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**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**ARTICLE 1. TITLE, AUTHORITY, PURPOSE AND INTENT**

**Section 1-1 Title**

This Ordinance, and the Official Zoning Map which is a part thereof, shall be known as the Zoning Ordinance of the Town of Clarksville, Virginia and may be referred to as the Ordinance or these Regulations.

**Section 1-2 Authority to Adopt Zoning**

By act of the General Assembly of Virginia as provided in 15.2-2280 of the Code of Virginia, any locality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

1. The use of land, buildings, structure and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;
2. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
3. The areas and dimensions of land, water and air space to be occupied by buildings, structures and uses, and of courts, yards and open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; or
4. The excavation of mining of soil or other natural resources.

Whenever any provision of this Ordinance refers to or cites a section of the Code of Virginia, and that section is later amended or suspended, this Ordinance shall be deemed amended to refer to the amended section or the section that corresponds to the superseded section.

**Section 1-3 General Purpose**

The Clarksville Town Council adopts this Ordinance for the purpose of promoting the public health, safety, and general welfare of the citizens and landowners of Clarksville. This Ordinance is also adopted for the purpose of accomplishing the objectives set forth in section 15.2-2200 of the Code of Virginia which are:

1. To improve public health, safety, convenience and welfare of the citizens;
2. To plan for the future development of land within the locality to the end that transportation systems be carefully planned;
3. That new community centers be developed with adequate highway, utility, health, educational, and recreational facilities;
4. That the needs of agriculture, industry, mineral resources and business be recognized in planning for future growth;
5. That the concerns of local military installations be recognized and considered when planning for future growth;
6. That residential areas be provided with healthy surroundings for family life;

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7. That agricultural and forestal lands be preserved; and,
8. That the growth in the community be consonant with the efficient and economical use of public funds.

In order to achieve the objectives delineated above, as well as section 15.2-2280 of the Code of Virginia, the Town of Clarksville Zoning Ordinance was written with full appreciation for the purposes of zoning featured in section 15.2-2283 of the Code of Virginia and noted below:

1. Provide for adequate light, air, convenience of access and safety from fire, flood, crime and other dangers;
2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive, and harmonious community;
4. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
5. Protect against destruction of or encroachment upon historic areas and working waterfront development areas;
6. Protect against the overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, , or property from fire, flood, panic or other dangers;
7. Encourage economic development activities that provide desirable employment and enlarge the tax base;
8. Provide for the preservation of agricultural and forestall lands and other lands of significance for the protection of the natural environment;
9. Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
10. Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the community as well as a reasonable proportion of the current and future needs of the planning district within which the locality is located;
11. Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;
12. Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 or state and federal fair housing laws, as applicable; and
13. Protect surface water and ground water.

**Section 1-4 Legislative Intent**

The fundamental intent of the Town of Clarksville Zoning Ordinance is to implement the purposes set forth in Section 1-3 of this Article as well as the goals and objectives featured in the Comprehensive Plan for the Town

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of Clarksville. Further, it is the Town Council’s intent that current and future land development within the Town of Clarksville proceed according to the regulations outlined in the subsequent articles of this Ordinance.

**Section 1-5 Applicability**

The regulations and restrictions in this Ordinance shall apply to all buildings, structures, land, water and uses within the incorporated area of the Town of Clarksville, Virginia, excepting those areas determined by law to be under the sole and sovereign control of the United States of America or the Commonwealth of Virginia.

**Section 1-6 Effect of Adoption**

At the effective date this Ordinance is adopted, the previously existing Town of Clarksville Zoning Ordinance dated April 19, 1988 is hereby amended and this Ordinance replaces it in its entirety. In addition, all ordinances or parts of ordinances in conflict with the provisions featured in this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective from and after the date of its approval and adoption as provided by law.

**Section 1-7 Effective Date**

The effective date of this Ordinance shall be from the adoption of the document by the Clarksville Town Council on **November 19, 2019**, and these provisions shall be in force thereafter until amended or repealed.

Approved Text Amendments:

**1.) June 16, 2020**

- A.) Eliminated item 1 as a requirement under Article 9 – Section 9-4 – sub-item “Self-Storage Units” **“1. The lot size shall be a minimum of two (2) acres and a maximum of four (4) acres.”**.
- B.) Added the **Sign Matrix 11-1 (Sign Regulations by Type, District, and Use)**

ARTICLE 2. GENERAL PROVISIONS

**Section 2-1 Compliance with Ordinance**

No new structure, new use of land or change in the use of land shall be permitted and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with and only as allowed by the provisions of this Ordinance and all other applicable regulations.

**Section 2-2 Ordinance Establishes Minimum Requirements**

The provisions of this Ordinance shall be interpreted as providing minimum requirements necessary to promote the public health, safety, and general welfare of the Town of Clarksville and its residents.

**Section 2-3 Interpretation of Regulations**

If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other codes or ordinances of the town, the more restrictive provision shall govern. The more restrictive provision is the one that imposes more stringent controls.

**Section 2-4 Conflicting Provisions**

1. *Conflict with State or Federal Regulations:* If any provisions of this Ordinance are inconsistent with those of the State or Federal government, the more restrictive provision will control, to the extent permitted by law.
2. *Conflict with other Town Regulations:* If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Town of Clarksville, the more restrictive provision will control unless otherwise expressly stated.
3. *Conflict with Easements, Private Agreements or Covenants:* This Ordinance is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If, however, the provisions of this Ordinance impose a greater restriction than imposed by a private agreement or covenant, the provisions of this Ordinance control.
4. *Conflict with Court Decisions:* Should any section or provision of this Ordinance be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**Section 2-5 Word Meanings and Intent**

All provisions, terms, phrases and expressions contained in this Ordinance shall be construed according to the purpose and intent set out in Section 1-3 of this document.

**Section 2-6 Computation of Time**

1. References to “days” are to business days unless otherwise expressly stated.
2. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the town, that day is excluded.
3. A day concludes at the close of business which for this Ordinance is 5:00pm Monday through Friday.

**Section 2-7 Technical and Non-Technical Terms**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning as specified in Article 16 (Definitions) of this Ordinance.

**Section 2-8 Public Officials and Agencies**

All public officials, bodies and agencies to which references are made are those of the Town of Clarksville, unless otherwise expressly provided.

**Section 2-9 Mandatory and Discretionary Terms**

The words “shall,” “will” and “must” are mandatory. The words “may” and “should” are advisory and discretionary terms.

**Section 2-10 Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: “And” indicates that all connected terms, conditions, provisions or events apply; and “Or” indicates that one or more of the connected items, conditions, provisions or events may apply.

**Section 2-11 Tenses and Plurals**

Words used in one tense (past, present, future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural and the plural includes the singular.

**Section 2-12 Transitional Provisions**

Nothing featured in this Ordinance shall be construed to require any change in the plans or construction of any building or structure for which a permit was lawfully issued prior to the effective date of this Ordinance.

The following transitional provisions shall apply to various actions and activities and other matters pending or occurring on the effective date of this Ordinance.

1. Any permitted use lawfully approved prior to the effective date of this Ordinance shall continue to be valid after the effective date.

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2. Any use or development approved as a special use may be continued provided that any use or structural changes shall comply with the provisions featured in this Ordinance.
3. Any variance lawfully approved prior to the effective date of this Ordinance shall continue to be valid after the effective date.
4. Any violation of the previous zoning ordinance shall continue to be a violation under this Ordinance and shall be subject to penalties and enforcement described in Article 15, unless the use, development, construction or other activity expressly complies with the current terms of this Ordinance.

**Section 2-13 Reduction from Requirements**

No lot area, yard, open space, parking space, or other feature required by this Ordinance shall be reduced or eliminated except in conformity with the regulations established by or sanctioned through this Ordinance.

**Section 2-14 Existing Buildings, Structures and Uses**

Buildings, structures and uses lawfully existing at the effective date of this Ordinance may be continued subject to the provisions of Article 12 pertaining to nonconforming uses and features.

**Section 2-15 Lots Established Prior to Adoption of this Ordinance**

Any lot of record which was established prior to the effective date of this Ordinance and which does not conform with the minimum area or width requirements for the district in which it is situated, may be devoted to single-family use if such use is normally permitted in the district, provided that all other applicable provisions of this Ordinance are met.

**Section 2-16 Application of Regulations in an Emergency**

The Clarksville Town Council shall have the authority to waive standards featured in this Ordinance during duly declared local, state or federal emergencies.

**Section 2-17 Severability**

Should any section or provision of this Ordinance be decided by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof.

**Section 2-18 Repealed**

All other Ordinances or parts of Ordinances of the Town of Clarksville inconsistent or conflicting with this Ordinance, to the extent of the inconsistency or conflict only, are hereby repealed.

ARTICLE 3. ZONING DISTRICTS AND ZONING MAP CREATED

**Section 3-1 Division of Clarksville into Districts**

In order to carry out the purpose and intent of this Ordinance, the Town of Clarksville is divided into zoning districts named and described in Article 6 of this Ordinance.

**Section 3-2 District Boundaries and Establishment of Official Zoning Map**

The boundaries of all zoning districts are hereby fixed and established as shown on the “Official Zoning Map of the Town of Clarksville, Virginia, 2019”, which is hereby declared to part of this Article. All notations, dimensions, and designations shown thereon shall be as much a part of this Article as if the same were fully described herein.

**Section 3-3 Maintenance of the Zoning Map**

The official zoning map for the Town of Clarksville shall be dated and endorsed with the signature of the Mayor. The map shall be maintained for public view in the office of the town manager and shall not be removed from that office except for official purpose.

**Section 3-4 Recording Amendments on the Zoning Map**

Whenever an amendment is made to the zoning district boundaries or other information shown on the official zoning map by the Clarksville Town Council, such change shall be properly and promptly recorded on the official zoning map along with the effective date and nature of the amendment. Each amendment shall be recorded as soon as practicable after its adoption. Any changes to the Clarksville zoning map, as well as zoning text, shall be made in accordance with the procedures set forth in Article 5 of this Ordinance.

The effective date of any amendment or change to the official zoning map of Clarksville shall be the same date the Clarksville Town Council votes to authorize the change. Any delay in depicting the change or amendment on the official zoning map shall not affect the validity of the action taken by the Town Council.

**Section 3-5 Unauthorized Changes to the Zoning Map**

It shall be unlawful for any person to make changes on the official zoning map except in accordance with the provisions of this Article and Article 5. Any unauthorized change shall be considered a violation of this article and this Ordinance.

**Section 3-6 Replacement of the Official Zoning Map**

In the event the Clarksville Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes or additions, the Clarksville Town Council may, by resolution, adopt a new Official Zoning Map.

**Section 3-7 Interpretation of District Boundaries**

A district letter-number combination shown on the Clarksville Official Zoning Map defines which set of regulations shall apply throughout the area so designated and delineated by a boundary line.

Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the following rules shall apply:

1. Where district boundaries are shown or described by specific dimensions, such dimensions shall govern.
2. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lines.
3. Boundaries indicated as approximately following the town's corporate limits shall be construed to follow such corporate limits.
4. Boundaries indicated as following railroad lines or utility lines shall be construed to be midway between the main tracks or the centerline of the right-of-way or easement for the utility line or access way.
5. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
6. Boundaries indicated as following a shore line shall be construed to follow such shore line, and in the event of change in the shore line shall be construed as moving with the actual shore line.
7. Boundaries indicated as approximately following the center line of a stream, creek, water course, canal or other body of water shall be construed to follow such center lines.
8. Boundaries indicated as parallel to, perpendicular to, or as extensions of center lines, property lines or other features, shall be so construed.
9. Where a district boundary is not described in any ordinance and does not appear to follow any center lines, street lines, property lines or other features, the location of such district boundaries shall be determined by measurement on the zoning map in accordance with its scale.
10. Where a district boundary line divides a lot which is in single ownership at the time of passage of this Ordinance, the Clarksville Board of Zoning Appeals may permit, as a special use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district boundary into the remaining portion of the lot.
11. In the event the location of a district boundary cannot be established by application of these rules, or where subsequent dispute or uncertainty exists, the location of such district boundary shall be determined by the Clarksville Board of Zoning Appeals in accordance with the protocol featured in Article 5 of this Ordinance.

**Section 3-8 Vacation of Street or Public Way**

Whenever a street, alley, public way or paper street is officially vacated, the zoning district adjoining each side of such street, alley or public way shall automatically be extended to the center area of such vacation, and the vacated area shall be subject to all applicable regulations of the extended districts.

**Section 3-9 Annexed Territory**

Any territory annexed into the Town of Clarksville from Mecklenburg County shall automatically be classified as the district it abuts unless the Clarksville Town Council chooses to assign a different zoning designation to the annexed territory. In such instances, the Clarksville Planning Commission shall act on the recommended zoning standards within ninety (90) days of the effective date of the annexation.

**Section 3-10 Regulation of Areas Under Water**

All land within the Town of Clarksville which is under water are considered to be within the surrounding and/or abutting zoning district and controlled by the applicable district regulations. District regulations over water areas are indicated by a straight line projection of the district boundary as featured on the Official Zoning Map. Straight line district boundaries over water shall be assumed to continue as straight lines until they intersect with each other or with the town's corporate limit line.

**Section 3-11 Severability**

Should any section, paragraph, phrase or other provision of this Article, including the zoning map, be declared invalid or unconstitutional by the Courts, such decision shall not affect the validity of this Article as a whole or any part thereof other than the part declared to be invalid or unconstitutional.

**ARTICLE 4. ADMINISTRATIVE ACTIONS AND DECISION MAKERS**

**Section 4-1 Administering the Zoning Ordinance**

This article delineates the role Clarksville officials will play in administering the actions discussed in this Article as well as with all other provisions featured in the Clarksville Zoning Ordinance.

**Section 4-2 Clarksville Town Council**

In executing the provisions of this Ordinance, the Clarksville Town Council shall have the following powers and duties:

1. Zoning Ordinance: To initiate, consider and make final decisions upon proposed amendments to this Zoning Ordinance.
2. Zoning Map Amendment: To initiate, consider and make final decisions upon proposed amendments to the Clarksville Official Zoning Map.
3. Special Use Permits: To consider and make final decisions regarding special use permits as specified by this Ordinance.
4. Establish Fees: To establish fees, charges and other expenses for permits, plans, applications and authorizations required by this Ordinance.
5. Appoint Boards and Commissions: To appoint members of the Clarksville Planning Commission, recommend appointments to the Clarksville Board of Zoning Appeals, and any other board or commission as now or as may be required in effectuating the provisions of this Ordinance.
6. Conduct Public Hearings: To conduct such public hearings as may be required under the provisions of this Ordinance.
7. Other: To take all actions necessary, including appropriate administrative and legal actions, with respect to administering, reviewing, interpreting, enforcing or amending the Clarksville Zoning Ordinance.

**Section 4-3 Clarksville Planning Commission**

In satisfying the provisions of this Ordinance, the Clarksville Planning Commission shall do the following:

1. Purpose. The Planning Commission shall advise the Town Council on all matters relating to the orderly growth and development of the Town of Clarksville.
2. Establishment. The Planning Commission heretofore established pursuant to the provisions of Section 15.2-2210 of the Code of Virginia, 1950, as amended, shall continue as the Planning Commission and hold regular meetings in compliance with all applicable laws. The Planning Commission shall consist of between five (5) and fifteen (15) residents of the Town of Clarksville all of whom will be appointed by the Clarksville Town Council.

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3. Powers and Duties. In addition to those powers and duties established for the Planning Commission in Section 15.2-2210, Section 15.2-2217 and Section 15.2-2221 of the Code of Virginia, the Planning Commission shall exercise the following duties and responsibilities:
- a. Prepare the Zoning Ordinance and Map: To initiate, prepare and recommend amendments to the Zoning Ordinance and the Official Zoning Map.
  - b. Recommendations on Proposed Rezoning: To consider whether or not proposed Zoning Map and/or zoning text amendments are consistent with the overall goals and objectives of the Clarksville Comprehensive Plan, and to make recommendations regarding all such amendments to the Town Council.
  - c. Review the Comprehensive Plan: To review the Clarksville Comprehensive Plan at least once every 5 years and recommend any needed amendments to the Town Council.
  - d. Recommendations on Special Use Permits: To receive, hear and analyze applications for special use permits authorized under this Ordinance and, if the facts and conditions required by this Ordinance for the approval of such uses are found to be present, to recommend to the Town Council that the application be granted.
  - e. Subdivision Plats and Site Plans: To review and make recommendations regarding subdivision plats and site development plans as authorized by this Ordinance and the Clarksville Subdivision Ordinance.
  - f. Authority to Request Information: The Planning Commission shall have the authority to request and receive information, cooperation, assistance, or studies from any town departments, boards, agencies or commissions in carrying out its designated powers and duties.
  - g. Conduct Public Hearings: To conduct such public hearings as may be required to gather information for the drafting, establishment and maintenance of the various components of the Clarksville Comprehensive Plan, and such additional public hearings as are specified under the provisions of this Ordinance.
  - h. Annual Report: The Planning Commission shall submit an annual report of its activities, as required by the Code of Virginia, to the Town Council along with commentary focused on the status of planning in Clarksville.

### **Section 4-4 Clarksville Board of Zoning Appeals (BZA)**

The decision of the Clarksville Town Council to adopt a zoning ordinance necessitates the appointment of a Board of Zoning Appeals (BZA) which shall consist of 5 citizens all of whom must be residents of Clarksville. While the Town Council may choose to recommend persons for possible appointment to the BZA, all such appointments shall be made by the Circuit Court.

