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.
- 3-31 Subdivide: To divide any tract, parcel or lot of land into two or more parts.
- 3-32 Subdivider: An individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.
- 3-33 Town of Wytheville Standards: Those standards adopted by the Town of Wytheville Engineering Department which are published for use by the Town of Wytheville Engineering Department in the construction of all improvements in the Town. These standards include references to the Virginia Department of Transportation and other construction industry standards.

SECTION 4-PROCEDURE FOR MAKING AND RECORDING PLATS

4-1 PLATTING REQUIRED

Any owner or developer of any tract of land situated within the Town of Wytheville who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in any such subdivision before the plat shall have been recorded.

4-1.1 In the event a plan for subdivision is disapproved by the agent, the subdivider may appeal to the governing body which may then override the recommendation of the agent and approve said plat.

4-2 DRAW AND CERTIFY

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

4-3 OWNER'S STATEMENT

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

4-4 NO ONE EXEMPT

No person shall subdivide any tract of land that is located within the Town of Wytheville as defined in Article 11 of the Virginia Planning Act except in conformity with the provisions of this ordinance.

4-5 PRIVATE CONTRACTS

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

4-6 NECESSARY CHANGES

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

4-7 RELATION TO ZONING

When the intended use of all or part of the platted area, as indicated by the preliminary plat and as shown on that plat, would put the land in a more restrictive category than that which now exists, such shall be considered a petition for the rezoning of the platted area to the higher classification.

4-8 FEES

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider shall deposit with the agent the fee which is designated for such by the Town Council.

SECTION 5 - GENERAL REGULATIONS

5-1 MUTUAL RESPONSIBILITY

There is a mutual responsibility between the subdivider and the Town of Wytheville to divide the land so as to improve the general use pattern of the land being subdivided.

5-2 LAND MUST BE SUITABLE

The agent shall not approve the subdivision of land if from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

5-3 FLOODING

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land with the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

5-4 BUILDING SITE

To insure that residents will have sufficient land upon which to build a house which is flood free, this agent may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be completely free of the danger of flood waters.

5-5 IMPROVEMENTS

All required improvements shall be installed by the subdivider at his cost. In cases where specifications have been established either by the Virginia Department of Transportation and the Town of Wytheville for streets, curbs, etc., or by other local ordinances and codes, such specifications shall be followed. All improvements shall be constructed under the inspection of the Town of Wytheville. The developer shall notify the Town of Wytheville prior to the start of any construction so that inspection of the work may be continuous during the performance of the work. However, nothing in this section shall be construed to obligate the Town of Wytheville to inspect any or all portions of the work. Work which does not conform to Town of Wytheville

standards will be rejected and shall be replaced before final approval of the work by the Town. The cost of all testing required for quality control of the work shall be paid for by the developer.

The subdivider's bond shall not be released until construction has been inspected and approved by the appropriate Town engineer or agent. All improvements shall be in accordance with the following requirements:

5-5.1 FLOOD CONTROL AND DRAINAGE

The subdivider shall provide, in accordance with Chapter 10 "Erosion and Sediment Control" of the Town Code of the Town of Wytheville, Virginia, all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans, stormwater management plans, and flood control devices. The subdivider shall also provide plans for all such improvements properly sealed by an engineer or surveyor licensed to practice in the Commonwealth of Virginia along with a statement that such improvements, when properly installed, will be adequate for proper development,⁶ and will comply with applicable provisions of Chapter 10 of the Town Code, and its references. The plans shall be approved or disapproved by the appropriate plan approving authority as outlined in Chapter 10 or by the Town Manager as required. The subdivider shall also provide any other information requested by the Town Engineer.⁶

5-5.2 LOT SIZE

The minimum lot size in any area shall be in accordance with the Zoning Ordinance, except that where public water and/or public sewer systems are not available such minimum lot sizes may be increased by the agent in accordance with the recommendations of the health officer which shall be submitted to the agent in writing, either by notations on the plat or by letter. The health officer may be guided by appropriate tests in determining the area required for the sanitary and safe disposal of septic tank effluent.