The Clarksville Board of Zoning Appeals plays an important and unique role with respect to the administration of zoning as the following details:

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1. Purpose: The Clarksville Board of Zoning Appeals shall perform those duties set forth in Chapter 22, Title 15.2 of the Code of Virginia, 1950, as amended.
2. Establishment: The Board of Zoning Appeals heretofore established in accordance with Sections 15.2-2308 through 15.2-2314 of the Code of Virginia shall continue as the Board of Zoning Appeals for the purpose of this Zoning Ordinance.
3. Terms, Vacancies and Removal: The term of office of each member shall be for five (5) years, with the term of one member expiring each year. The Secretary of the BZA shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court of any vacancy. Appointments to fill such vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the BZA shall hold no other Town of Clarksville public office, except that one member may also be a member of the Clarksville Planning Commission. Any member of the BZA may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him or her, after a hearing held after at least fifteen days' written notice to the member sought to be removed.
4. Conflict of Interest: Any member of the BZA shall be disqualified to act upon a matter before the Board with respect to property in which the member has a personal interest.
5. Officers: The BZA shall choose annually its own chairman, vice-chairman and, if desired, a secretary.
6. Powers and Duties: The powers and duties of the BZA shall be governed by section 15.2-2309 of the Code of Virginia, as amended which outlines the responsibilities and authority the BZA to hear and decide appeals of administrative decisions; to authorize the granting of variances; and, to hear and decide appeals where there is uncertainty regarding the location of a zoning district boundary.
7. Meetings and Voting: For the conduct of any meeting and the taking of any action, a quorum shall not be less than three (3) members of the BZA. The BZA Chairman may, depending on the nature of business before the Board, compel the attendance of witnesses and may administer oaths. If requested or required by the BZA Chairman, all witnesses and speakers presenting facts and evidence before the BZA shall give an oath or affirmation regarding the veracity of their statements. A favorable vote of three (3) members of the BZA shall be necessary to reverse any order, requirement, decision, or determination made by an administrative official with the Town of Clarksville or to decide in favor of an applicant on any matter the BZA is required to pass.
8. Rules and Records: The BZA will adopt such rules and procedures as it deems necessary. The BZA shall keep written records and minutes of all its proceedings, including the evidence presented and the vote of each member relative to each matter decided by the BZA. All such records shall be kept on file in the office of the Zoning Administrator.
9. Annual Report: The Board of Zoning Appeals shall prepare an annual report, on a calendar or fiscal year basis, summarizing all appeals and applications made to it and summarizing its decisions on such appeals and applications. The BZA Annual Report will be shared with the Clarksville Town Council as well as with all members of the Clarksville Planning Commission.

**Section 4-5 Office of the Zoning Administrator**

The provisions of this Zoning Ordinance shall be administered by the designated agent of the Town of Clarksville who shall be known as the Zoning Administrator.

**Section 4-6 Duties of the Zoning Administrator.**

The Zoning Administrator shall have the necessary authority to administer and enforce the duties prescribed in this Article, in this Ordinance, as well as Section 15.2-2286 of the Code of Virginia and Section 15.2-2299 of the Code of Virginia. Specific duties of the zoning administrator, and any other designated review official, shall include the following:

1. Receipt and Review of Applications: To receive and/or review all applications, statements, materials or certifications required by this Ordinance and to approve or disapprove said applications based on their compliance or noncompliance with the provisions featured in this Ordinance.
2. Permits: The Zoning Administrator shall issue all permits, certificates and approve or deny all proposals as required by this Ordinance.
3. Occupancy Permit: To sanction the issuance of a Certificate of Occupancy by the Mecklenburg County Building Official upon demonstration by the owner-applicant that the use or structure complies with all applicable requirements of this Ordinance.
4. Conduct Inspections: The Zoning Administrator shall have the power to inspect any building or land to determine if violations of this Ordinance have been committed or exist. When a violation is identified the Zoning Administrator is empowered to notify in writing the person or persons responsible and to specify the nature of the violation and the required corrective action to be taken to remedy the condition found in violation of the provisions in this Ordinance.
5. Interpretations: The Zoning Administrator shall issue written interpretations of this Ordinance within ninety (90) days of a request for a decision or determination that is within the scope of the administrators' duties.
6. Collect Fees: The Zoning Administrator may collect fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incidental to the administration of this Ordinance or to filing or processing any amendment or appeal thereto.
7. Uses Not Specifically Listed: Where a specific use is not listed in this Ordinance such use shall not be permitted.
8. Maintain the Zoning Ordinance: To maintain a true and accurate copy of this Ordinance, including all amendments and interpretations and make the same available for public inspection.
9. Interpret and Maintain the Zoning Ordinance Map: To interpret the Official Zoning Map as it relates to specific properties within Clarksville. The Zoning Administrator shall also maintain the Official Zoning Map by recording rezoned property and any associated conditions associated with such rezoning on the Official Zoning Map by use of an appropriate symbol, and shall make the same available to the public.

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10. **Maintain Records:** To maintain permanent and current records required by this Ordinance, including zoning permits and all official actions on administrative appeals, variances, special use permits, rezoning requests, ordinance amendments and related land records.
11. **Enforce the Ordinance:** The Zoning Administrator shall enforce the provisions of this Ordinance, the decisions of the Clarksville BZA and any zoning related conditions approved by the Town Council.
12. **Establish Forms and Procedures:** The Zoning Administrator shall establish reasonable administrative forms and procedures deemed necessary for the proper administration of this Ordinance.
13. **Other Duties:** The Zoning Administrator shall perform other duties and responsibilities as authorized by the Code of Virginia and as requested by the Town Council in order to fulfill the purpose and intent of this Ordinance.

ARTICLE 5. DEVELOPMENT REVIEW AND APPROVAL PROTOCOL

**Section 5-1 Review Procedures**

This article describes the procedural steps and other rules that are applicable to all development applications reviewed under this Ordinance unless otherwise expressly exempted. Every official and employee of the Town of Clarksville vested with the duty or authority to issue a permit, approval, decision or certificate shall not issue such permit, approval, decision or certificate for any use, building or purpose that conflicts with the provisions featured in this Article.

**Section 5-2 Pre-Application Meeting**

Before submitting an application required by this Article, any applicant may choose to hold a pre-application meeting with the Town of Clarksville Zoning Administrator to discuss the procedures, standards and regulations required for development approval in accordance with this Article. In addition, pre-application meetings with the Clarksville Zoning Administrator may be required for the following applications:

1. Zoning Map Amendment (Rezoning).
2. Special Use Permit.
3. Site Plan Review.
4. Planned Unit Development.

**Section 5-3 Minimum Submission Requirements**

- A. Forms.** Applications required by this Article shall be submitted on forms in such number as required by the Zoning Administrator or the specified review body. The application form for each land development protocol shall outline the minimum information required for the requested procedure.
- B. Proof of Ownership.** All applications, when required, shall include proof of ownership. Such proof may include local government tax records or an affidavit of ownership, a preliminary title report from a licensed title company or attorney listing the name of the property owners(s) and all liens, easements and judgments of record affecting the subject property involving a title company or attorney to certify ownership not usually required or zoning application.
- C. Property Owner Endorsement**
  1. All applications, when required, shall include the name and signatures of the current property owner(s) of all property associated with the application.

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2. In the event the property owner is not the applicant, the party making the request shall present evidence documenting the applicant is a duly authorized agent of the owner. Contract purchasers of property shall submit a written power of attorney signed by the property owner(s).
3. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

**D. Application Filing Fees**

1. All applications shall be accompanied by the associated filing fee that has been established by the Clarksville Town Council.
2. Filing fees may be calculated to cover all actual costs associated with the processing of applications. Such costs may include staff time devoted to processing and reviewing applications as well as costs associated with required public notices.
3. Any costs associated with review of an application by a third party shall be billed to the applicant.
4. Filing fees are not refundable except where an application was accepted in error or the fee paid exceeded the amount due. Fees may be partially refunded (50 percent) when applications are withdrawn prior to filing publication of any required public notice.
5. Fees are not required with applications initiated by the Town Council, the Clarksville Planning Commission, the Clarksville Board of Zoning Appeals or Clarksville fire and rescue companies. Application fees shall be required of any other public or private applicant.

**E. Tax Payments Required**

1. Pursuant to Section 15.2-2286.B of the Code of Virginia, prior to the initiation of an application for a special use permit, rezoning, variance, building permit, or other land use permit, the applicant must produce satisfactory evidence that any and all delinquent real estate taxes owed to the Town of Clarksville which have been properly assessed against the subject property and have been paid in full, unless otherwise authorized by the Town Treasurer.

**F. Application Content**

1. Requirements governing the content and form for each type of specific development application discussed in this Article are set forth on application forms provided by the Town of Clarksville.
2. All applications shall be submitted to the Clarksville Zoning Administrator on the appropriate form provided by the Town of Clarksville.

3. The applicant bears the burden of demonstrating that an application contains sufficient information to demonstrate compliance with all applicable standards and approval review criteria featured in this Article.
4. An application will be considered complete if it is:
  - a.) Submitted on the correct form and in the required number;
  - b.) Contains all information and materials as required on the application form for submittal;
  - c.) Includes information in sufficient detail so the town staff can evaluate the application to determine if the petition complies with the applicable review standards;
  - d.) Is accompanied by the fee established for the particular type of application; and
  - e.) Provides proof that any taxes that are owed on the subject property or other charges due to the Town of Clarksville have been satisfied.

**G. Determination of Application Completeness**

1. Determination of application completeness shall be made by the Zoning Administrator within ten (10) business days of receiving the application.
2. Upon determining the application is incomplete, the Zoning Administrator shall provide the applicant written notice of the submittal deficiencies.
3. The Town of Clarksville shall not process an application for further review until it is determined to be complete.
4. If the applicant fails to resubmit an application within 60 calendar days after being first notified of submittal deficiencies, the application shall be considered withdrawn.
5. In the event an application is deemed withdrawn under this provision, the applicant shall be entitled to a refund of 50 percent of the application filing fee.

**H. Application Revision**

1. A petitioner may revise an application after receiving initial staff review comments on the application, or upon requesting and receiving permission from an advisory or decision-making body after the body has reviewed but not yet taken action on the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by the town staff, or the advisory or decision-making body, as long as they constitute only minor additions, deletions or corrections and do not include significant substantive changes to the development proposed in the application.

2. Any other revisions to the application may be submitted at any time during the review procedure, but the revised application shall be submitted to the town Zoning Administrator and reviewed as if it were a new application. The revised application submittal shall be subject to additional application fees to defray the additional costs of processing the revised application.

**I. Application Withdrawal**

1. An application may be withdrawn at any time by the petitioner submitting a letter of withdrawal to the Clarksville Zoning Administrator.
2. Applications withdrawn before required notice of any public hearing scheduled for the application shall not be subject to limitations on the subsequent submittal of a similar application. One-half (50 percent) of the application fee shall be refunded with this type of withdrawal.
3. Applications withdrawn after required notice of a public hearing on the application has been scheduled shall be subject to limitations on the subsequent submittal of a similar application. Applications fees are not refundable with this type of withdrawal.

**Section 5-4 Staff Review and Action**

**A. Staff Review**

1. When an application is judged to be complete, it shall be distributed by the Zoning Administrator to all appropriate town staff and other public agencies as required by law or deemed appropriate for review and comment.
2. In considering the application, the Zoning Administrator shall review the application, all relevant support material, and the comments or recommendations from other town staff and review agencies to which the application is referred.

**B. Staff Report and Recommendation**

1. Upon completion of the staff review on the application, the Zoning Administrator shall prepare a written report on the application.
2. The staff report shall conclude whether the application complies with the applicable review standards in this Article, and in cases where additional review by an advisory or decision-making body is required, recommend a course of action applicable to the application type.

3. The staff report may also identify, when appropriate, conditions of approval designed to addressing how compliance deficiencies might be corrected and how adverse effects associated with the development proposal might be mitigated.

**C. Distribution and Availability of the Application and Staff Report.** In cases where a development application is subject to review by an advisory or decision-making body, the Clarksville Zoning Administrator shall take all of the following actions within a reasonable time period before the meeting or public hearing at which the application will be reviewed is held:

1. Schedule and ensure notice of any required public hearing on the application in accordance with the Code of Virginia 15.2-2204 and the provisions featured in this Article;
2. Transmit the application, related materials and the staff report to the appropriate advisory or decision-making body;
3. Transmit a copy of the staff report to the applicant; and
4. Make the application, related materials and the staff report available for examination by the public at the Clarksville Town Hall during normal business hours, and make copies of such materials available at a reasonable cost.

**D. Applications Subject to Decision by the Zoning Administrator**

1. When an application is subject to staff review and a final decision by the Clarksville Zoning Administrator (Zoning Permits, Temporary Use Permits, and Administrative Decisions), a report will be prepared by the Zoning Administrator prior to making a decision on the application.
2. After review of the application, the Zoning Administrator shall, within 60 days, approve, approve subject to conditions, or disapprove the application, based on the review standards set forth in this Article and this Ordinance for the particular type of application. If the decision is to disapprove the application, the Zoning Administrator shall provide the applicant, in writing, the specific reasons for disapproval, and in general terms, any such modifications or conditions that may allow approval of the application.
3. In instances where the application is disapproved, the applicant may revise the application in response to the specific reasons identified for the disapproval, within six months, and resubmit it for reconsideration.
4. After review of the resubmitted application, the Zoning Administrator shall approve, approve subject to conditions (if appropriate), or disapprove the application, based on the review standards set forth in this Article and this Ordinance.

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5. Where permitted by law and if appropriate for the particular application, conditions of approval may be added to ensure compliance with the standards featured in this Article and this Ordinance. The suggested conditions shall be related in both type and amount to the anticipated impacts of the proposed development on the property in question as well as the surrounding area. All conditions of approval shall be expressly set forth in the development permit or approval notice.
6. In no event shall a written order, requirement, decision or determination made by the Zoning Administrator be subject to change, modification, or reversal by the Zoning Administrator after sixty (60) days have elapsed from the date of the decision, where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply where, with the concurrence of the town attorney, modification is required to correct clerical or other nondiscretionary errors.

**E. Concurrent Applications.** If approved by the Zoning Administrator, applications for development approvals may be filed and reviewed concurrently provided any application that requires a legislative decision shall not be eligible for final approval until the text amendment or Zoning District Map amendment (rezoning) has been approved. Also, no site plan will be approved before any necessary rezoning is approved. Applications submitted concurrently are subject to all other application requirements. Denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

**F. Deferral of Application.** An applicant may request that consideration of a development application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator with the following criteria clearly in mind:

1. If public notification for the development application has not been provided, the Zoning Administrator shall act on the deferral request. A request for deferral shall be approved only for good cause;

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2. If public notification has been provided, the request for deferral shall be placed on the public hearing agenda on the date the application is to be considered and acted upon by the body. The body may approve the request for deferral for good cause; and
3. If granted, the applicant shall be responsible for any re-advertising fee which shall be paid in full, prior to the application being processed.

**G. Decisions.** Unless specifically provided elsewhere, all decisions on land use changes, including but not limited to rezoning, text amendments, and special use permits, shall require an affirmative vote by a majority of the members of the Town Council voting on such question. A tie vote shall be viewed as a denial of requested change.

**H. Notice of Decision.** Within seven (7) business days after making a decision, a written copy of the decision shall be sent to the applicant and filed with the review official and clerk/secretary of the decision-making body, where it shall be available for public inspection. If an administrative application or request is denied, the review Zoning Administrator shall provide in writing the reason for the disapproval.

**I. Limitation on Subsequent Similar Applications.** If a development application requiring a public hearing is denied, no application proposing the substantially same development on all or part of the same land shall be reconsidered within one year after the date of the denial.

**Section 5-5 Notice and Public Hearing**

**A. Summary of Notice Requirements.** Each public hearing involving planning and zoning matters before the Clarksville Town Council, the Clarksville Planning Commission or the Clarksville Board of Zoning Appeals requires notice, as set out in Section 15.2-2204 of the Code of Virginia, as amended, and as described in Section 5-7 of this Ordinance.

**B. Public Notice Requirements.**

1. When published noticed is required, notice of public hearing shall be published once a week for two successive weeks in a newspaper published in or having general circulation within the Town of Clarksville.
2. The advertised hearing shall be held not less than five or more than 21 days after the second advertisement shall appear in the newspaper.
3. The term “two successive weeks” as used above shall mean that such notice will be published at least twice with not less than six (6) days elapsing between the first and second publication.

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4. Notice of a joint public hearing before the Planning Commission and the Town Council may be published concurrently. If a joint hearing is held by the Planning Commission and the Town Council, which the Code of Virginia authorizes and permits, the published notice as set forth above need be given only by the Town Council.
5. When separate public hearings are held before the Planning Commission and the Town Council, then published notice as described in number one above shall be published separately by the Planning Commission and the Town Council.

**C. Mailed Written Notice: Text and Map Amendment**

1. Landowner Initiated Cases. In any case involving a zoning map amendment, special use permit or variance which is initiated at the request of a landowner, such landowner shall be designated by the Planning Commission, Town Council or Board of Zoning Appeals as the appropriate and responsible party for sending any written notice required by this Article and section 15.2-2204 of the Code of Virginia, 1950, as amended.
2. Cases Involving 25 or Fewer Tax Map Parcels. For a zoning map amendment, special use permit or variance involving 25 or fewer parcels of land, the Planning Commission, Town Council, Board of Zoning Appeals, or designee as appropriate, shall provide written notice of the public hearing to:
  - a.) Property Owners: Including the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property, as well as the property immediately across the street, road or alley from the property in question, including those parcels which lie outside the corporate limits of Clarksville.
  - b.) Public Land: In addition, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.
  - c.) Planned Unit Development: In addition, if any portion of the affected property is within a planned unit development then written notice of a public hearing shall be provided to any incorporated property owners association within the planned development that have members owning property within 2000 feet of the affected property.