5-5.3 EASEMENTS

The agent may require that permanent easements for drainage through adjoining property be provided by the subdivider. Permanent easements of not less than ten (10) feet in width shall

be provided for water, sewer, power poles, and other utilities (including by way of illustration and not by way of limitation, electric, telephone, natural gas and television) in the subdivision when required by the Planning Commission or its agent. Electric service shall be provided either overhead or underground as determined by the Planning Commission or its agent. In subdivisions where electric service is provided underground, the subdivider shall provide the agent a plan which designs the street lighting for the subdivision (See Section 5-5.4). The subdivider shall provide permanent easements which will accommodate the street lighting plan.⁷

5-5.4 STREET LIGHTS

Street lighting shall be installed at all new intersections of roads or streets, and along streets or roads at intervals not to exceed 900 feet. The lighting shall be installed within the right of way on treated wood or metal poles complying with Appalachian Power Company standards. The luminaires shall be high pressure sodium with a minimum output of 9500 lumens. The costs of street lighting shall be the responsibility of the developer and cost of the operation of these lights shall be the responsibility of the developer until the rights of way are approved and accepted by the Town of Wytheville.

5-5.5 PUBLIC WATER AND SEWER

In any subdivision or part thereof, the subdivider shall provide public water and sewer facilities. In all cases, water and sewer facilities shall be installed according to the Town of Wytheville Standards and subject to specifications approved by the Council and subject to inspection and approval of the Town Manager, the Virginia Department of Health, and the State Water Control Board. Sewer and water laterals shall be extended from main sewer and water lines to the property lines of each lot. No more than two lots shall be served by any single water lateral or sewer lateral. All laterals shall be appropriately sized according to Town of Wytheville and Virginia Department of Health Standards; and, if a lateral line serves more than one lot, it shall be appropriately sized according to Town of Wytheville Standards and Virginia Department of Health Standards. Water laterals shall be terminated in a meter box within the property line of

the lot and shall be appropriately capped. Sewer lines shall be terminated at a clean-out located inside the property line.

The Town Council in its sole discretion may cooperate with a subdivider in providing sewerage pump stations and sewerage force mains by imposing a surcharge on each lot sold or conveyed by the subdivider and to be paid to the Town at the time of sale or conveyance. In any case where a surcharge is imposed, the surcharge shall constitute a lien and made a matter of public record by the subdivider in the Clerk's Office of the Wythe County Circuit Court in a manner prescribed by the Town's Attorney. The maximum surcharge shall be established by the Council and may be amended from time to time. The Town Council may require the subdivider to participate in development costs which are identified and established by the Town Council at the time of the preliminary approval of the subdivision plat.

The Town Council in its sole discretion may waive any portion of these requirements for providing public water and sewer services in cases where the improvements could not be economically justified. In such cases where the Town Council does relax the requirement for public water and sewer service, the subdivider shall provide private water and/or sewer service.

For the lots where the Council deems it appropriate to locate septic tanks, the lot shall conform to those areas required in the Zoning Ordinance for the zoning district in which it is located and subject to approval by the Department of Health. However, the agent shall not approve any subdivision where sanitary sewers are not provided unless the agent shall receive in writing from the Health Department a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks and that they will not so far as can be determined create hazards to public health and that such approval by the agent is only the understanding that where septic tanks are to be installed these must be approved on an individual lot basis by the Health Department.

In all cases water and sewer service, whether public or private, shall be installed subject to Town of Wytheville Standards and appropriate state regulatory agencies.⁷

5-5.6 PRIVATE WATER AND/OR SEWER

Where water and sewer service from the Town are not feasibly available, a privately owned water distribution or sewage collection and treatment facility may be permitted. However, any such installations must meet all of the requirements of the State Water Control Board, the State Health Department, and any other State or local regulation having authority over such installations.

5-5.7 FIRE PROTECTION

The installation of adequate fire hydrants conforming to Town of Wytheville Standards in a subdivision at locations approved by the agent may be required, provided necessary public water is available. The agent shall consult with the proper authority before approving such location.

5-6 BOND

Before any subdivision plat will be finally approved by the agent, the subdivider shall, in lieu of construction, furnish bond in an amount calculated by the agent to secure the required improvements in a workmanlike manner, and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the governing body.

5-7 PART OF TRACT

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the governing body.

****** LOTS ******

5-8 SHAPE

The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to

requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

5-9 LOCATION

Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street, or on a street which has become public by right of use. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of fifty (50) feet.

5-10 CORNER LOTS

Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent.

5-11 SIDE LINES

Side lines of lots shall be approximately at right angles, or radial to the street line.

5-12 REMNANTS

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

5-13 SEPARATE OWNERSHIP

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Said deed is to be deposited with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

****** BLOCKS ******

5-14 LENGTH

Generally, the maximum length of blocks shall be nine hundred (900) feet, and the minimum length of blocks upon which lots have frontage shall be three hundred (300) feet.