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- d.) When/Type of Mail: Written notice shall be sent at least ten (10) calendar days before the hearing by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement.
  - e.) Continued Hearing: If the hearing is continued, notice shall be re-mailed.
3. Cases Involving More Than 25 Tax Map Parcels. For a zoning map amendment, special use permit or variance application that involves more than 25 parcels of land, the Planning Commission, Town Council, Board of Zoning Appeals, or designee as appropriate, shall provide written notice of the public hearing to:
- a.) Property Owners: Including the owner, owners, or their agent of each parcel involved and to the owner or owners, or agent of all abutting property and property immediately across the street, road or alley from the property affected, including those parcels which lie outside the corporate limits of Clarksville. However, it shall be recognized that written notice of changes to zoning text regulations do not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to Clarksville’s Subdivision Regulations.
  - b.) Planned Unit Development: In addition, if any portion of impacted property is within a planned unit development, condominium or cooperative, notice may be sent to the incorporated property owners’ association if the association and its member property owners are located within 2000 feet of the property subject to the application.
  - c.) When/Type of Mail: Written notice shall be sent at least ten (10) calendar days before the hearing by first class mail to the last known address of an owner as listed in the current real estate tax assessment records or the current real estate tax assessment books.
  - d.) One notice shall be sent to the last known address of such owner, as shown on the current real estate tax assessment books, by registered or certified mail, provided that first-class mail may be used if the town staff mailing such notices makes an affidavit that such mailings have been made and files an affidavit with the papers in the case.
  - e.) Continued Hearing: If the hearing is continued, notice shall be re-mailed.
4. Zoning Ordinance Changes that Decrease Density. For a Zoning Ordinance text change that decreases the allowed dwelling unit density of any parcel of land, the Planning Commission or its representative shall provide written notice of the public hearing to:

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- a.) Property Owners: Including the owner, owners or their agent of each parcel involved and to the owner or owners, or their agent, of all abutting property and property immediately across the street, road, or alley from the property affected, including those parcels which lie outside the corporate limits of the Town of Clarksville.
  - b.) When/Type of Mail: Notice shall be sent at least ten (10) calendar days before the hearing by first class mail to the last known address of an owner as listed in the current real estate tax assessment records or current real estate tax assessment books.
  - c.) Continued Hearing: If the hearing is continued, notice shall be re-mailed.
5. All Other Mailed Notices. When mailed notice is required for applications other than text or map amendments, notice of public hearing shall be sent by first-class mail to all property owners within and immediately abutting the subject property. Where the subject property immediately adjoins a public or private right-of-way, landscape or riparian buffer, community-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abutted the subject property.
- The town staff mailing such notices shall certify to the Town Council such mailing took place, and a certificate vouching this action shall be deemed conclusive in the absence of fraud. The notice shall be mailed at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.
6. Notice to Adjoining Locality. When a comprehensive plan amendment, zoning map amendment, or special use permit application involves any parcel of land located within one-half mile of a boundary with Mecklenburg County, written notice of the application shall be given by the Town of Clarksville to the Mecklenburg County Director of Planning and the Mecklenburg County Administrator at least ten (10) days before the scheduled public hearing.
7. Contents of Written Notice. Where a plan, application, ordinance or amendment is lengthy, or involves numerous parcels, the plan, application, ordinance or amendment need not be advertised in full but may be advertised by reference. All notices for public hearings, unless expressly noted otherwise, whether by mail (written notice), or publication (newspaper) shall:
- a.) Indicate the date, time and place the public hearing will be held;
  - b.) Provide a descriptive summary of the proposed action, including the nature of the application and the location of the area affected; and

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- c.) Identify the place or places within the town where the proposed plans, application, ordinance or amendment, staff report and related materials may be reviewed by members of the public. All notices shall state that information is available for public inspection during normal business hours.
8. **Notice by the Town.** Notices sent by the Town of Clarksville may be sent by first class mail and the Zoning Administrator shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.
9. **Certification.** At least five (5) calendar days prior to the hearing, an affidavit prepared by the person providing notice shall be filed with the Zoning Administrator certifying that written notices have been sent and such affidavit shall include a list of names of those whom the notice was sent. A copy of this list shall be presented at the beginning of the public hearing on the application.
10. **Failure to Receive Notice.** Failure to receive any notice of a hearing required by this Article, in and of itself, shall not invalidate any action taken at or subsequent to the hearing.
11. **Condominium Ownership.** In the case of a condominium, written notice may be sent to the unit owners' association instead of to each individual unit owner.
12. **Notice to Airport Owner.** For a comprehensive plan amendment, a zoning map amendment, or special use permit application involving any parcel of land located within 3,000 feet of a boundary of a military base, military installation or military airport (excluding armories operated by the Virginia National Guard), or a licensed public-use airport, written notice shall be given at least thirty (30) days before the public hearing to the commander of the military base, military installation, military airport or owner of the public-use airport and the notice shall advise of the opportunity to submit comments or recommendations.
13. **Notice Involving Electric Transmission Corridors.** When a comprehensive plan amendment designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall be given by the Zoning Administrator to each electric utility with a certified service territory that includes any part of such designated electric corridor transmission corridors or routes at least ten (10) days prior to the hearing.
- D. Cost of Notice.** The cost of all notice required by this Article shall be paid by the applicant. The costs of placing the original newspaper notice are included in the application fee. However, the cost of newspaper notices for re-hearings or additional hearings required by the applicant's actions shall be paid by the applicant.

**E. Inactive Applications**

Any zoning map amendment application or special use permit application accepted as complete by the Town of Clarksville that is subsequently suspended by request of the applicant or by lack of activity for six (6) months shall be deemed inactive. The period of inactivity shall be measured from the time staff issued comments or correspondence that required revisions to the application or some affirmative act in response by the applicant. Once an application is deemed inactive it may be reactivated by the applicant at any time during the following six (6) months. If an applicant wishes to reactivate an application during the subsequent six (6) month period, the applicant must notify the town in writing of their intent to proceed with the application, grant the town an appropriate extension of time and pay a reactivation fee as established by the Town Council. Any application that is not reactivated prior to the end of the allowed one year period of inactivity shall lapse and be of no further effect and no further processing of the application shall occur. The application will be considered withdrawn and a new application must be submitted with the appropriate fee.

**Section 5-6 Specific Review Protocol**

**A. General Overview.** This section sets forth procedures, standards and related information for each of the specific review procedures the Town of Clarksville will use for applications involving land development and zoning practices in the town.

**B. Zoning Ordinance Text Amendment Procedure**

**1. Purpose.** This provision provides a uniform means for amending the text of the Clarksville

Zoning Ordinance whenever the public necessity, convenience, general welfare, or good zoning practice requires doing so.

**2. Zoning Ordinance Text Amendment Protocol.**

a) Pre-Application Conference with the Zoning Administrator: Optional.

b) Application Submittal and Acceptance. Amendments, however, may also be initiated by a landowner who files a petition asking the Town Council to consider sponsoring a resolution of intent to amend the Zoning Ordinance text. The Town Council, in response, shall either adopt such resolution, initiating the text amendment requested, or shall deny the request. In accordance with the requirements of Va. Code Section 15.2-2286 (7), any resolution or motion of the Planning Commission or the Clarksville Town Council initiating or proposing an amendment to the text of the Clarksville Zoning Ordinance shall state that the public necessity, convenience, general welfare, or good zoning practice requires such amendment.

c) Staff Review and Recommendation.

d) Public Hearing and Notification.

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- e) Planning Commission Review and Action. The Planning Commission shall consider the zoning text amendment and the Zoning Administrator’s report and recommendation in a public hearing. Following the public hearing, the Planning Commission shall forward the proposed amendment to the Town Council, together with its recommendation and a statement setting forth its reasons for such recommendation. The Planning Commission shall make its recommendation within 100 days after receiving the proposed amendment unless the Town Council specifically specifies a shorter time period.
- f) Town Council Review and Decision: Applicable. Following the required public hearing, the Town Council may approve, deny, modify or continue (table) the application, or send the application back to the Planning Commission for additional work. The Town Council’s decision in this matter shall be made within 12 months, unless the applicant requests or consents to action beyond this deadline or chooses to withdraw the proposed amendment. As provided in (Section 5-5) of this Ordinance, the Town Council and the Planning Commission may choose to hold a joint public hearing rather than separate public hearings when considering a zoning text amendment.
- g) Approval Criteria: In evaluating a proposed text amendment, the Planning Commission and the Town Council shall consider the following:
  - 1) Whether the amendment is consistent with good zoning practice;
  - 2) Whether public necessity, convenience, and general welfare are pertinent to the subject matter of the amendment;
  - 3) The extent to which the proposed text amendment is consistent with the Clarksville Comprehensive Plan and this Ordinance, including, specifically, the purpose and intent statements featured in the Clarksville Zoning Ordinance;
  - 4) Whether the proposed text amendment corrects an error in this Ordinance; and
  - 5) Whether the proposed text amendment revises this Ordinance so that it complies with prevailing state or federal statutes and/or case law.
- (h) Time Lapse Involving Similar Applications: Nothing in this Article shall prevent the Town Council from hearing and approving a Zoning Ordinance Text Amendment that is substantially the same as previously heard if the Town Council chooses to initiate the hearing and review process.

**C. Zoning Map Amendment (Rezoning) Procedure**

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1. **Purpose.** The purpose of this provision is to provide a uniform means for reviewing and deciding proposed amendments (rezoning) to the Clarksville Zoning District Map whenever the public necessity, convenience, general welfare, or good zoning practice requires doing so.
2. **Zoning District Map (Rezoning) Protocol.**
  - a) Pre-Application Conference with the Zoning Administrator: Required.
  - b) Application Submittal and Acceptance. In accordance with the requirements of Va. Code Section 15.2-2286 (7), any resolution or motion of the Planning Commission or the Clarksville Town Council initiating or proposing an amendment to the zoning district map or any rezoning shall state that the public necessity, convenience, general welfare, or good zoning practice requires such amendment.
  - c) Staff Review and Recommendation.
  - d) Public Hearing and Notification.
  - e) Planning Commission Review and Action. The Planning Commission shall consider the rezoning application and the Zoning Administrator’s report and recommendation in a public hearing. Following the public hearing, the Planning Commission shall forward the proposed rezoning application to the Town Council, together with its recommendation and a statement setting forth its reasons for such recommendation. If the Planning Commission has not forwarded a recommendation to the Town Council within one hundred (100) days of the date of the first scheduled Planning Commission meeting on the application, such inaction by the Planning Commission shall be deemed a recommendation of approval, unless the applicant has withdrawn the application or a time extension has been approved by the Planning Commission.
  - f) Town Council Review and Decision.
  - g) Approval Criteria: As set out in Sections 15.2-2283 and 15.2-2284 of the Virginia Code, in determining whether to approve, approve with modifications or deny a proposed rezoning, the Planning Commission and the Town Council shall consider the following factors:
    - 1) Consistency with the Clarksville Comprehensive Plan;
    - 2) Consistency with the stated purposes of zoning (Code of Virginia 15.2-2283) and the criteria to be considered when applying zoning in a particular section or district of the community (Code of Virginia 15.2-2284);
    - 3) Compatibility with the surrounding neighborhood and the existing land use pattern;
    - 4) Suitability of the property to support the proposed use;

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- 5) The impact the rezoning will have on local public facilities including traffic, water and sewer service, as well as fire and rescue service capabilities; and
- 6) The impact the rezoning will have on wetlands, streams, surface water features, floodplain management, groundwater resources and other natural resources within the impacted area.
- h) **Withdrawal of Application:** Any application filed with the Town of Clarksville may be withdrawn upon written request by the applicant at any time. However, if the request for withdrawal is made after publication of the notice of hearing, such withdrawal shall be only with the consent of either the Planning Commission or the Town Council, whichever body has advertised the hearing.
- i) **Successive Applications:** Upon denial by the Town Council of any rezoning application, substantially the same application shall not be reconsidered within twelve (12) months of the date of denial.

**D. Special Use Permit Procedure**

- 1. Purpose and Intent.** This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and conditions, be approved by the Planning Commission and the Town Council.
- 2. Special Use Permit (SUP) Protocol.**
  - a) **Pre-Application Conference with the Zoning Administrator:** Required.
  - b) **Application Submittal and Acceptance.** In accordance with the requirements of Va. Code Section 15.2-2286 (7), any resolution or motion of the Planning Commission or the Clarksville Town Council initiating or proposing an amendment to the zoning district map or any special use permit shall state that the public necessity, convenience, general welfare, or good zoning practice requires such amendment.
  - c) **Staff Review and Recommendation.**
  - d) **Public Hearing and Notification.**
  - e) **Planning Commission Review and Action.** The Planning Commission shall consider the SUP application and the Zoning Administrator’s report and recommendation in a public hearing. Following the public hearing, the Planning Commission shall forward the proposed SUP to the Town Council, together with its recommendation and a statement setting forth its reasons. The Planning Commission may also impose such conditions and safeguards as

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deemed necessary to ensure the SUP compliments the intent and spirit of the specific zoning district where it will be located.

- f) Town Council Review and Decision. Following the required public hearing, the Town Council may approve, deny, approve with conditions, modify or continue (table) the application, or send the application back to the Planning Commission for additional work.
- g) Special Use Permit Approval Criteria: The Planning Commission and the Town Council shall use the following criteria, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a SUP application:
  - 1) The proposed use will not adversely affect the use of neighboring properties and shall be in harmony with the uses permitted by right under a zoning permit in the zoning districts;
  - 2) The location and design of the use will not be in conflict with the purposes of the zoning regulations contained in this Ordinance and the Clarksville Comprehensive Plan;
  - 3) The location, size, and height of buildings, walls, and fences, and the nature and extent of screening, buffering, and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings;
  - 4) The proposed use will not be hazardous nor conflict with the existing, and anticipated, patterns of pedestrian and vehicle traffic in the neighborhood and on the streets serving the site;
  - 5) Adequate utilities drainage, parking, loading and other necessary facilities to serve the proposed use are present at the location or shall be provided; and
  - 6) The special use shall not adversely affect the health, safety and welfare of the adjacent properties and the immediate area or the persons residing or working in the neighborhood of the proposed use.
- h) Recommended Conditions and Safeguards. The Planning Commission and the Town Council may impose such conditions and safeguards as deemed necessary to ensure compliance with the intent and objectives of the zoning district where the SUP, if approved, would be located. The conditions may include, but need not be limited to, the following:
  - 1) Hours of operation;
  - 2) Landscaping, screening, buffering and other site-related development standards;

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- 3) Access to the site;
- 4) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby properties;
- 5) Noise limitations;
- 6) Location, size and height of structures/buildings;
- 7) Location and height of walls and fences;
- 8) Timing or phasing of development;
- 9) The development of the property as shown on a submitted concept plan;
- 10) The control of smoke, dust and odors; and
- i) Performance bond to ensure standards are met and plans are implemented.
- j) Effect of Decision. The SUP and recommended conditions, if present, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs.
- k) Action Following Approval: No zoning permit shall be issued until all development conditions, if any, have been met. Development of the property shall not begin until the Clarksville Zoning Administrator receives a building permit issued by the Mecklenburg County Building Official. Commencement of development under a SUP prior to the issuance of the zoning permit and a required building permit shall be considered a violation of this Article and this Ordinance.

Revocation of a SUP. Any SUP may be revoked after the Planning Commission provides its recommendation to the Town Council after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia and a decision of the Town Council after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, all in the manner provided for by Section 15.2-2309 (7) of the Code of Virginia, for noncompliance with this ordinance or any conditions imposed under the SUP.

**E. Site Plan Review Procedure**

- 1. Purpose.** The purpose of site plan review is to provide sufficient plans and information for review and approval by the Zoning Administrator to ensure compliance with the regulations featured in this Article and this Ordinance.
- 2. Site Plan Required.** Site plan review shall be required prior to the issuance of any zoning permit, building permit or land disturbing permit. Site plans are required for all new structures, all renovated structures and all additions to existing structures.

**3. Site Plan Preparation and Submission.**

- a) Site plans shall be prepared by a professional engineer, certified land surveyor, licensed architect or certified landscape architect in accordance with criteria established by the Zoning Administrator regarding scale, format and number of copies. In those instances where very modest changes and/or modifications are being proposed, the Zoning Administrator shall have the prerogative to accept a site plan not prepared by a professional engineer.
- b) Site plans shall be prepared on a scale of not less than one inch equals 50 feet.
- c) A clear, legible, blue or black line copy of the site plan shall be submitted to the Zoning Administrator who shall be responsible for checking the site plan for completeness and compliance with all relevant administrative requirements thereto.

**4. Site Plan Review Protocol**

- a) Pre-Application Conference with the Zoning Administrator: Required.
- b) Required Site Plan Content: Unless waived by the Zoning Administrator, site plans shall feature the following information:
  - 1) The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the developer inclusive of contact information including telephone and cell phone numbers.
  - 2) The scale and date of the preliminary site plan.
  - 3) The property's existing zoning and proposed changes in zoning, if any.
  - 4) The boundaries of the property involved including the location of all existing easements, property lines, buildings, waterways, major tree masses and other physical features in or adjoining the project property.
  - 5) All existing and proposed streets and all existing and proposed utilities.
  - 6) The general location and character of construction governing proposed streets, entrances and exits, outdoor lighting systems, storm drainage and sanitary facilities.
  - 7) The general location of proposed lots, setback lines, as well as easements.
  - 8) The location, dimensions, height, and number of floors and floor areas of all proposed new buildings and structures, as well as planned additions and alterations to existing buildings and structures.

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- 9) The general location of driveways, parking and loading spaces, access aisles, fire lanes and other areas for vehicular circulation and related pedestrian walkways, including the arrangement, dimensions and surface improvements of such areas and a schedule showing the number of parking spaces provided.
  - 10) Preliminary plans and elevations of dwelling types and other planned buildings.
  - 11) Provision for disposition of natural and storm water, including locations, sizes, types and grades of ditches, catch basins, pipes and connections to existing drainage systems.
  - 12) General location, character, size, height and orientation of proposed signs.
  - 13) Proposed location and character of nonresidential uses, commercial or industrial uses, accessory or main.
  - 14) Existing topography, with a maximum of two-foot contour intervals and proposed finished grading by contours, supplemented where necessary by spot elevations.
  - 15) The general location, height, and materials of all fences, walls, screen plantings, and landscaping.
  - 16) A tabulation of the total number of acres in the project and the percentage thereof proposed to be developed as residential, commercial or as another use.
  - 17) Any additional information deemed necessary by the Zoning Administrator to determine compliance with specific requirements of this Article and this Ordinance.
- c) Waiver of Selected Site Plan Requirements. Particular information may be omitted from required site plans when, due to the nature or limited scope of a project, the Zoning Administrator determines such information is not necessary for evaluation of the site plan or for maintaining a record for site plan review.
- d) Site Plan Review undertaken by the Zoning Administrator.
- 1) Every site plan shall be reviewed by the Zoning Administrator to determine compliance with the applicable provisions of this ordinance. In fulfilling this obligation, the Zoning Administrator will circulate a submitted site plan to relevant town agencies, other local agencies, and state or federal officials for review and comment prior to acting on the site plan.
  - 2) The Zoning Administrator shall approve, approve with modifications or conditions, or disapprove the site plan within 60 days of receipt of all required plans and information. The Zoning Administrator shall notify the applicant in writing of the action taken. In the case of approval with modifications or conditions or disapproval of the site plan, such notification

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shall describe the modifications or conditions of approval or the reasons for disapproval, along with changes which would make the site plan acceptable.

- 3) An application for site plan approval shall be approved by the Zoning Administrator if the proposed development complies with all applicable standards featured in this Article and other applicable town regulations.
- e) **Modification of Approved Site Plans.** Modifications to an approved site plan may be authorized in writing by the Zoning Administrator when the modifications do not materially affect the approved site plan. If, in the opinion of the Zoning Administrator, the modifications do substantially affect the integrity of the approved site plan then the Zoning Administrator shall deny the requested modification.
- f) **Final Site Plan Approval.** The final site plan shall comply with all laws, regulations and provisions governing the approval of subdivisions and all features required on the preliminary site plan with accurate dimensions and construction specifications to support the issuance of building permits.
- g) **Expiration of the Site Plan Permit.** Approval of a site plan submitted under the provisions of this article shall expire five years after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- h) **Revocation of the Site Plan.** Permits issued under an approved site plan may be revoked by the Zoning Administrator for failure to comply with the approved plan, any conditions attached thereto, or other applicable regulations.
- i) **Appeals.** Any person aggrieved by the decision of the Zoning Administrator relative to a site plan may appeal such decision to the Clarksville Planning Commission.

**F. Zoning Permit**

**1. Required.** It shall be unlawful to construct, alter, or move, or commence to constructing, altering, or moving, except for making ordinary repairs and internal renovations, any building or structure on a site, including an accessory structure, until the Zoning Administrator has issued a zoning permit. It shall also be unlawful to change the use of land or to change the type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Zoning Administrator has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to this Article.

**2. Application Submittal.** In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit which must be filed

with the Mecklenburg County Building Official. In all other cases, an application shall be made before initiating any of the activities that trigger compliance with this section.

- 3. Application Content.** Every application for a zoning permit, except for a single-family dwelling, shall be accompanied by plans in duplicate, drawn to scale in black line of blueprint showing the actual shape and dimensions of the lot to be built upon. The application shall also detail the exact location, size, elevation and height of any building or structure to be constructed or altered. The application will also include the location of any rights-of-way of any street or highway adjoining the parcel of land, the location of any required building lines, the intended use of each building or structure currently located on the parcel, and information with regard to the neighboring lots as may be necessary for the Zoning Administrator to determine if the application complies with the provisions of this Article.
- 4. Application Approval.** If the proposed application is in conformity with the provisions of this Article, the Zoning Administrator shall issue a zoning permit. One copy of the submitted plan will be returned to the applicant along with the approved zoning permit. All dimensions shown on the plan related to the location and size of the lot to be built upon shall be based on an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. Construction shall not begin without the issuance of a building permit from the Mecklenburg County Building Official who shall provide a copy of the permit, upon issuance, to the Clarksville Zoning Administrator. If the application is not in conformity with the provisions of this Article, the Zoning Administrator will not issue the zoning permit and shall provide in writing the reason(s) for the disapproval.
- 5. Display of Permit.** Upon receipt, the zoning permit shall be posted in a prominent place on the premises during the period of construction, reconstruction, enlargement or moving.
- 6. Lapse of Permit.** A zoning permit shall expire and become void if the authorized work is not commenced within one (1) year of the date of issuance. The Zoning Administrator may, upon good cause, extend a permit.
- 7. Administrative Appeal.** An appeal from any decision of the Zoning Administrator shall be made within thirty (30) days of the final decision and filed with the Clarksville Board of Zoning Appeals.

#### **G. Temporary Use Permit**

- 1. Applicability.** There are certain uses that may be permissible on a temporary basis subject to controls and limitations imposed by the Town of Clarksville. Example uses may include temporary concrete production facilities, a temporary construction shed or office, outdoor events requiring a permit, peddlers, residential sales offices and model homes, as well as other uses similar in nature to the ones cited.

**2. Application Required.** Any person desiring to establish a temporary use shall submit an application for a temporary use permit to the Zoning Administrator on an application provided by the town at least forty-five (45) days prior to the date the permit is to take effect. The Zoning Administrator may approve a shorter time period for filing the application if good cause is shown. The applicant must submit proof of ownership of the property or present evidence to show approval of the property owner for the use requested.

**3. Issuance or Denial of the Permit.** If the Zoning Administrator finds that the application complies with the standards set forth on the application, the standards set forth in this Article, and other applicable provisions of law, the Administrator shall issue a temporary use permit, setting forth the duration of the permit and such conditions that will protect the health, safety and welfare of adjacent property owners as well as the general public. Otherwise, the Zoning Administrator shall deny the application. The Zoning Administrator may require a \$500.00 cash bond to ensure the removal of all structures, trash, debris, and signs that may be associated with the temporary use. The Zoning Administrator shall also notify the police department, fire department and other affected local agencies about the nature, location and duration of the proposed temporary use.

**4. Revocation of Permit.** A temporary use permit shall be revoked if the Zoning administrator finds that the terms of the permit have been violated or that the use has produced a hazard to the public health, safety and welfare of Clarksville residents.

**5. Administrative Appeal.** The Zoning Administrator’s final decision on a temporary use permit may be appealed within thirty (30) days of the final decision and filed with the Clarksville Board of Zoning Appeals.

#### **H. Certificate of Occupancy**

**1. Certificate Required.** Land may be used and buildings may be used only after a certificate of occupancy has been issued by the Mecklenburg County Building Official. Such certificate shall certify that the building or the proposed use of the land complies with the provisions of this Zoning Ordinance as well as the land development regulations featured in the Clarksville Subdivision Ordinance. A similar certificate shall be issued for the purpose of maintaining, reviewing, changing or extending a nonconforming use.

**2. Submittal Requirements.** The applicant shall submit to the Zoning Administrator one copy of an as-built house/building location plan, prepared by a certified surveyor or registered engineer, and the plan shall indicate the following information:

- a) The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
- b) The location or dimensions, including height of any building structure or addition.

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- c) The perpendicular distance from all property lines to the nearest point of each building, structure or addition, shown to the nearest foot.
- d) The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
- e) The location and configuration of any off-street parking spaces, the number of spaces provided, and information as to the surfacing of such areas.
- f) The existence of any area designated as 100-year floodplain.
- g) The signature and certification number, if applicable, of the person preparing the plat.

**3. Issuance or Denial of the Certificate.** The Mecklenburg County Building Official shall issue or deny an application for a certificate of occupancy within seven (7) days of an application being filed. If denied, the Building Official shall share with the property owner or the owner's agent the reasons for the denial and the specific actions required on the part of the owner before the certificate of occupancy can be issued.

**4. Administrative Appeal.** The Building Officials' final decision regarding an occupancy permit may be appealed within thirty (30) days to the Clarksville Board of Zoning Appeals (BZA).

**I. Variance**

**1. Jurisdiction and Authority.** The Clarksville Board of Zoning Appeals (BZA) is authorized to grant a variance from the literal terms of this Zoning Ordinance in accordance with the procedures and standards featured in this Article.

**2. Initiation of Application.** An application for a variance shall be filed with the Zoning Administrator and the BZA by a property owner, any person having a possessory interest in property with consent of the owner, governmental officer, department, bureau, or other party provided by law.

**3. Filing Application.**

- a) Applications for a variance shall be filed with the Zoning Administrator.
- b) Required application forms, completed and signed by the applicant and property owner, shall accompany each application.
- c) Upon receipt of an application, the Zoning Administrator shall acknowledge acceptance or rejection of the application within five (5) business days from the date of submission. Upon acceptance, the Zoning administrator shall transmit a copy of the completed application to the Chairman of the Board of Zoning Appeals.

**4. Submittal Requirements.** All variance applications shall be accompanied by the following items:

- a) An application on the form provided by the Town, completed and signed by the applicant and property owner.
- b) A variance application fee made payable to the Town of Clarksville.
- c) A written statement with supporting evidence regarding compliance with the variance approval criteria featured in this Article.

**5. Public Notice and Hearing.** The Board of Zoning Appeals shall give notice and hold a public hearing on the variance application as set out in Section 15.2-2204 of the Code of Virginia, 1950, as amended as well as in Section 5-5 of this Article.

**6. Action by the Board of Zoning Appeals.** The BZA shall take action to approve, approve with conditions, or deny the requested variance within thirty (30) days of the close of the required public hearing. Any person may appear at the hearing in person and may address the BZA.

**7. Variance Approval Criteria.** A variance shall be approved by the Board of Zoning Appeals if the evidence shows that the following is true with respect to the subject property in accordance with the requirements of Virginia Code § 15.2-2309:

- a) The strict application of the regulations featured in the Clarksville Zoning Ordinance would unreasonably restrict the utilization of the property in question;
- b) That granting the variance would alleviate a hardship due to a physical condition of the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability;
- c) That granting the variance will not be a substantial detriment to adjacent properties or other properties in close proximity to the property in question;
- d) That the variance is not contrary to the purposes and intent of this Ordinance;
- e) That the hardship associated with the property was not created by the applicant;
- f) That the property interest for which the variance is being requested was acquired in good faith;
- g) That the condition or situation affecting the property is not of a general or recurring nature to make practical the drafting of a regulation to be added to the zoning ordinance;

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- h) The granting of a variance would not result in a use not otherwise permitted on the property nor change the zoning classification of the property;
- i) The relief being sought through the variance is not available through the special use permit process that is authorized in this ordinance or the process for modification of a zoning ordinance pursuant to subdivision A 4 of Virginia Code § 15.2-2286 at the time of the filing of the variance application.

**8. Applicant’s Burden of Persuasion.** The burden of proof shall be on the applicant to prove by a preponderance of the evidence that the application meets the standards for a variance as required by this Article. The applicant will also be required to demonstrate that the variance will alleviate a clear hardship as distinguished from receiving a special privilege or convenience.

**9. Conditions and Safeguards.** When granting a variance, the BZA may impose conditions on the applicant deemed necessary to protect the general welfare and property rights of the properties in the immediate vicinity of the parcel in question.

**10. Withdrawal of Variance Application.** A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the required public hearing on the variance application. After that deadline, an application may be withdrawn only with the permission of the Zoning Administrator.

**11. Re-Application.** If a variance is denied by the BZA, no application requesting the same relief with regard to all or part of the same property shall be considered by the BZA within twelve (12) months after the date of the denial.

**12. Appeals.** Any person aggrieved by the approval or denial of a variance granted by the BZA may appeal the decision to the Circuit Court within thirty (30) days from the date of the Board’s decision.

**13. Precedent.** A decision made by the BZA to grant a variance does not establish a precedent that will impact or affect any future BZA action or decision.

**J. Appeal of Administrative Actions**

**1. Authority.** The Board of Zoning Appeals is authorized to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator or another designated administrative officer in the administration or enforcement of this Zoning Ordinance.

**2. Appeal Protocol.** Any person aggrieved by a final decision made by the Zoning Administrator or any other officer, department, board or bureau in the enforcement of this Article and this Ordinance, may file a notice of appeal. In doing so, all administrative appeal applications will adhere to the following protocol:

- a) All appeal applications shall be filed with the Zoning Administrator;

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- b) The required application form will be completed and signed by the applicant as well as the property owner or their agent acting on their behalf;
- c) The required administrative appeal application fee will accompany the signed application;
- d) Appeals must be filed within 30 days of the date of the decision being appealed;
- e) Upon receipt of the administrative appeal application, the Zoning Administrator shall accept or reject the application as being complete within five (5) business days of the date of submission. Upon acceptance, the Zoning Administrator will transmit a copy of the application to the Chairman of the BZA.

- 3. Effect of the Filing.** The filing of an application for appeal stays all proceedings in furtherance of the action being appealed until the BZA meets to resolve the issue.
- 4. Public Notice and Hearing.** The Board of Zoning Appeals shall give notice and hold a public hearing as set out in Section 15.2-2204 of the Code of Virginia, 1950, as amended as well as Section 5-5 of this Article.
- 5. Action by the Board of Zoning Appeals.** The BZA shall render a decision on the appeal within thirty (30) days of the close of the required public hearing. In exercising their appeal power, the BZA may reverse or affirm wholly or partly or may modify the decision being appealed. Any person may appear at the public hearing in person and may address the BZA.
- 6. Approval Criteria.** The determination made by the Zoning Administrator and being appealed enjoys the presumption of correctness. At a hearing on an appeal, the Zoning Administrator shall explain the basis for his determination after which the appellant has the burden of rebutting such presumption of correctness by a preponderance of the evidence. An appeal shall be sustained only if the BZA finds that the Zoning Administrator, based on the evidence, erred.
- 7. BZA Decision Protocol.** The decision made by the BZA shall be accompanied by written findings of fact specifying the reason(s) for the action taken. These findings shall be filed with the Zoning Administrator who shall provide a copy of the decision to the appellant party to the administrative appeal.
- 8. Withdrawal of Appeal Application.** An appeal may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the required public hearing on the administrative appeal. After this deadline, an appeal may be withdrawn only with the permission of the Board of Zoning Appeals.
- 9. Appeals.** Any person aggrieved by the approval or denial of an administrative appeal made by the BZA may appeal the said decision to the Circuit Court within thirty (30) days from the date of the Board's decision.

**K. Written Zoning Interpretations**

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- 1. Authority.** When uncertainty exists concerning the meaning of narrative featured in this Zoning Ordinance, the Zoning Administrator, in accordance with 15.2-2301 and 15.2-2311 of the Code of Virginia, as amended, shall be authorized to make all such interpretations.
- 2. Application Requirements.** An application for a written interpretation shall be submitted to the Zoning Administrator on the form provided by the Town. The application must be signed by the property owner/citizen making the interpretation request and must be accompanied by an application fee made payable to the Town of Clarksville.
- 3. Action by the Zoning Administrator.** The zoning administrator shall provide the applicant with the requested interpretation in writing and a copy of the same report will be transmitted to the Chairman of the BZA.
- 4. BZA Interpretation Protocol.** The BZA will base their interpretation on the plain meaning of the words featured in the zoning ordinance being examined as well as prior interpretations of the same or similar narrative made in the past. The interpretation made by the BZA will be filed with the Zoning Administrator and a copy of the same report will be shared with the party who requested the interpretation.
- 5. Appeal.** Any person aggrieved by the interpretation made by the BZA may appeal the decision to the Circuit Court within thirty (30) days from the date of the Board’s decision.

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**Section 5-7 Review and Approval Matrix**

The following table summarizes the review and approval authority presented in this Article. In the event of a conflict between this summary table and the detailed narrative featured in this Article, the detailed procedures shall govern.

Procedure	Section No.	Review and Decision-Making Authority				Notices (Written, Newspaper)
		Zoning Administrator	PC	BZA	Council	
Zoning Ord. Text Amendments	5-6-B	R	<R>	—	<DM>	N
Zoning Map Amendments	5-6-C	R	<R>	—	<DM>	W, N
Special Use Permit	5-6-D	R	<R>	—	<DM>	W, N
Site Plan Review	5-6-E	DM	A	—	—	—
Zoning Permits	5-6-F	DM	—	<A>	—	—
Temporary Use Permits	5-6-G	DM	—	<A>	—	—
Occupancy Certificate	5-6-H	MCBI*	—	<A>	—	—
Variances	5-6-I	R	----	<A>	—	W, N
Appeal of Administrative Actions	5-6-J	DM	—	<A>	—	W, N**
Appeal of Zoning Interpretation	5-6-K	DM	—	<A>	—	N

**PC** = Plan. Comm; **BZA** = Bd. of Zoning Appeals; **Council** = Town Council

**R** = Review Body (Responsible for Review and Recommendation) Zoning Administrator

**DM** = Decision-Making Body (Responsible for Final Decision to Approve or Deny)

**A** = Authority to hear and decide appeals of Decision-Making Body’s action

<> = Public Hearing Required \***MCBI**-Mecklenburg County Building Official \*\***W**-Written Notice, **N**-Newspaper Notice on appeal to the BZA.

**ARTICLE 6. DESIGNATED ZONING DISTRICTS**

**Section 6-1 Purpose**

It is the purpose of this Article to identify the different zoning districts which have been crafted to help manage the current pattern of land uses in the Town of Clarksville as well as facilitate the creation of future land use as defined and described in the Clarksville Comprehensive Plan.

**Section 6-2 Establishment of Districts**

For the purposes of this Article and this Ordinance, the area within the incorporated Town, as it exists at the time of the enactment of this Article, is hereby divided into classes of districts, which are established as follows:

**1. Residential Districts**

- a. R-1 Low Density Residential (LDR)
- b. R-2 Moderate Density Residential (MDR)
- c. R-3 General Residential District (GRD)

**2. Non-Residential Districts**

- a. Neighborhood Business District (NBD) B-1
- b. Central Business District (CBD) B-2
- c. Business Corridor District (BCD) B-3
- d. Technology and Industry District (TID)
- e. Public/Civic Use (PCU)

**3. Clarksville’s Gateway Entrances**

**Section 6-3 Residential Districts**

This section establishes the basic standards for residential development in the Town of Clarksville. The standards will vary based on the specific residential classification being used. The residential districts authorized in Clarksville through this Ordinance and their articulated statements of intent are as follows:

**Low Density Residential-LDR (R-1).** This district is designed to produce and support a pattern of low density single-family residential development on individual lots in selected areas of Clarksville. The regulations for this district are crafted to protect and sustain the essential character present in the district which fosters an exemplary environment for family life in single-family dwellings. To this end, development is restricted to single unit dwellings only. Land uses of a multi-family nature are not permitted in the district nor are commercial or industrial land uses allowed. Specified nonresidential uses that are compatible with single family residential neighborhoods may be permitted with a special use permit.

**Moderate Density Residential-MDR (R-2).** The regulations for this district are intended to protect and enhance the residential character that dominates the district by allowing single-family houses to be built on smaller lots. Duplexes and two-family dwellings are also permitted as is a customary practice associated with moderate density residential neighborhoods. Large-scale multi-family housing and generalized commercial and industrial uses are prohibited from locating in the district although some commercial development may occur on the periphery of the district. Specified nonresidential uses that are compatible with residential neighborhoods may be permitted with the grant of a special use permit.

**General Residential District-GRD (R-3).** The General Residential District (GRD) is designed to provide for the establishment of higher density residential uses including single-family detached dwellings, two-family attached dwellings, townhouses, condominiums and apartment complexes in selected areas of Clarksville. Although the GRD is a residential zone, specified non-residential uses that are compatible within a general residential district may be permitted with the grant of a special use permit due, in part, to the district's proximity to commercial and business land uses.

#### **Section 6-4 Nonresidential Districts**

Nonresidential development in the Town of Clarksville, upon the adoption of this Ordinance, shall comply with all applicable standards as set forth in this Article and this Zoning Ordinance. The nonresidential districts permitted in Clarksville and their accompanying statements of intent are as follows:

**Neighborhood Business District-NBD (B-1).** The Neighborhood Business District (NBD), as established, provides small-scale retail, commercial and personal services shopping for adjacent and nearby residential land uses in selected areas of Clarksville. The commercial and business uses in the NBD may take the form of a unified development footprint featuring multiple commercial and/or business properties aligned in a defined pattern covering several parcels of land or the business/commercial use may consist of a single enterprise located on a single parcel of land. Business and commercial land uses in the NBD which are adjacent to or near residential land uses should be designed in a scale and density compatible with the residential properties.