5-15 WIDTH

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical condition or size of property, in which case the agent may approve a single tier of lots of minimum depth.

5-16 ORIENTATION

Where a proposed subdivision will adjoin a major road, the agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

5-17 BUSINESS OR INDUSTRIAL

Lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

*** * * * STREETS * * * ***

5-18 ALIGNMENT AND LAYOUT

The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Planning Commission and Town Council.

5-19 SERVICE DRIVES

Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right of way at a distance suitable for an appropriate use of the land between

such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right of way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

5-20 APPROACH ANGLE

Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the Planning Commission and Town Council shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

5-21 MINIMUM WIDTH

The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the street plan, or if not shown on such plan shall be:

5-21.1 No street shall be less than fifty (50) feet in width. The subdivider shall provide right of way and/or slope easements necessary to accommodate the installation of curb and gutter at a width prescribed by the agents. For good reason a greater street width may be required at the discretion of the Planning Commission and/or Town Council.⁷

5-22 CONSTRUCTION REQUIREMENTS

In all cases where Virginia Department of Transportation specifications are lacking or are less restrictive than the requirements of this ordinance, this ordinance shall prevail.

5-22.1 The roadway shall be graded to forty (40) feet exclusive of side ditches.

5-22.2 Base for pavement shall be at least thirty (30) feet in width and a minimum of six (6) inches in depth and be of stone, gravel or other satisfactory material approved by the agent. Where bearing capacity of the subgrade does not meet Virginia Department of Transportation Standards, the base shall be increased as determined by the VDOT Standards.

5-22.3 Pavement width shall be a minimum width of thirty (30) feet constructed of material passing Virginia Department of Transportation specifications. The pavement will consist of a bituminous

concrete to a depth of two (2) inches according to Virginia Department of Transportation specifications.

5-22.4 All streets shall be constructed with curb and gutter on both sides of the street conforming to the Town of Wytheville Standards or Virginia Department of Transportation Standards, whichever is more stringent. Curb and gutter and/or other improvements are required for flood control and drainage under other sections of this ordinance, and shall be installed by the developer in accordance with Town of Wytheville Standards and plans and specifications approved by the agent.¹

5-23 CUL-DE-SACS

Generally, minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be no longer than four hundred (400) feet to the beginning of the turn-around. Each cul-de-sac must be terminated by a turn-around of not less than one hundred (100) feet in diameter. Cul-de-sacs shall have curb and gutter around the perimeter of the cul-de-sac according to Town of Wytheville and Virginia Department of Transportation Standards.

5-24 ALLEYS

Alleys will not be permitted.

5-25 PRIVATE STREETS AND RESERVE STRIPS

There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.

5-26 NAMES

Proposed streets, which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be approved by the Planning Commission and Town Council. Names of existing streets shall not be changed except by approval of the governing body.

5-27 IDENTIFICATION SIGNS

Street identification signs conforming to the Town of Wytheville Standards shall be installed at all intersections by the developer.

***** MONUMENTS *****

5-28 VISIBLE FOR INSPECTION

Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the agent of the governing body.

5-29 LOCATION - CONCRETE

Concrete monuments four (4) inches in diameter or square, three (3) feet long, with a flat top, or a one and one-half (1 1/2) inch steel pipe thirty-six (36) inches in length, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monument shall have an appropriate mark to identify properly the location and shall be set flush with the finished grade.

5-30 LOCATION - IRON PIPE

All other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock, into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade line.

***** RESERVATION OF LAND FOR PUBLIC PURPOSES *****

5-31 The agent may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public and semi-public uses, subject to the following regulations:

- 5-31.1 Subdividers shall not be required to dedicate land for parks or playgrounds exceeding ten (10) percent of the area of the subdivision, exclusive of street and drainage reservations, without reimbursement by the governing body. Where land is required in excess of this amount, the reimbursement by the governing body shall be based on a proportionate share of the (1) cost of raw land; (2) cost of improvements, including interest on investments; (3) development costs; (4) plus not more than ten (10) percent profit on the total of such costs.
- 5-31.2 Subdividers shall not be required to reserve land for public purposes other than streets, drainage, parks and playgrounds, except on a reimbursement basis. They shall be reimbursed by the jurisdiction or agency requiring the land. They shall not be required to hold the land longer than eighteen (18) months following the recording of the plat for such purposes. If the land is not purchased within the said eighteen (18) months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.
- 5-31.3 The Commission shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision.
- 5-31.4 Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the Zoning Ordinance.