**Central Business District-CBD (B-2).** The Central Business District (CBD) is the retail, shopping, dining, and entertainment hub of Clarksville. The CBD is established to promote a mix of development options and greater pedestrian activity by broadening and diversifying the uses in the district. In doing so, the standards applicable in the CBD are designed to accommodate a mix of commercial, cultural, civic, entertainment and residential uses. The CBD's continued vitality will be premised, in part, on maintaining the mix of buildings and storefronts fronting Virginia Avenue from the bridge to Ninth Street in harmony with the streetscape plan and façade enhancement strategy described in the town's comprehensive plan. To this end, development within the CBD should reflect the following design considerations:

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- \* Mechanical equipment, where possible, should be shielded and screened from public view and designed to be an integral part of the building.
- \* Building façades and entrances should be oriented in a manner toward the primary means of vehicular access.
- \* New construction should relate to the dominant proportions of buildings in the immediate area. The ratio of height to width and the mass and scale of a proposed project should relate to nearby buildings as well as the streetscape.
- \* Building materials should be typical of those prevalent in the CBD, including, but not limited to, stucco, brick, architectural block, wood siding, and standing beam metal roofs. Inappropriate building materials would include reflective glass and metal wall panels on the front of buildings.
- \* The permanent color of building materials (to be painted or unpainted) should resemble the predominant tones prevalent in the CBD corridor generally and the block location specifically. Any deviation from this standard will be reviewed by the Zoning Administrator before final color choices are made.
- \* All outdoor lighting fixtures shall be down- directed with light trespass not to exceed 0.5 foot candles at the property line.

**Business Corridor District-BCD (B-3).** The Business Corridor District (BCD) is intended to provide sufficient space for a variety of uses along selected highway thoroughfares. The uses within this district shall have an attractive appearance consistent with superior building design and building orientation. Ample parking, well-designed loading areas, and reasonable landscaping and buffering measures should also be featured. In addition, the introduction of planned commercial and residential uses in the BCD, through the use of a Planned Unit Development (PUD), may be possible if authorized following a review and recommendation from the Clarksville Planning Commission and approval granted by the Clarksville Town Council.

The intent of the PUD is to provide for the design and development of commercial/residential land use in a planned and coordinated manner. The PUD designation, as crafted, should provide flexibility in the design and construction of the planned development in accordance with an approved master plan for the site. The PUD proposal must be submitted to the town staff for review and, as noted above, must be reviewed by the Clarksville Planning Commission prior to the Clarksville Town Council acting on the application.

**Technology and Industry District-TID.** The Technology and Industry District (TID) is designed to provide sufficient land area for technology related development as well as industrial development. The desired pattern of development may take several forms including the design of a planned industrial park or a planned technology zone. In order to ensure land is available for technology/industrial use in Clarksville and to avoid land use conflicts, residential and commercial land uses will be not permitted to locate in areas zoned TID.

**Public/Civic Use District-PCU.** The Public/Civic Use District is intended to allow governmental, recreational and community oriented uses. As designed, the district features town-owned property; however, privately owned property dedicated to community-oriented uses may be permissible. Uses permitted in the PCU

District as a matter of right can include parks and recreational facilities, municipal water and water treatment operations, maintenance facilities, public safety, public administration activities and cemeteries.

**Section 6-5 Clarksville’s Gateway Entrances**

Gateway entrance corridors, the roads which permit a traveler to enter and exit a community, function as a community’s front door. Indeed, upon entering a locality, many travelers begin to formulate first impressions, some positive and some negative, about the locality. Unfortunately, many localities fail to recognize this reality and their communities suffer as a result.

In order to project a positive first impression, as well as protect Clarksville’s character and small town charm, strong consideration should be given to focusing on the visual image and message currently conveyed upon entering Clarksville along roadways from the north, east, south and west. Upon doing so, the Town of Clarksville may conclude that a strategy focused on landscaping enhancements, better and more attractive signage, and enhancements to buildings and structures in a state of disrepair, would be in the Town’s best interest.

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**Section 6-6 Zoning Matrix**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>P = Permitted Use (as of right) S = Special Use Permit required</b>								
<b>USE TYPES</b>								
<b>Residential</b>								
Accessory dwelling		P	P	P				
Group home			S	S				
Modular home	P	P	P					
Single-family dwelling, detached	P	P	P					
Townhouse/Condominium			S	S		S		
Apartment-2 or Less or Duplex		P	P	P associated with business use	P associated with business use	S		
Apartment-3 or More			S	S	S	S		
Accessory Structure but only when it is an accessory to the principal structure	P	P	P	P	P	P	P	P

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Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Public/Civic</b>								
Cemetery								P
Town hall/town facilities				P	P	P	P	P
State and federal uses				S	S	S	S	S
Museum/cultural uses				S	S	S		P
Educational facility, primary/secondary		S	S	S	S	S		
Golf, tennis, athletic clubs		S	S	S		S		
Performing arts center				S	S	S		P
Public park & recreational area		S	S	S	S	S		P
Library				P		P		P
Camp Grounds & Travel Trailer Parks								
Public water/sewer facilities	P	P	P	P	P	P	P	P
Public recreation facility	S	S	S	S	S	S	S	P
Recycling center				S	S	S	S	P
Refuse collection site				S	S	S	S	S
Religious assembly			S	S	S	S		
Public utility transmission	P	P	P	P	P	P	P	P
Cell tower communication				S	S	S	S	S
Accessory Structure but only when it is an accessory to the principal structure	P	P	P	P	P	P	P	P

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Commercial</b>								
Automobile rental/leasing				P	S	P		
Automobile repair service				P	S	P		
Automobile sales				P	S	P		
Bed and Breakfast			S	S	S			
Brewery or distillery				S		S	S	
Business or trade school				S	S	S	S	
Business support service				P	P	P	S	
Car wash				P	P	P		
Catering, Commercial (off premises)				P	P	P		
Clinic (Medical)				P	P	P		
Commercial indoor amusement				S	S	S		
Commercial indoor entertainment				S	S	S		
Commercial indoor sports and recreation				S	S	S		
Commercial outdoor entertainment				S	S	S		
Commercial outdoor sports and recreation				S	S	S		
Commercial vehicle repair service				P	S	P		
Construction sales and service				P	P	P		
Construction yard						S	S	
Consumer repair service				P	P	P		
Tire sales (automobile)				P	S	S		
Day care (child) center			S	S		S		

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Commercial (continued)</b>								
Equipment sales and rental				P	P	P		
Family home day care			S	S				
Farmer's Market				P	P	P		
Financial institution				P	P	P		
Funeral home				P	P	P		
Garden center				P	P	P		
Gas station/convenience store				S	S	P		
Greenhouse, commercial						P		
Counseling services				P	P	P		
Home Occupation, Class A	S	S	S					
Home occupation, Class B	S	S	S					
Hospital				S	S	S		
Hotel				S	S	S		
Kennel				S		S		
Laundry				S	S	P		
Micro-Brewery				P	P	P		
Micro-Distillery				P	P	P		
Mini-storage facility				S		S		
Nursing home				S		S	P	
Office, general				P	P	P	P	P
Marina			S	S	S	S	S	P
Boat launch			S	S	S	S	S	P
Restaurant, drive-in				P	P	P		
Restaurant, general				P	P	P	S	
Retail businesses				P	P	P	P	

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Commercial (continued)</b>								
Restaurant, mobile				P	P	P		
Shooting range, indoor						S		
Shopping center				S	S	S		
Specialty food shop				P	P	P		
Specialty shop				P	P	P		
Store, general				P	P	P		
Store, liquor				P	P	P		
Store, neighborhood convenience				p	P	P		
Studio, fine arts				P	P	P		
Tattoo Parlor and/or Body Piercing				S	S	S		
Salon				P	P	P		
Veterinary hospital/clinic				P	P	P		
Wholesale sales				P	P	P		
Winery				P	P	P		
Accessory Structure but only when it is an accessory to the principal structure	P	P	P	p	p	p	P	p

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Industrial</b>								
Asphalt Plants						S	S	
Data Centers						P	P	
Garment Fabrication including Cut & Sew						P	P	
Laboratories/Pharmaceutical, Medical, and Technology (NON-HAZARDOUS)						P	P	
Laboratories/Pharmaceutical, Medical, and Technology (HAZARDOUS)						S	S	
Machinery Manufacturing						S	S	
Manufacture of Ethanol and Associated Agricultural Products						S	S	
Manufacture of Manufactured or Modular Homes						S	S	
Manufacture of Musical Instruments						P	P	
Manufacture of Paint, Oil, Shellac, Turpentine or Varnish							S	
Manufacture of Paper or Paper Products							S	
Manufacture of technology based equipment and related products such as Personal Computers, Routers, or other Information Technology Equipment						P	P	

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Industrial (continued)</b>								
Manufacture, Compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals perfumed toilet soap, toiletries and food products						P	P	
Manufacture, Compounding, Assembling or Treatment of Articles of Merchandise from previously prepared materials: Bone, Cellophane, Canvas, Cloth, Cork, Feathers, Felt, Fiber, Fur, Glass, Hair, Horn, Leather, Paper, pulverized clay or Plastic, Precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood yard, and paint						S	P	
Manufacturing of Pottery and Ceramics						P	P	
Meat, Poultry and Fish Processing							S	
Petroleum Refining, including by-products							S	
Research and Development Facilities						P	P	
Sand, Gravel, Crushed Stone, and Concrete Operations						S	S	
Storage Warehouse			S	P	P	P	P	P
Toy and Novelty Manufacturing						P	P	
Truck Terminal						S		
Warehousing and Distribution Facilities						P	P	

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

Zoning District	R-1, Low Density Residential	R-2, Moderate Density	R-3, Residential General	B-1, Commercial Neighborhood	B-2, Central Business District	B-3, Business Corridor	TID Tech & Industry	PCU Public/Civic Use
<b>Industrial (continued)</b>								
Industrial, light (not listed above)						S	S	
Industrial, heavy (not listed above)						S	S	
Manufacturing/assembling (not listed above)						S	S	
Accessory Structure but only when it is an accessory to the principal structure	P	P	P	P	P	P	P	P
<b>Miscellaneous</b>								
Broadcasting or communication tower						S	S	
Parking facility				S	S	S		
Transmission utility service				S	S	S		
Solar panels	S	S	S	S	S	S	S	

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**RESIDENTIAL LOT AND SET BACK REGULATIONS**

Zoning District	Lot Area	Lot Width	Minimum Lot Street Frontage	Bldg. Height	Front Yard	Side Yard	Rear Yard	Corner Side Yard
R-1 Single Family	15,000 sq. ft. per single family	100 ft.	80 ft.	35 ft.	50 ft.	10 ft.	25 ft. main bldg., 5 ft. for accessory bldg.	25 ft.
R-2 Single Family	10,000 sq. ft. with public water & sewer	75 ft.	75 ft.	35 ft.	35 ft.	10 ft.	25 ft. main bldg., 5 ft. from accessory bldg.	25 ft.
	15,000 sq. ft. with private water & sewer	75 ft.	75 ft.	35 ft.	35 ft.	10 ft.	25 ft. main bldg., 5 ft. from accessory bldg.	25 ft.
	Duplex (2 units) 10,000 sq. ft.	75 ft.	75 ft.	35 ft.	35 ft.	10 ft.	25 ft. and 5 ft. from accessory bldg.	25 ft.
R-3 Single Family Residential	8000 sq. ft. per single family with public water & sewer	50 ft.	50 ft.	35 ft.	35 ft.	5 ft.	25 ft. and 5 ft. from accessory bldg.	15 ft.
R-3 Single Family Residential	15,000 sq. ft. per single family with private water & sewer	50 ft.	50 ft.	35 ft.	35 ft.	5 ft.	25 ft. and 5 ft. from accessory bldg.	15 ft.
R-3 Duplex (2 Units)	10,000 sq. ft.	50 ft.	50 ft.	35 ft.	35 ft.	5 ft.	25 ft. and 5 ft. from accessory bldg.	15 ft.
R-3 Apartments/ Townhouses (3 – 10 Units)	7500 sq. ft. per unit	50 ft.	50 ft.	35 ft.	35 ft.	5 ft.	25 ft. and 5 ft. from accessory bldg.	15 ft.

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**RESIDENTIAL LOT AND SET BACK REGULATIONS (Continued)**

<b>Zoning District</b>	<b>Lot Area</b>	<b>Lot Width</b>	<b>Minimum Lot Street Frontage</b>	<b>Bldg. Height</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>From Residential Dist. Line</b>
R-3 Apartments/Town Houses (11 or More Units)	2 Acre Minimum	50 ft.	50 ft.	35 ft.	35 ft.	5 ft.	25 ft. and 5 ft. from accessory bldg.	15 ft.

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**BUSINESS AND MULTI-FAMILY LOT AND SET BACK REGULATIONS**

Zoning District	Lot Area	Lot Width	Minimum Lot Street Frontage	Bldg. Height	Front Yard	Side Yard	Rear Yard	From Residential Dist. Line
B-1 Business		100 ft.	100 ft.	45 ft.	50 ft.	5 ft.	35 ft, 10 ft. from accessory bldg.	25 ft.
B-1 (Apartments/ Townhouses 3-10 Units)	7500 sq. ft. per unit	100 ft.	100 ft.	45 ft.	50 ft.	5 ft.	35 ft, 10 ft. from accessory bldg.	25 ft.
B-1 (Apartments/ Townhouses 11 or more Units)	3 acre minimum	100 ft.	100 ft.	45 ft.	50 ft. ft.	5 ft.	35 ft., 10 ft. from accessory bldg.	25 ft.
B-2 (Central Business District)				45 ft.	10 ft.			25 ft.
B-2 (Apartments/ Townhouses 3 -10 Units)	7500 sq. ft. per unit			45 ft.	10 ft.			25 ft.
B-2 (Apartments/ Townhouses 11 or more Units)	2 acre minimum			45 ft.	10 ft.			15 ft.
B-3 (Business Corridor)				45 ft.	50 ft.	10 ft.	35 ft.	50 ft.

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B-3 (Apartments/ Townhouses 3 -10 Units)	7500 sq. ft. per unit			45 ft.	50 ft.	10 ft.	35 ft.	50 ft.
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**BUSINESS AND MULTI-FAMILY LOT AND SET BACK REGULATIONS - (Continued)**

Zoning District	Lot Area	Lot Width	Minimum Lot Street Frontage	Bldg. Height	Front Yard	Side Yard	Rear Yard	From Residential Dist. Line
B-3 (Apartments/ Townhouses 11 or more Units)	3 acre minimum			45 ft.	50 ft.	10 ft.	35 ft.	50 ft.

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**TECHNOLOGY AND INDUSTRIAL LOT AND SET BACK REGULATIONS**

Zoning District	Lot Area	Lot Width	Minimum Lot Street Frontage	Bldg. Height	Front Yard	Side Yard	Rear Yard	From Residential Dist. Line
TID (Technology Industrial)				60 ft.	10 ft.	10 ft.	10 ft.	50 ft.

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**ARTICLE 7. PLANNED UNIT DEVELOPMENT**

**Section 7-1 Planned Unit Development**

- A. Statement of Intent.** The intent of the Planned Unit Development (PUD) District is to encourage and provide for the development of medium sized parcels of land for residential and/ or mixed use development in a planned and coordinated manner. The PUD district is established to:
1. Provide flexibility in the planning and construction of development projects by allowing a combination of uses developed in accordance with an approved plan that protects adjacent properties;
  2. Provide an environment within the layout of a site that contributes to a sense of community and a coherent living style;
  3. Encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape and size; and to provide for useable open space;
  4. Provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure; and,
  5. Encourage infill projects and the development of sites made difficult for conventionally designed development because of the shape, size, abutting development or topography.
- B. Permitted Uses.** Uses permitted by-right in the PUD may include a mix of residential and commercial uses. The uses permitted will be enumerated in the required master PUD proposal. Specific uses may also be excluded. Any use desired but not documented in the proposed PUD will require specific approval by the Clarksville Town Council.
- C. District Size.** Each PUD shall contain not less than five (5) acres of contiguous land. Existing public streets shall not be included when calculating the land area. Additional land may be added to the PUD if it adjoins the district and serves as a logical extension of the district. The Town Council must approve any such enlargement.
- D. General Development Standards.** The overall PUD site design shall be harmonious in terms of landscaping, principal and accessory uses, size of structures, street patterns, and land use relationships. Additional development standards shall include the following:
1. Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal.

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2. Variety in building types, heights, setbacks, facades, and the size and nature of required open space will be encouraged.
3. Residential density shall be determined by the scale of the proposed PUD in relation to its surroundings and its impact on existing and proposed support facilities such as water and sewerage systems, transportation, and police and fire protection.
4. The density of the PUD shall not exceed ten (10) dwelling units per gross acre. For purposes of calculating density, areas devoted to sites for commercial uses shall not be included.
5. Not less than fifteen (15) percent of the gross area of the PUD shall be devoted to common open space which will be maintained by a homeowners association and will feature active and passive recreation for the benefit of the persons living in the PUD. Common open space may include land developed for swimming pools, game courts, playgrounds, and similar features but shall not include streets, parking areas, or private yard areas or sites.
6. Commercial uses permitted in the PUD should be designed to serve the interests of the people who choose to reside in the PUD. No more than twenty (20) percent of the gross area of the PUD shall be devoted to sites for commercial development. In addition, no individual commercial use shall contain more than 7,500 square feet of floor area.
7. No zoning permit for any commercial use shall be issued until certificates of occupancy have been issued for at least twenty (20) percent of the dwelling units proposed in the PUD.
8. Minimum yards, setbacks and space between buildings shall be as required in the R-3 district, unless different minimum requirements are specifically established during the review and approval of the PUD master plan.
9. A buffer area of not less than 30 feet in width shall be provided around the perimeter of the PUD district, except adjacent to public streets providing access to the district. Such buffer shall be left in a natural state or shall be supplemented with landscaping materials.
10. In the PUD district, no building or structure shall exceed a height of forty-five (45) feet. This height restriction may be exceeded if adequate fire protection measures are provided and the structure is in character with the proposed location. Approval from the Fire Marshal and the Town of Clarksville Zoning Administrator will be required for any increase in the height of buildings in excess of the forty-five (45) foot maximum. Accessory buildings cannot be located within twenty-five (25) feet of a property line and shall not exceed fifteen (15) feet in height.

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11. The PUD district shall be served by public water and public sewer systems.
12. All utilities within a PUD district, where practical, shall be placed underground.
13. Except as specifically approved by the Clarksville Town Council, streets within a PUD district shall be constructed in accord with the standards of the Virginia Department of Transportation.

**Section 7-2 Planned Unit Development (PUD) Protocol**

- A. Protocol.** An application for rezoning of property to a PUD district shall be submitted in the same manner and shall be reviewed and considered in the same manner as other applications to change the zoning classification of property by amendment to the Town of Clarksville zoning map as set forth in Article 5 of this Ordinance. A master plan for the development of each PUD district shall be submitted by the applicant as part of the application for rezoning. If approved by the Town Council, the standards and requirements set forth in the master plan shall, together with the applicable requirements of this Article, constitute the regulations applicable within the PUD district.
- B. Master Plan Content.** Every application for rezoning to a PUD district shall include a master plan for the development of the site which shall consist of not less than the following written and graphic information, in such number as specified by policy of the Clarksville Planning Commission, prepared in sufficient detail and scale and with sufficient clarity to accurately depict the nature and character of development proposed within the PUD district:
  1. A plat and legal description of the property and verification of ownership or control by the applicant.
  2. Existing zoning, uses and structures on the subject site, and existing zoning and uses of adjacent properties.
  3. An inventory of site characteristics and natural features, including topography with contour levels of five feet or less, watercourses, water bodies, floodplains, wooded areas and other major vegetation features, and historic and archeological features.
  4. A description of the proposed development, including its general character, the manner in which it satisfies the purpose and intent of the PUD district, how significant natural features will be sustained and the potential impact the proposed district will have on the adjacent properties as well as public services.

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5. A land use plan for the site, showing specific land uses with schematic site plans, access and circulation patterns, the general location and arrangement of proposed structures and buildings, parking areas, pedestrian routes, natural areas to be retained, buffers and planned open space.
  6. Statements and graphic representations showing proposed development standards including minimum lot areas and widths, minimum yards and setbacks, building heights, planned densities, the amount of nonresidential floor area, the alignment of parking areas and the percentage of planned open space.
  7. Traffic impact analysis.
  8. General plans for public services and utilities sufficient to show that necessary services and utilities will be provided to serve the development.
  9. Statements or geographic representations of the general character and architectural and community design guidelines to be applicable to the development, including street and parking design standards, lighting and signage.
  10. General description of covenants and restrictions intended to provide for preservation and maintenance of common areas and facilities.
  11. A development phasing schedule along with the anticipated time line.
  12. Such other information deemed necessary by the Clarksville Zoning Administrator, the Clarksville Planning Commission and the Clarksville Town Council to establish that the proposed development complies with the general purposes and specific intent of this Article, including such additional information or analyses as may be necessary to evaluate the proposed PUD district.
- C. Pre-application Conference Required.** Prior to submission of the PUD district application and master plan, the applicant shall meet with the Zoning Administrator to discuss the proposed development in general and the PUD district application, review and approval process.
- D. PUD Review Process.** Formal review and action on the PUD application shall be conducted in accordance with the steps and actions listed in Article 5 of this Ordinance as well as this Article. The Clarksville Planning Commission action on the application shall include a recommendation to the Clarksville Town Council along with any modifications or suggested changes. In turn, the Clarksville Town Council may consider further modifications or changes to the PUD district master plan before acting on the PUD proposal.

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- E. Subdivision Review and Approval.** Prior to initiating work on the PUD district, subdivision and site plans for the PUD district shall be submitted and approved. The subdivision and site plan shall conform to the standards and requirements of the PUD district and the master plan approved in conjunction with the district.
- F. Master Site Plan Acceptance.** The Zoning Administrator shall approve or disapprove a final site plan for the PUD district within sixty (60) days from receipt of such plan or plan phase.
- G. Modifications or Amendments.** Minor modifications to an approved PUD master plan may be authorized by the Zoning Administrator. Any other change shall require a formal amendment subject to the same procedures and requirements as a new application.
- H. Failure to Submit Site Plan.** Failure of an applicant to submit a site plan for the first phase of an approved PUD district within twelve (12) months of approval of the district may result in the Town Council, following a review and recommendation from the Clarksville Planning Commission, rezoning the property in question to the classification existing at the time of initial approval of the PUD district.
- I. PUD Performance.** The plan approved by the Clarksville Town Council shall constitute the final master plan for the PUD district. All accepted conditions and elements associated with the PUD plan shall be enforceable by the Clarksville Zoning Administrator.

**ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

**ARTICLE 8. SUPPLEMENTAL DISTRICT REGULATIONS**

**Section 8-1 Intent**

The regulations set forth in this Article are additions or exceptions to and shall be construed to qualify, supplement or modify, as the case may be, the requirements set forth in the Article 5 of this Ordinance.

**BUILDINGS AND LOTS**

**Section 8-2 Location on Lot**

Every building or structure hereafter constructed, erected, reconstructed or moved and every use hereafter established shall be located on a lot of record.

**Section 8-3 Public Street Frontage and Access Required**

Every building or structure and every use shall be located on a lot having frontage on and access to an improved public street, except as specifically approved by the Clarksville Town Council in a single-family attached dwelling development or a planned development. All lots shall have a minimum frontage width as indicated in the zoning district regulations featured in this Ordinance.

In the case of a shopping center, individual lots which do not have frontage on an improved public street may be created pursuant to an approved site plan as out-parcels within the perimeter of an existing or proposed shopping center site, provided that each such lot shall have access to an improved public street.

**Section 8-4 Lots without Public Road Frontage**

Existing lots or parcels which do not abut a public right-of-way shall be used for one single family dwelling only if access to a lawfully developed public street is secured through a private right-of-way.

**YARD AND HEIGHT REGULATIONS**

**Section 8-5 Integrity of Required Yard Space**

No yard or other space around any building for the purpose of complying with the provisions of this Article shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space on any other lot unless specifically authorized through this Ordinance.

**Section 8-6 Variation in Front Yards**

## **ZONING ORDINANCE – TOWN OF CLARKSVILLE, VA**

In any block in which seventy-five (75) percent of the lots have front yards that are less than required by the existing zoning regulations, construction on any remaining vacant lots is permitted to the average yard of the existing improved lots.

### **Section 8-7 Yards on Corner Lots and Through Lots**

For corner lots, the side having the shortest street frontage is considered the front for setback purposes. However, the Zoning Administrator may waive this standard and determine the front yard to be on the street front that is in line with the prevailing pattern of front yards on the street in order to be consistent with the established pattern of the street.

On a corner lot, a rear yard as required in the district shall be provided opposite the defined front yard. On through lots, other than a corner lot, the required front yard shall be provided on each and no rear yard shall be required.

### **Section 8-8 Yards Adjacent to Rights-of Way and Easements**

On lots that abut a public alley, railroad right-of-way, or a utility/drainage right-of-way or easement that is not part of a platted lot, one-half of such alley, right-of-way, or easement, up to a maximum of 15 feet, may be considered as part of the minimum required rear or side yard.

### **Section 8-9 Fences, Walls and Hedges**

Except for required visibility at intersections as provided in this Article, fences, walls and hedges not exceeding four (4) feet in height may be located within required front and street side yards. Except on a corner lot, fences, walls and hedges not exceeding six (6) feet in height may be located within required side and rear lots. On a corner lot, fences and walls shall not exceed four (4) feet in height on all street frontages. An additional one (1) foot of fence or wall shall be permitted for posts, columns or gates. All other fences and walls shall be subject to all yard requirements applicable to buildings and structures.

### **Section 8-10 Yards and Street Widening**

Whenever there are plans approved by the Virginia Department of Transportation or by the Town of Clarksville for the widening of any public street, the required front yard set forth in this Ordinance shall be measured from the future street line.

### **Section 8-11 Permitted Projections in Required Yards**

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1. Cornices, sills, headers, eaves, roof overhangs, bay windows, pilasters, chimneys and similar architectural features of a building may extend into required yards not more than two (2) feet.
2. Uncovered porches, decks, patios, steps, landings, and other similar building features may project into required yards, provided that such features do not exceed a height of thirty (30) inches above the adjacent natural ground level, except for railings, and provided that no such projection shall extend closer than five (5) feet from any lot line. Covered building projections, and projections exceeding thirty (30) inches in height shall be subject to all yard requirements.

**Section 8-12 Exceptions to Height Regulations**

The height regulations set forth in this Article shall not apply to church spires, belfries, cupolas, water towers, accessory antennas, flagpoles, ventilators, chimneys, flues, solar energy equipment or similar appurtenances or mechanical structures attached to a building and not intended for human occupancy and containing no signs or other advertising. Parapet walls may exceed the height limit applicable in the district by not more than four (4) feet.

**Section 8-13 Visibility at Intersections**

On a corner lot in any district, nothing that would materially obstruct the vision of operators of motor vehicles shall be erected, placed, planted or allowed to grow between the heights of three feet and eight feet above the grade of the intersections of the centerlines of the adjacent intersecting streets within the following described area: A triangular shaped area on the ground bounded on two sides by the street lines abutting the lot, and bounded on the third side by a line joining points on said street lines 20 feet from the point of their intersection.

**Section 8-14 Yards and Screening for Swimming Pools and Tennis Courts**

Swimming pools, pool deck areas and tennis courts shall not be located within required front and side yards. Swimming pools, pool deck areas or tennis courts accessory to any use other than a single-family dwelling and situated within fifty (50) feet of adjacent property in a residential district shall be screened from such property by a solid walls, fences or evergreen vegetated material not less than six (6) feet in height.

**Section 8-15 Yards for Gasoline Pumps, Islands and Canopies**

In business and industrial districts, permitted gasoline pumps, pump islands and pump island canopies shall in no case be located nearer than fifteen (15) feet to any property line.

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**Section 8-16 Screening of Mechanical Units**

Ground and roof mounted mechanical equipment, which does not include solar energy equipment, shall be screened from view from a public street or other public place, from an adjacent lot containing a residential structure by one or more of the following: an element of the building; a separate screen or solid structure that does not extend more than twelve (12) inches above the height of the equipment; or a landscape buffer.

Roof mounted mechanical equipment shall be set back from the front wall of the building one (1) foot for each one (1) foot of height of such equipment.

This section shall not apply to heat pumps and air conditioning units for single-family dwellings when the equipment is located in side or rear yards.

**PRINCIPAL STRUCTURES, ACCESSORY STRUCTURES AND TEMPORARY USES**

**Section 8-17 Principal Structure**

Only one principal structure and its customary accessory buildings shall hereafter be erected on any residential lot unless otherwise approved or implied as part of an apartment, townhouse or other form of housing where multiple principal structures are permitted by right or as part of a special use permit. More than one such principal building may be permitted on commercial or industrial lots provided adequate space between structures, parking and access can be maintained to secure fire, health, safety and other concerns.

**Section 8-18 Accessory Structures**

Accessory structures or uses shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established.

The location of accessory structures must meet the following conditions:

1. A detached accessory structure in a residentially zoned district shall not exceed two (2) stories in height and may be constructed on not more than thirty (30) percent of the rear yard.
2. No detached accessory structure may be located in the front yard of a lot.
3. Permitted accessory storage of a boat, boat trailer or camp trailer shall not be conducted in a front yard.

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4. Where an accessory structure is attached to the principal structure, a substantial part of one wall of the accessory structure shall be an integral part of the main building or such accessory structure shall be attached to the principal structure in a substantial manner by a roof, and therefore such attached accessory structure shall comply in all respects with the requirements applicable to the principal structure.
5. Accessory uses and structures shall not exceed sixty (60) percent of the gross floor area (GFA) of the principal structure in a residential district.

**Section 8-19 Temporary Structures in All Zoning Districts**

When used in conjunction with construction work taking place on the site, temporary buildings and construction trailers are permitted in any district during the period when construction work is in progress as evidenced by a valid building permit. Such buildings and trailers shall be removed immediately upon completion or abandonment of construction.

**PROPERTY AND PARKING MANAGEMENT**

**Section 8-20 Maintenance of Property**

All improved property in the Town of Clarksville shall be maintained in a manner that sustains the general health, safety and welfare of the public. When, in the estimation of the Zoning Administrator and/or the Clarksville Town Council, property fails to meet this standard, the Town may instruct the property owner to remedy the situation.

**Section 8-21 Maintenance of Landscaping**

Landscaping required by this Ordinance shall be maintained and any dead vegetation shall be removed and replaced.

**Section 8-22 Parking and Storage of Inoperable Vehicles**

No automotive vehicle without a current license plate may be parked on any public street. The parking of a disabled vehicle for a period of more than two weeks (2) shall be prohibited, unless such vehicle is stored in an enclosed building. No more than two inoperable vehicles shall be stored on any open lot in any district except those vehicles being repaired in conjunction with an automobile service and repair business.

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**Section 8-23 Parking and Storage of Certain Vehicles**

Automotive vehicles and trailers greater than ten (10) feet in length without a current state license plate shall not be parked or stored on any residentially zoned property for more than thirty (30) days. At the end of this period of time either a valid license plate will be visible or the vehicle shall be moved.

**Section 8-24 Parking of Major Recreational Vehicles**

No recreational vehicle or vehicle related equipment shall be parked or stored in any front yard of any lot or driveway located in a residential zoning district for more than thirty (30) consecutive days.

**Section 8-25 Required Screening for Trash Areas**

All commercial, industrial, and multi-family residential uses that provide trash and/or garbage collection areas shall enclose such areas on at least three (3) sides by a solid wall or fence of at least four (4) feet in height if such area is not within an enclosed building or structure. Provisions for adequate vehicular access to such areas for collection of trash and/or garbage shall also be provided.

**Section 8-26 Special Provisions for Nonresidential Uses Abutting Residential Uses**

Nonresidential uses or buildings shall not be located closer than twenty-five (20) feet to any lot line of a residential district, except that the minimum yard distance may be reduced by fifty (50) percent if six (6) foot high fencing and/or a six (6) foot high landscaping buffer is provided and approved by the Zoning Administrator.

**Section 8-27 Campgrounds and Travel Trailer Parks**

Campgrounds and Travel Trailer Parks are not permitted in any district in the Town of Clarksville.

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**ARTICLE 9. USE AND DESIGN STANDARDS**

**Section 9-1 Applicability**

The following regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this Ordinance that may apply.

**Section 9-2 Residential Uses**

**Townhouses**

**Intent.** Townhouses provide a residential format that serves as an alternative to single-family homes. Due to location and design standards, townhouses can be intermingled with other types of housing and can provide residents with a high quality residential experience. The following standards shall apply to townhouses in Clarksville:

1. The location and design standards for townhouses will be compatible with the surrounding property.
2. No more than four (4) contiguous townhouse units will be built in a row with the same front line and no more than eight (8) shall be contiguous. In groups of four (4) townhouses consisting of more than four units, the required difference in front alignment shall be four feet.
3. Contiguous building groups shall be separated by a minimum of twenty (20) feet.
4. All townhouses shall front on or have access to a public street.
5. Yard setbacks shall be established in the zoning district, except that interior townhouse units are exempt from side yard requirements.
6. All townhouses shall be served by public water and public sewer systems.
7. No off-street parking spaces or driveways shall be permitted between a public or private street and any principal building. Off-street parking spaces may be grouped in bays if not located between a public or private street and any principal building.
8. A minimum of one hundred (100) square feet of useable open space for each dwelling unit shall be owned and maintained by the developer until such time as it is turned over to the ownership and maintenance of an approved homeowners association.

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9. Suitable easements, covenants and restrictions providing for access to all lots and the maintenance of all streets, access drives, parking areas, open space and other common facilities owned by the homeowners' association shall be documented and recorded.

**Section 9-3 Civic Uses**

**Public Maintenance Facilities**

**Intent.** Property used for public maintenance facilities will be managed commensurate with applicable development standards and, at a minimum, will:

1. Apply the setback and yard requirements applicable in the immediate area.
2. Where practical and needed, provide for parking commensurate with the standards applicable in the immediate area.
3. Ensure supplies, materials, equipment and public vehicles stored on public property will be properly screened and secure from public trespass.

**Public Recreation, Parks and Places**

**Intent.** Recreation facilities, parks, and public places add character and vitality to a community in addition to advancing the general well-being of its residents. To this end, public recreation facilities in Clarksville will reflect the follow design considerations:

1. All public recreation facilities and related improvements will witness appropriate setback and yard requirements.
2. Parking provisions will reflect the standards applicable to the recreation activity.
3. Existing and proposed outdoor uses, including ball fields, tennis and basketball courts, swimming pools, walking trails and the like, shall be screened if adjacent to a residential district.
4. Where nighttime lighting is required or proposed in conjunction with a publicly sponsored recreational activity, the lighting shall feature a directional orientation to preclude or limit spillover onto adjacent properties. In addition, a vegetated screen or evergreen buffer may be required to adequately screen adjoining residences.

**Public Utility Facilities**

**Intent.** The following standards apply to water and wastewater treatment facilities, control houses, pressure regulator stations and structures that house pumps and lift stations:

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1. Structures shall conform to all dimensional and other requirements, except lot area requirements, of the zoning district in which the structures are located.
2. The design of the structures shall conform, when practical, to the character of the area or neighborhood in which it is located, so that the use and value of adjacent properties will not be adversely affected.
3. Fences and other safety devices shall be installed and maintained around water and wastewater treatment facilities and gas and electric substations in order to make the facilities inaccessible to the general public.
4. Where appropriate and with the concurrence of the Clarksville Zoning Administrator, a vegetated buffer may also be installed and maintained adjacent to the above referenced structures.

### **Section 9-4 Commercial Uses**

**Automobile Repair and Service.** All automobile servicing and repair operations should adhere to the following standards:

1. All servicing and repair will be conducted within an enclosed building.
2. The storage of vehicle parts and refuse on premises is permitted in the rear yard and should be screened from adjacent property with a six (6) foot wooden fence.
3. Temporary storage of vehicles during repair and pending delivery to the customer is permitted.

Vehicles that remain on the premises beyond seventy-two (72) hours should be placed in a storage yard on premises or off-site.

4. Outdoor storage of any disabled, wrecked or partially dismantled vehicle on premises is not permitted for a period exceeding fourteen (14) days.
5. The use shall be designed to ensure proper functioning of the site in regards to vehicle stacking, circulation, and turning movements.

**Bed and Breakfast Uses.** Bed-and-breakfasts shall be subject to the following standards:

1. The operator shall hold a valid business license from the Town of Clarksville and, where applicable, a permit from the Department of Health.
2. The property owner shall reside in the dwelling and operate the bed - and – breakfast and/or secure the services of an on-site manager.
3. Any changes shall be made to the exterior of the building exterior should not detract from its appearance as a family dwelling.

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4. Parking shall be provided on-site or in combination of on-site and off-site. One space per bedroom is the required standard.
5. Bed-and-breakfasts shall not increase the size of the structure, including accessory structures, by more than twenty-five (25) percent of the original square footage.
6. Landscaping, buffers and/or fences shall be in compliance with Article 14 of this Ordinance.
7. The maximum stay for a guest shall be 14 days.
8. Bed-and-breakfast establishments are permitted solely to provide lodging and breakfast accommodations. Additional activities, including receptions, parties and other events, are not permitted unless specifically authorized by a special use permit. Authorization for additional activities will be based on the suitability of the house and property for hosting such events. Specific consideration will be given to the floor plan of the house, the proximity of the house to neighboring houses, the size of the lot, provisions to buffer the effects of such activities from adjacent property and the ability to provide parking for such events.

**General Construction Sales and Services.** Construction sales and services shall be subject to the following general standards:

1. Outdoor storage and/or display of goods, supplies, materials, or heavy equipment shall be located to the rear of the principal building.
2. Outside storage areas shall not exceed 25 percent of the total site area.