SECTION 6 - APPROVAL OF PLATS

6-1 APPROVAL REQUIRED BEFORE SALE

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the agent for the approval of the subdivision plat and submit three (3) copies of the preliminary plat including the lot, street and utilities layout. No lot shall be sold until a final plat for the subdivision shall have been approved and recorded in the following manner:

6-2 PRELIMINARY SKETCH

The subdivider may, if he so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the Planning Commission or its agent to advise the subdivider whether his plans in general are in accordance with the requirements of this ordinance. The Commission, upon submission of any preliminary sketch, shall study it, and advise the subdivider wherein it appears that changes would be necessary. The Planning Commission or its agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the Commission with the preliminary plat. The preliminary sketch shall be as follows:

6-2.1 It shall be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to a scale of one hundred (100) feet to the inch. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

6-3 PRELIMINARY PLAT

The subdivider shall present to the Commission thirteen (13) prints of a preliminary layout and additional copies as may be requested for review by the Town Council at a scale of one hundred (100) feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

- 6-3.1 Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. If true north is used, method of determination must be shown.
- 6-3.2 The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in twenty-five hundred (2,500), total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.
- 6-3.3 All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements, public areas and parking spaces; culverts, drains and water courses, their names and other pertinent data.
- 6-3.4 The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage.
- 6-3.5 A cross section showing the proposed street construction, depth and type of base, type of surface, etc.
- 6-3.6 A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith.
- 6-3.7 A location map tying the subdivision into our present road system, either by aerial photographs or topographic maps of the U.S. Department of Interior.
- 6-3.8 Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- 6-3.9 All parcels of land to be dedicated for public use and the conditions of such dedication.

6-4 PROCEDURE

The Planning Commission or its agent shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the Subdivision Ordinance and of the Zoning Ordinance. The subdivider shall then be advised in

writing within forty_five (45) days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that will have to be made, and an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the Planning Commission or its agent may consult with a duly licensed engineer who shall prepare this data for the agent, or preferably may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

6-5 NO GUARANTEE

Approval by the Planning Commission or its agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

6-6 SIX MONTHS LIMIT

The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to file with the Planning Commission or its agent a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The Commission may, on written request by the subdivider, grant an extension of this time limit.

6-7 FINAL PLAT

The subdivision plats submitted for final approval by the governing body and subsequent recording shall be clearly and legibly drawn in permanent medium on tracing vellum, cloth, or Mylar at a scale of one hundred (100) feet to the inch on sheets having a size consistent with deed book sizes in the Wythe County Clerk of Circuit Court. In addition to the requirements of the preliminary plat, the final plat shall include the following:

6-7.1 A blank space of not less than three (3) inches by five (5) inches shall be reserved for the use of the approving authority.

6-7.2 Certificate signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

- 6-7.3 A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.
- 6-7.4 When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat.
- 6-7.5 The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type, water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.
- 6-7.6 Distances and bearings must balance and close with an accuracy of not less than one (1) in ten thousand (10,000).
- 6-7.7 The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- 6-8 CONDITIONS
- 6-8.1 The Planning Commission shall within forty-five (45) days from the date of submission of the final plat, approve, modify or disapprove such plat and make its recommendation to the Town Council. Failure to act within forty-five (45) days shall be deemed approval by the Planning Commission and the plat will be referred to the Town Council.
- 6-8.2 The Town Council shall within forty-five (45) days after receipt of the plat and recommendation of the Planning Commission approve, modify or disapprove such plat, and failure to act within forty-five (45) days shall be deemed approval.

- 6-8.3 Approval of the plat shall not be finally effective until the subdivider has complied with the requirements and made improvements specified in Article 4 to the satisfaction of the Town Manager or has filed a performance bond therefor acceptable to the Town Manager and so certified on the plat by him.
- 6-8.4 Unless the owner of the subdivision shall have said plat recorded in the office of the Clerk of the Circuit Court of Wythe County within forty-five (45) days after its final approval by the Town Council and before any lots are sold in said subdivision, the approval of the plan of said subdivision shall be deemed to have been withdrawn and said plat shall be marked "VOID" and returned by the agent to the subdivider.

**SECTION 7 - ESTABLISHING FLOODPLAIN DISTRICTS, REQUIRING THE
ISSUANCE OF PERMITS FOR DEVELOPMENT, AND PROVIDING FACTORS
AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCE⁸**

Article I General Provisions

7-1 PURPOSE

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

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

7-2 APPLICABILITY

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

7-3 COMPLIANCE AND LIABILITY

- A. No land shall hereafter be developed and no structure shall be located, relocated, 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 jurisdictions 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 manmade or natural causes, such as bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of the Town of 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.