**Day Care, Child.** The following general standard will apply to a facility operated for the purpose of providing care to a group of five (5) or more children separated from their parents or guardians during a portion of the day:

1. All day care centers shall obtain a zoning permit, have a business license, and meet state licensing requirements in accordance with the Virginia Code, as applicable.
2. Minimum lot size: ½ (0.5) acre.
3. Designated arrival and departure zones shall be located adjacent to the day care center in such a manner that children do not have to cross vehicle traffic aisles to enter or exit the center. Arrival and departure areas shall include at least one parking/stacking space per 10 children.
4. Outdoor recreation areas shall be safely separated from all parking, loading, and service areas and shall be maintained in an orderly and aesthetically pleasing fashion...

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5. A fence with a minimum height of four (4) feet shall completely enclose the outdoor recreation area so that children are safely contained.

**Drive - Through Facilities.** The following general standards shall apply to all drive-through facilities:

1. All drive-through entrances will be at least fifty (50) feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.
2. Businesses with drive-through facilities located within or adjacent to an integrated commercial development or a cluster of commercial enterprises shall share access with all other business establishments.
3. Site access and circulation shall be designed to minimize traffic conflicts, congestion and disruption and enhance traffic safety on adjacent streets, service drives and/or parking areas.
4. Loudspeakers shall be modulated so that any generated sound is not audible beyond the property boundary.
5. Off-street stacking spaces shall be provided in accordance with the following requirements:
  1. Stacking spaces shall not interfere with travel way traffic or designated parking spaces.
  2. Stacking spaces shall be at a minimum of eighteen (18) feet in length.
  3. Stacking spaces shall be located to the side or rear of the principal structure and shall not be adjacent to any street right of way.
  4. Off-street stacking space shall be provided in accordance with the following table:

<b>STACKING SPACE REQUIREMENTS</b>		
TYPE OF ACTIVITY	REQUIRED NUMBER OF STACKING SPACES	STARTING POINT FOR STACKING SPACES
Financial Institutions – automated teller machine	3	Teller machine

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Financial Institutions – bank teller lane	3	Teller window/tube
Professional Personal Service – dry-cleaning/laundry	3	Cleaner/laundry window
Retail Sales – pharmacy	3	Pharmacy window
Restaurant	4	Order box/speaker
	3*	Pick-up window
Other	To be determined by the Town. Such determination shall consider any study prepared by an engineer or other qualified design professional.	
*These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker.		

**Gas/Service Station.** Gas stations shall be subject to the following general standards:

1. Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of the structure.
2. Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
3. Any canopy over the fuel pumps shall have the same roof shape and exterior materials as the primary structure and should not exceed fourteen (14) feet in height unless diesel fuel is sold on premises.
4. Fuel pump canopies shall be illuminated only from the underside.
5. When adjoining a residentially zoned property, a solid six (6) foot fence or wall is required along the shared lot line.
6. All outdoor storage areas for refuse, parts and other items shall be located in the rear yard and, where practical, screened.

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**Home-Based Businesses/Occupations.** The following will apply to home occupations and/or businesses:

1. The parcel containing the home based business shall contain a single family dwelling as the principal use and the business shall be owned by and operated by the full-time resident of the dwelling located on the property.
2. Not more than twenty-five (25) percent of the gross floor area of the dwelling, or more than 400 square feet, whichever is less, may be utilized by the home-based business.
3. There shall be no signs, displays or alteration to the exterior of the dwelling that would distinguish it as being devoted to any nonresidential use.
4. The home occupation shall be limited to the hours between 8am and 9pm.
5. Nonresidential employees may be allowed on the premises at anytime.
6. All parking provided as part of the home occupation shall be located in the side or rear yard only and shall be no closer than ten (10) feet from any property line.
7. There shall be no group instruction or assembly, no housing of persons for compensation, no more than a total of one visitation per day by clients, customers, vendors and delivery vans, no repair of vehicles, no other vehicles visiting the premises other than private vehicles.
8. There shall be no equipment, process or activity conducted that generates any noise, vibration, odor, fumes, glare or electrical interference detectable to the normal senses beyond the dwelling unit in which the home occupation is conducted.

**Junkyard.** No property owner shall maintain or operate a junkyard in any zoning districts within the Town of Clarksville.

**Kennel.** The following standards shall apply to a kennel for four or more dogs:

1. The minimum area for a kennel shall be two (2) acres.
2. The main kennel building used to house dogs shall be sound insulated to minimize animal noise.
3. Runs, exercise areas and buildings where the dogs are kept, shall be at least 150 feet from any lot line or property occupied by a dwelling and appropriately screened from view as determined by the Planning Commission in partnership with the Zoning Administrator.
4. Outdoor exercise yards, runs and/or pens shall not be used between 900pm and 730am.
5. Outdoor exercise yards, runs and /or pens shall be enclosed with six foot high fencing including a fence top cover to prevent animals from escaping.
6. Outdoor runs shall have a concrete floor suitable for cleaning with a pressure hose.

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7. Outdoor exercise yards, runs and/or pens shall only be located in the rear yard.
8. The premises shall be kept clean and sanitary to prevent flies, the spread of disease or offensive odors.
9. There shall be no crematorium facilities or land burial of animals on the premises.

**Outdoor Lighting.**

Outdoor lighting, provided as accessory to any use or to illuminate any parking area, sign or similar device, shall be located, directed or shielded so as not to shine directly on nearby properties or to create a potential traffic hazard on adjacent streets as a result of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles. The exterior of a building, structure or portion thereof shall not be illuminated by outlining such with lights, except for purposes of temporary seasonal decoration, special events or illumination of display windows of permanent businesses.

**Portable Buildings.** Portable buildings may be located on a lot only upon issuance of a special use permit with the following stipulations:

1. Portable buildings must be used as a subordinate structure.
2. Portable buildings must conform to the yard requirements for the zoning district in which they are located.
3. A portable building is for temporary use only and must be replaced with a permanent building or removed within one year. One extension may be requested and approved by the Zoning Administrator for not more than three (3) months.
4. A contractor building or shed may be placed on a construction site after a building permit has been issued for on-site construction work. When the construction work is completed or abandoned, or when the building permit expires or is revoked, the contractor building or shed shall be removed.
5. A cash bond may be required to cover the cost of removal and disposal of a portable building when the special use permit expires or is violated.

**Portable Storage Containers (Temporary).** Portable storage containers shall be permitted in any zoning district subject to the following:

1. No more than one portable storage container is located on a single lot or parcel of land.

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2. The container does not remain on the lot or parcel longer than thirty (30) consecutive days and no more than sixty (60) calendar days per year.
3. The container shall not obstruct the view of pedestrians or motor vehicles entering the street right-of-way.
4. The container shall not be located in the public right-of-way or the street.

**Restaurant, Mobile.** The following requirements apply to sales from a mobile restaurant operating on private property or within public spaces or rights of way, except when operating in conjunction with temporary, special events permitted under applicable sections of the Town Code:

1. Mobile restaurants must maintain a valid business license issued by the Town and a valid health permit issued by the Virginia Department of Health.
2. A mobile restaurant may operate on commercially zoned property with written permission from the owner.
3. No item shall be sold other than food and beverages.
4. Mobile restaurant vehicles shall not block (i) the main entry drive aisles or impact pedestrian or vehicular circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The mobile restaurant must also be positioned at least fifteen (15) feet away from fire hydrants, any fire department connection (FDC), driveway entrances, alleys and handicapped parking spaces.
5. No sign shall be displayed except those permanently affixed to the vehicle with the exception of an A-frame sign that may be displayed during the hours of operation.
6. A mobile restaurant may operate between 7:00am and 11:00pm.
7. Trash receptacles shall be provided by and at the mobile restaurant and all trash, refuse, or recyclables generated by the use shall be properly disposed of.
8. No liquid wastes shall be discharged from the mobile restaurant.
9. No mobile restaurant shall locate within 50 feet of the entrance to a business that sells food for consumption (determined by measuring from the edge of the mobile restaurant to the main public entrance of the restaurant) unless permission of the restaurant owner is provided.
10. Mobile restaurants are permitted in commercial zoned areas only.
11. Vehicles may be otherwise limited by the Town depending on the location or other details of the mobile restaurant permit application.

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12. The operation of the mobile restaurant or use of a generator should not be loud enough to be plainly audible at a distance of one hundred (100) feet away. Excessive complaints about vehicle or generator noise will be grounds for the Town to require that the mobile restaurant to change location on the site or move to another property.
13. The requirements of this section shall not apply to mobile restaurant vendors at catered events (events where the food is not sold through individual sales but provided to a group pursuant to a catering contract with a single payer).
14. A mobile restaurant permit may be revoked by the Zoning Administrator at any time, due to the failure of the property owner or operator of the mobile restaurant permit to observe all requirements for the operation of mobile restaurants. Notice of revocation shall be made in writing to the address of record for mobile restaurant permit holder. Any person aggrieved by such notice may appeal the revocation to the Clarksville Board of Zoning Appeals.

**Self-Storage Facilities.** The following general standards shall apply to self-storage facilities:

1. A site plan shall be required regardless of the square footage on the proposed site.
2. Site access shall be directly from a paved street.
3. The maximum height of the structure shall not exceed fifteen (15) feet or one story.
4. The minimum separation between self-storage buildings shall be twenty-four (24) feet.
5. Internal drive aisles shall be at least twenty-four (24) feet wide and shall be clearly marked to indicate the directions of traffic flow.
6. The total area covered by buildings shall not exceed sixty-five (65) percent of the lot.
7. No outside storage is permitted.
8. The storage of combustible materials or toxic materials is prohibited.
9. No business activity other than rental of storage units shall be permitted except for sales of products and supplies incidental to the principal use.
10. A caretaker or resident manager dwelling not exceeding twenty (20) feet in height is permitted as an accessory use.
11. Buildings are subject to a fifty (50) foot setback when adjacent to residential property. Screening and buffering will be provided along the front property line and along any property line.
12. Storage and building design and materials shall be compatible with the existing and intended character of the surrounding area.

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**Solar Energy Building-Mounted Collectors.** A roof-mounted solar energy collector shall require a special use permit and will reflect the following criteria:

1. A solar energy collector may not project more than five (5) feet above the eave of the roof.
2. A solar energy collector that is roof-mounted shall be safely and securely attached to the roof.
3. The color of a roof-mounted solar energy collector shall be neutral and should have a substantially non-reflective surface.
4. Roof-mounted solar energy collectors will be installed, maintained and used in accordance with the manufactures directions. The building official may inspect the completed installation to verify compliance.
5. Roof-mounted solar energy collectors shall comply with all applicable construction and electrical codes and will comply with all standards and measures advanced by the Commonwealth of Virginia and/or featured in the Code of Virginia.

**Solar Energy Ground-Mounted Collectors.** A ground-mounted solar energy collector shall require a special use permit and will reflect the following criteria:

1. A ground-mounted solar energy collector shall only be permitted in residential districts.
2. A ground-mounted solar energy collector shall be located in the rear yard only.
3. Solar energy collectors shall not exceed eight (8) feet in height, measured from the ground at the equipment base to the peak of the collector and no more than one (1) solar collector will be permitted on any one lot.
4. The total area of ground-mounted solar energy collectors shall be included in the calculation of maximum permitted lot coverage.
5. Solar energy collectors shall be safely and securely attached to the ground. A professional engineer or other qualified person shall certify compliance as part of the special use permit process.
6. Solar energy collectors shall be installed, maintained and used in accordance with the manufacturer’s directions. The building official may inspect the completed installation to verify compliance.
7. The color of a ground-mounted solar collector shall be neutral and shall have a substantially non-reflective surface.

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8. Ground-mounted solar energy collectors shall comply with all applicable electrical and construction codes as well as with all standards and criteria advanced by the Commonwealth of Virginia and/or featured in the Code of Virginia.
9. Solar farms are not permitted to locate in any Clarksville zoning district.

**Wireless Communication.** The following standards will govern the location of wireless communication towers, monopoles and related facilities:

1. To the maximum extent possible, towers will be located in nonresidential areas.
2. To the maximum extent possible, joint use of existing towers will be the primary option rather than authorizing the construction of additional single-use towers.
3. To the maximum extent possible, towers and antennas will be located in areas where adverse impact on the Town of Clarksville is minimal.
4. To minimize the adverse effect of towers and antennas in the community, a premium will be placed on the design, siting, landscaping and screening of wireless facilities.
5. Each applicant for a tower and/or antenna shall provide the Town of Clarksville with an inventory of its existing tower facilities and approved tower facilities not yet built that are within the town or within three miles of the border thereof, including specific information about the location, height, and design of each tower. In turn, the Town may share this information with other wireless service providers/applicants who are seeking to locate antennas within the Town.

**Wireless Communication Special Use Permit Applications.** Wireless communication facilities and systems require a special use permit from the Clarksville Town Council following a review and recommendation from the Clarksville Planning Commission. Criteria for granting or denying such a special use permit application include the following:

1. The height of towers and/or monopoles shall not exceed 199 feet, including antennas.
2. The minimum setback for towers and related facilities greater than 50 feet in height but less than 100 feet from off-site dwellings shall be 200 feet.
3. The minimum setback for towers and related facilities greater than 100 feet in height from off-site dwellings shall be 300 feet.
4. The minimum setback for towers and related facilities from public rights-of-way greater than 50 feet in height but less than 100 feet shall be 50 feet.

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5. The minimum setback for towers and related facilities from public rights-of-way greater than 100 feet in height shall be 75 feet.
6. Towers or monopoles shall either maintain a galvanized steel finish or, subject to any applicable standards of the FCC or FAA, be painted a neutral color.
7. At a facility site, the design of any buildings and related structures shall use materials, colors, screening and landscaping that will blend the facilities to the natural setting and the built environment. Dish antennas and covers will be of a neutral, non-reflective color with no logos or markings.
8. Any building shall not contain more than 750 square feet of gross floor area or be more than twelve (12) feet high and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.
9. Monopole and tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support building from adjacent property. Existing trees and the natural land form on the site shall be preserved to the maximum extent possible.
10. Towers and monopoles shall not be artificially lighted unless required by the FCC or FAA.
11. No advertising or signs of any type shall be allowed on any tower or monopole.
12. All towers and monopoles will be constructed and maintained commensurate with all federal, state and local building code requirements. Failure to comply with applicable requirements shall constitute grounds for the removal of any tower or antenna at the owner's expense.
13. Towers, monopoles and related buildings will be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anti-climbing devices.
14. No new tower shall be permitted unless the applicant can demonstrate the need for the tower cannot be reasonably accommodated by an existing tower.
15. Every applicant for a tower or monopole, as a condition of being awarded a special use permit, shall post a bond of not less than \$10,000 and conditioned for the faithful observance of all laws and regulations relating to monopoles and towers and any costs or expenses the Town of Clarksville may incur by reason of the forced removal of any tower or monopole for witnessed violations.
16. Any telecommunications tower or related facility found to be defective or unsafe shall be repaired to meet federal, state, or local safety standards or removed within six (6) months at the expense of the owner of the property or the telecommunication tower or related facility.

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17. Any telecommunications tower or related facility that is not operated for a period of 120 consecutive days shall be considered abandoned and the owner of the telecommunications facility and related structures shall remove the tower and facility within 90 days of receipt of notification from the Town of Clarksville that the tower and facility must be removed. Removal includes the tower and any antennas and related facilities, fences, footers, underground cables and support buildings.
18. The owner of property on which a telecommunications tower exists shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and shall deliver a copy of the policies to the Town of Clarksville on an annual basis.

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**ARTICLE 10. OFF-STREET PARKING AND LOADING REQUIREMENTS**

**Section 10-1 Intent**

It is the intent of this Article to ensure that adequate off-street parking and loading spaces are provided when any principal building or structure is erected, substantially altered, or its use changed. Requiring off-street areas is deemed to be in the public interest so as to improve traffic flow, promote traffic safety and furnish adequate facilities to satisfy those who live, work and shop within the Town of Clarksville.

**Section 10-2 General Requirements**

- A. Every use or structure instituted, constructed, erected, enlarged or structurally altered after the effective date of the Article shall provide off-street parking and loading facilities in accordance with the provisions of this Article.
- B. No zoning or building permit for any new construction shall be approved unless there is included a plat plan showing the required space designated as an automobile parking area for off-street parking.
- C. The parking requirements in this Article do not limit special requirements which may be imposed with planned unit developments, special uses, or special exceptions as determined by the Zoning Administrator.
- D. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one (1) use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

**Section 10-3 Design Standards**

- A. Surfacing. Depending on the site's topography and conditions, the Zoning Administrator may require that off-street parking areas for five or more vehicles be serviced within an erosion-proof asphaltic, bituminous, cement or other properly bound pavement. Off-street parking shall not be located in a required yard or near the front entrance of the structure unless an all-weather driving service is provided as approved by the Town.
- B. Drainage and maintenance. Off-street parking facility shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly and, to the extent possible, dust-free condition at the

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expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

- C. Separation from walkways and streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device, or by distance, so that vehicles cannot protrude over publicly owned areas
- D. Entrances and exits. The location and design of entrances and exits shall conform to the Virginia Department of Transportation (VDOT) standards. In general there shall not be more than one entrance and one exit or one combined entrance and exit along any one street
- E. Interior drives. Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, except that no driveway should be less than twelve (12) feet in width.
- F. Marking. Parking spaces in lots of more than ten (10) spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.
- G. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting should be arranged and installed to minimize glare on property in a residential district.
- H. Screening. Where off-street parking areas for five or more automobiles are located closer than fifty (50) feet to a dwelling in a residential district and where such parking areas are not entirely screened visually from the dwelling by an intervening building or structure, a continuous visual screen, with a minimum height of four (4) feet, shall be provided between the parking area and the dwelling. Such screen shall be a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six (6) feet in height, except in areas requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation.
- I. Shared access. Access to required parking spaces for single and two-family residences may be provided by a shared driveway when each abutting side has a minimum width of ten (10) feet.

**Section 10-4 Determining Required Parking Spaces**

For purposes of determining the number of off-street parking spaces required for a particular use, the following rules shall apply:

- A. Floor area shall include the area of the floor space devoted to the use, including space used for related incidental purposes, and shall be measured along exterior faces of enclosing walls or, in

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the case of different uses in attached buildings or in the same buildings, shall be measured along the center lines of shared walls.