7-4 ABROGATION AND GREATER RESTRICTION

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

7-5 SEVERABILITY

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

7-6 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 therefor.
- 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.

Article II Definitions

- A. Development - Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- B. Flood - A general and temporary inundation of normally dry land areas.
- C. Floodplain - (a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (b) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- D. Manufactured Homes - A structure, transportable in one section which is built on a permanent chassis, and designed to be used without permanent foundation, when connected to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.
- E. Manufactured Home Park - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.
- F. Base Flood/One Hundred Year Flood - A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).
- G. Floodway - The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.
- H. 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.

- I. Flood Prone Area - Any land area susceptible to being inundated by water from any source.

Article III Establishment of Zoning Districts

7-7 DESCRIPTION OF DISTRICTS

A. Basis of Districts

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 for the Town of Wytheville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated August 22, 1980, as amended.

1. 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.
2. 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 this 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.
3. 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.

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.

7-8 OFFICIAL ZONING MAP

The boundaries of the floodplain districts are established as shown on the flood boundary and floodway 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.

7-9 DISTRICT BOUNDARY CHANGES

The delineation of any of the floodplain districts may be revised by the Wytheville Town Council where natural or manmade 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 possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

7-10 INTERPRETATION OF DISTRICT BOUNDARIES

Initial interpretations of the boundaries of the floodplain districts 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.

Article IV District Provisions

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Wytheville Subdivision regulations. Prior to the issuance of any such permit, the Zoning Administrator 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 floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the Division of Soil and Water Conservation (Department of Conservation and Historic Resources).

A permit from the U.S. Corps of Engineers and the Marine Resources Commission, and certification from the State Water Control Board may be necessary (a joint permit application is available from any one of these three organizations). Further notification of the proposal shall be given to all affected adjacent municipalities.

Copies of such notifications shall be provided to the Division of Soil and Water Conservation (Department of Conservation and Historic Resources), and the Federal Insurance Administration.

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

- A. For structures that have been elevated, the elevation of the lowest floor (including basement).
- B. For structures that have been flood proofed (nonresidential only), the elevation to which the structure has been flood proofed.
- C. The elevation of the one hundred (100) year flood.

7-11 FLOODWAY DISTRICT

Within the floodplain district, all manufactured homes shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code. In the floodway district, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above. The placement of any manufactured home, except in an existing manufactured home park or subdivision, within the floodway district is specifically prohibited.

PERMITTED USES

In the floodway district, the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. 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.

- C. Accessory residential uses, such as yard areas, gardens, play areas, and previous loading areas.
- D. Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, airport landing strips, etc.

7-12 FLOOD-FRINGE AND APPROXIMATED FLOODPLAIN DISTRICTS

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 district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

7-13 DESIGN CRITERIA FOR UTILITIES AND FACILITIES

A. Sanitary Sewer Facilities

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

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

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 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

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

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.

Article V Variances: Factors To Be Considered

- 7-14 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 the floodway district that will cause any increase in flood levels during the one hundred (100) year flood.
- 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.

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

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

Variations 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.

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

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

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

Article VI Existing Structures in Floodplain Districts

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

- A. Existing structures and/or uses located in the floodway district shall not be expanded or

enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).

- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood proofed 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 district, 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 the Virginia Uniform Statewide Building Code.
- D. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

SECTION 8 - EFFECTUAL CLAUSES

8-1 EXCEPTIONS

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the Town Council a departure may be made without destroying the intent of such provisions, the Town Council may authorize an exception. Requests for any exception must be considered by the Planning Commission with report to be made to the Town Council within forty-five (45) days after receipt of request. The Town Council may act without such report if it is not made within the forty-five (45) day period.

8-2 PENALTIES

Any owner or proprietor of any tract of land who subdivides that tract of land and who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred and fifty dollars (\$250.00), and each day after the first during which such violation shall continue shall constitute a separate violation.

8-3 VALIDITY

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

8-4 REPEAL

All ordinances or portions of ordinances in conflict with the ordinance are hereby repealed to the extent of their conflict.

8-5 AMENDMENTS

This ordinance may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the Commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the hearing shall have been

given at least once a week for two (2) weeks, and the last notice at least five (5) days prior to the hearing.