- B. Number of employees or staff shall be construed as the maximum number of persons employed on any working shift.
- C. When computation of required number of spaces results in a fractional number, the required number of spaces shall be the next higher whole number.
- D. When a building or premises is devoted to more than one use, the total number of spaces required shall be the sum of the spaces required for each use.
- E. Required off-street parking spaces may be provided within garages, carports or enclosed building space when the provisions of this Article pertaining to dimensions and accessibility of spaces are met.
- F. The minimum number of off-street parking spaces required for a use not specifically listed on the schedule shall be as required for the most similar use listed as determined by the Zoning Administrator.

**Section 10-5 Location of Required Parking Spaces**

Required off-street parking spaces shall be located on the same lot or on a contiguous lot under the same ownership or control in perpetuity as the lot for which they are required, provided that spaces for any church or any use other than a dwelling use, hotel, motel, tourist home or bed-and-breakfast establishment, may be located off the premises when one or all of the following conditions are met:

- A. The parking area within which such parking spaces are provided shall comply with the use regulations and all of the requirements of the district in which it is located.
- B. All such parking spaces shall be located within four hundred (400) feet by normal pedestrian route of a principal entrance to the building they serve.
- C. The property on which such parking spaces are located shall be under the same ownership and control in perpetuity as the property on which the use to be served is located. At any time the parking is to be discontinued, the Zoning Administrator shall be given at least thirty (30) days' notice in writing, and unless the parking spaces are no longer required, such spaces shall be provided elsewhere in compliance with this Article.

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**Section 10-6 Parking Dimensions, Aisles and Maneuvering**

- A. Minimum dimensions. Required off-street parking spaces shall not be less than nine (9) feet in width and eighteen (18) feet in length, except that spaces arranged parallel to their means of access shall not be less than eight (8) feet in width and twenty-two (22) feet in length. The width and length of parking spaces shall be measured perpendicular to one another so as to form a rectangle with dimensions as required herein.
- B. Allowance for vehicle overhang area. Up to thirty (30) inches of the required length of off-street parking spaces may be provided as vehicle overhang area and need not be paved, provided that wheel stops are installed. Such overhang area shall be clear of any obstruction to vehicles utilizing the parking space and shall not encroach into any other parking space, access aisle, public right-of-way, adjacent property, pedestrian walkway or required yard within which parking is not permitted.
- C. Driveway or access aisle. Each required off-street parking space shall be provided with a driveway or common access aisle directly serving such space and of sufficient dimensions to enable vehicles to maneuver into and out of such space without encroaching into another parking space or extending beyond the designated driveway or access aisle area.
- D. Obstruction of streets prohibited. No area devoted to parking or access thereto shall be designed, operated or maintained so as to cause any public street, alley or sidewalk area to be obstructed by vehicles entering, leaving or maneuvering within the parking area. Maneuvering space of sufficient arrangement and dimensions shall be provided within parking areas in order to avoid such obstruction.
- E. Access aisle dimensions. The minimum dimensions of access aisles serving off-street parking spaces for uses other than single-family and two-family dwellings shall be as set forth in the following schedule, provided that greater widths may be required where necessary for purposes of fire access to buildings. Aisle widths for parking arrangements not listed shall be determined by the Zoning Administrator based on the nearest arrangement listed.

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Arrangement of Parking Angle	Aisle Width (in feet)	
	Two-way Traffic	One-way Traffic
90 degrees	25	24
60 degrees	24	20
45 degrees	24	16
30 or parallel	24	12

**Section 10-7 Parking for Disabled Persons**

Off-street parking spaces accessible to persons with disability shall be provided in accordance with the requirements of the Virginia Uniform Statewide Building Code. Such spaces shall be included in the calculation of total number of spaces required by this Article.

**Section 10-7 Parking Screening**

Parking areas containing five or more spaces located in any district shall be landscaped and screened from adjacent properties located in residential districts. An adjacent property shall be construed to be a property which abuts the parking area or is situated directly across a public alley from the parking area. A parking area need not be screened from another parking area containing five or more spaces located on an adjacent property. Landscaping and screening shall be in accordance with the standards set forth in Article 14 of this Ordinance.

**Section 10-8 Off-Street Loading Areas**

- A. Requirements generally. Not less than one space for the loading and unloading of trucks and other vehicles shall be provided on sites developed for commercial, industrial, or warehouse uses. Loading areas shall be so located on the site and shall be of such dimensions as not to occupy or obstruct required off-street parking spaces or to obstruct any public street or any fire lane emergency exit route during the loading or unloading of vehicles. Designated loading areas with adequate maneuvering space shall be shown on each site plan for such uses submitted for

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approval and, subject to approval of the site plan, shall be clearly designated and maintained on the site.

- B. Dimensions. Off-street loading space shall be of adequate dimensions to accommodate the type and size vehicle used to service the use in question, but in no case shall the dimensions of a required loading space be less than ten (10) feet in width or less than twenty-five (25) feet in length, nor shall the under clearance provided for such space be less than fourteen (14) feet.

**Section 10-9 Owner Obligations**

- A. The requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any structure or use is located as long as such structure or use is in existence and its use, requiring vehicle parking or vehicle loading facilities, continues. It shall be unlawful for the owner of any structure or use affected by this Article to discontinue, change or dispense with, or to cause the discontinuance or change of the required vehicle parking or loading space, apart from the alternate vehicle parking or loading space which meets with the requirements of, and is in compliance with, this Article. It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for vehicle parking or loading space which meets the requirements of, and is in compliance with, this Article.
- B. Whenever off-street parking is required and cannot be provided within the principal structure or on the same lot as the principal structure and is located on another parcel of property, as permitted by this Article, such parcel of property provided and utilized for off-street parking shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this Article.
- C. No recreational vehicles shall be parked or stored on any lot in a residential zoning district on that portion of the lot lying between the center line of the street and the front of the structure; provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading and unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.
- D. Vehicles that are inoperable, unregistered, or abandoned must not be stored outdoors.

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**Section 10-10 Parking Requirements**

For the purposes of this ordinance, the following minimum parking space requirements shall apply:

TYPE OF USE	PARKING SPACE REQUIRED
<b>Dwellings:</b>	
Single family, attached or detached; two or multi-family units; apartments; motels; boarding houses	2 per dwelling unit
<b>Commercial:</b>	
Automobile service stations which also provide repair	1 per 2 gasoline pumps plus 2 per service bay
Barber, beauty salon	3 per chair
Churches, auditoriums, assembly halls, community centers, dance halls, and other places of assembly	1 per every 4 seats based on maximum seating capacity or 1 per each 8 square feet of floor area
Convalescent, nursing, rest homes and sanitariums	1 per every 5 beds and 1 per employee on the maximum shift

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TYPE OF USE	PARKING SPACE REQUIRED
Funeral Home	1 per each 100 square feet of floor space in slumber rooms, parlors, and service rooms
Laundry	1 per every 2 machines
Medical Facilities	5 per doctor plus 1 per employee
Motel Complexes	1 per sleeping room, plus 1 per 2 employees and 1 per 30 square feet of meeting room floor space
Offices	1 per employee plus 1 per every 500 square feet of floor space
Restaurants, etc.	1 per 4 customer seats
Retail stores selling directly to the public and personal service establishments and banks	1 per each 250 square feet of retail floor space
Schools	3 per classroom, plus 1 per each 5 seats in auditorium or gym and spaces for buses
Any other business not addressed	At least 1 per 300 square feet of floor space

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TYPE OF USE	PARKING SPACES REQUIRED
<b>Manufacturing:</b>	
Assembly, distribution, fabrication, packaging, bottling, canning, chemical, chipping, curing, cutting, electrical, extruding, milling, punching, stamping, research, development, and testing	1 per each employee on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith

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**ARTICLE 11. SIGN REGULATIONS**

**Section 11-1 Intent**

The purpose of this Article is to promote and protect the public health, safety, and welfare of the citizens of Clarksville by regulating existing and proposed outdoor signs of all types. Such regulation is intended to protect property values, create a more attractive economic and business climate, and enhance the physical appearance of the Town, and preserve the scenic and natural beauty of certain areas. The regulations are also designed to minimize the potential of drivers becoming distracted by signage which can result in traffic accidents, property damage and bodily harm.

This Article allows communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This Article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech and in a manner consistent with the Clarksville comprehensive plan. Signs not expressly permitted or otherwise allowed by this Ordinance are forbidden. These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

**Section 11-2 Sign Permits**

- A. *Permit required.* Except when otherwise exempted by this Article, no signs shall be erected, constructed, posted, painted, altered, or relocated, unless and until a sign permit has been issued by the Zoning Administrator.
- B. *Permit process.* Before any sign permit is issued, the applicant shall submit to the administrator a sign permit application together with drawings and/or specifications as may be necessary to fully advise and acquaint the administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, and number of signs applied for, and the style of the wording of the sign or advertisement to be carried on the sign.
- C. *Application.* The permit application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, a drawing showing the design and location of the sign, and such other pertinent information as may be required to ensure compliance with this Article.
- D. *Fees.* Fees for sign permits shall be as fixed from time to time by the Clarksville Town Council.

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- E. *Building codes and inspections.* Structural and safety features and electrical systems shall be in accordance with the requirements of applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the entity issuing the permit and is found to be in compliance with all the requirements of this Article and applicable technical codes.

All signs shall be erected within six (6) months from the date of approval of the sign permit; otherwise, the permit shall become null and void and a new permit shall be required. The Zoning Administrator may grant one extension of the permit for a period of six (6) months, but in no case shall a permit be valid for more than a total of twelve (12) months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

**Section 11-3 Permit Exemptions**

Sign permits shall not be required for the following signs; however, all applicable regulations of this Article shall apply.

- A. Signs erected by a governmental body or required by law for public safety purposes, including official traffic signs or sign structures, provisional warning signs or sign structures, and temporary signs indicating danger.
- B. Any signs not to exceed two (2) square feet of display surface area displayed for the direction of the public, including signs which identify restrooms, freight entrances or the like. Ordinarily there shall not be more than three (3) such signs of this type per street frontage per parcel.
- C. Change of message of an approved sign.
- D. Painting, repainting, cleaning and other normal maintenance and repair of signs or sign structures, unless a structural change is made.
- E. Temporary signs as set forth in this Article.
- F. A sign displayed on a truck, bus or other vehicle, while in use in the normal course of business with the exception of mobile billboards that are prohibited.
- G. Flags of the United States of America, the Commonwealth of Virginia, the Town of Clarksville and other flags displayed for non-commercial purposes
- H. Any property actively offered for sale or lease may display one sign for street frontage in addition to those otherwise allowed by this ordinance, limited to a maximum area of eight (8) square feet for parcels in business and industrial zoning districts and four (4) square feet in all other zoning

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districts. Such signs shall be removed when the property is no longer offered for sale or lease and shall not be banner type signs

**Section 11-4 Prohibited Signs**

The following signs are prohibited:

- A. Flashing signs or signs lighted in a varying degree including strobe lights.
- B. Moving or rotating signs.
- C. Off-premises signs.
- D. Inflatable signs.
- E. Signs or parts of a sign located anywhere on the roof or wall of the building so that they shall extend above or beyond the perimeter of the building's roof, wall or parapet wall or into a front, side or rear yard setback.
- F. Signs illuminated with sodium halide lights; and any illuminated sign that emits excessive levels of light in the opinion of the Zoning Administrator.
- G. Abandoned sign structures.
- H. Changeable copy signs, except as specifically permitted by this Ordinance.
- I. Any signs, including posters and handbills, affixed to any structures, trees or other natural vegetation, rocks or poles.
- J. Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or obstruct the site distance triangle at any road intersection, or extend into the public right-of-way or otherwise create a distraction for drivers.
- K. Portable signs, including those on wheels, except A-frame/sandwich boards complying with the provisions of this Article.
- L. Signs that prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part or otherwise adversely affect safety or are in violation of any building code or other applicable law.
- M. Signs that emit smoke, visible vapors, particles, normally detectable sound or odor shall not be permitted, including open flames used to attract public attention.
- N. Mirrors or mirror devices on, in, or as part of a sign.

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- O. Signs placed, affixed or painted on a motor vehicle or trailer parked with the primary purpose of providing signage, and not used in the normal conduct of business.
- P. Signs located in the public right-of-way, unless approved and erected by the Town of Clarksville.
- Q. Mobile billboards.
- R. Any sign containing obscene text or pictures as defined by the Virginia Code.
- S. Signs advertising activities or products that are illegal under federal, state, or local law.

### **Section 11-5 Temporary Signs**

- A. *Temporary Business Signs.* These shall be allowed for a thirty (30) day period for all new businesses or businesses under new management. Permits can be renewed for an additional thirty (30) days with the approval of the Zoning Administrator. All other established businesses are allowed to use temporary signs three (3) weeks per year, or nonconsecutive weeks, for special promotions, sales and other like business purposes.
- B. *Temporary Signs in Business Zoning Districts.* These signs shall be Freestanding Signs, Wall Signs, Window Signs, or Banner Signs. Temporary Freestanding Signs, Wall Signs, Banner Signs, shall not exceed one sign per location, nor eight (8) square feet in area and six (6) feet in height. Temporary Window Signs shall not obstruct more than twenty (20) percent of the area of the window on which the sign is located.
- C. *A-frame Signs in Business Zoning Districts.* These signs must not be more than an aggregate of twelve (12) square feet or less in a sandwich board design as defined herein. The sign may only be displayed during business hours. The placement of the sign shall not impede pedestrian, wheelchair, or vehicular traffic flow. Signs must be placed to maintain at least four (4) feet of clear passage between the edge of the sign and the curb and should not otherwise compromise public safety. Only one such sign is permitted per business, or one sign per thirty (30) linear feet of sidewalk, whichever is more restrictive. A-frame signs may be displayed on a daily basis.
- D. *Temporary Signs in Residential Zoning Districts.* These signs shall be either Free-Standing Signs, Wall Signs, Window Signs or Banner Signs. Temporary Signs shall not exceed sixteen (16) square feet in area total per property. No sign shall exceed six (6) feet in height. Window Signs shall not obstruct more than twenty-five (25) percent of the total area of all windows on each building façade on the property.

### **Section 11-6 Street Banners**

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Street banners are allowed for the following purposes only, and nothing herein is intended to create or to be construed to create a public forum for the expression or promotion of ideas or opinions with respect to such banners:

- A. Advertising a public entertainment or event, or an activity of community interest, including but not limited to Town sponsored events, events sponsored by or related to local educational institutions, events sponsored by and benefiting local, state or national not-for-profit organizations, civic events such as, but not limited to, voter registration, cultural or artistic events, or indicating a local, state, or national awareness date such as Independence Day (July 4th). Any such event must occur within the Town of Clarksville or Mecklenburg County. Any such banners shall be designed to be easy for people traveling in vehicles to ascertain the event and date without diverting driver's attention from the road. To that end lettering shall be the largest component of the banner and imagery shall be limited to peripheral positions and limited in size to no more than one-fourth of the entire banner.
- B. No street banner shall be permitted with the main intent of commercial advertising, or that displays business logos, business names, and/or slogans associated with a product or service, or that promotes political campaigns or parties. Business logos for sponsors of a not-for-profit agency or group or an event benefiting such not-for profit agency or group may be included with express language to that effect.
- C. No street banner shall be permitted that:
  - 1. Contains vulgar, profane, abusive, racist or hateful language or expressions, epithets or slurs, text, photographs or illustrations in poor taste, inflammatory attacks of a personal, racial or religious nature.
  - 2. Is defamatory, threatening, disparaging, grossly inflammatory, false, misleading, fraudulent, inaccurate, contains gross exaggeration or unsubstantiated claims, or is unreasonably harmful or offensive to any individual or community.
  - 3. Violates any right of any third-party
  - 4. Discriminates on the grounds of race, religion, national origin, gender, age, marital status, sexual orientation, or disability, or refers to such matters in any manner prohibited by law.
  - 5. Violates or encourages the violation of any municipal, state, federal, or international law, rule, regulation, or ordinance.

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6. Advertises, promotes, or offers to trade any goods or services in conflict with the terms of this Ordinance.
  7. Includes copyrighted or other proprietary material of any kind without the express permission of the owner of that material.
  8. Is false, deceptive, misleading, deceitful, or contains misinformation.
  9. Advertises any illegal services or the sale of any items the sale of which is prohibited or restricted by applicable law.
- D. Designs must be approved in advance by the Zoning Administrator with regard to conformity with the above. Banner applications are available at the Town Hall.
- E. Sponsoring organizations must supply the Town with proof of liability insurance to cover any and all claims caused by such banner display. A signed statement holding the Town of Clarksville harmless from any liability resulting from accident or injury caused by the erection or display of the banner shall be required.
- F. The Town of Clarksville assumes no responsibility for damage to banners, loss, fading, late deliveries of banners, late installations, acts of nature, or faults in craftsmanship.
- G. All banners shall be installed and removed by the Town. No provider shall attempt to install, remove, or repair and reinstall a banner. The fee for installation and removal shall be set by the Town Council in its annual appropriation. The fee shall be due with the application.
- H. The Town of Clarksville agrees to hang the banner in a timely manner, dependent upon the demands on Town resources and the weather.
- I. Banners shall not be displayed for more than six (6) weeks total, including no more than one week after any associated event.
- J. Other than annual Town sponsored events and national or state holidays, space availability shall be on a first come first serve basis.

**Section 11-7 General Sign Requirements**

- A. Sign Area Computations.
1. The surface area of any sign permitted under this Article is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding support elements whose sole purpose and function is to support the sign.
  2. The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.

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3. Whenever one sign contains information on both sides, one side only shall be used in computing the surface area of the sign.
- B. Placement of Signs. Signs shall be placed so they do not obstruct vehicles, pedestrians, or the signs of adjacent businesses. Additional placement requirements include the following:
1. That portion of a sign or a pole or standard of such sign which is in contact with the ground, shall be within the lot lines of the property and shall not be within the right-of-way of any public street except in cases of special exceptions as so determined by the Zoning Administrator.
  2. Signs shall not exceed the height of the structure housing the business advertised or the height requirements of the zoning district as established.
  3. Under canopy signs are permitted provided they do not exceed 250 square inches and allow a clearance of eight (8) feet from the sidewalk to the bottom of the sign.
  4. One (1) over hanging sign is allowed to protrude over a sidewalk where buildings face a street or highway provided that any such sign shall not be allowed to protrude more than eight (8) feet from the building front and shall not exceed one (1) square foot for twenty (20) square feet of that business front, up to a maximum of thirty-two (32) square feet. Over hanging signs shall allow clearance of eight (8) feet from the sidewalk or ground to the bottom of the sign and shall not be higher than twenty-eight (28) feet from the sidewalk. The minimum clearance over a private driveway shall be fifteen (15) feet as measured from the bottom of the grade of the driveway.
  5. No sign, or any portion thereof, shall be permitted which moves or assumes any motion constituting a non-stationary or fixed condition except for the rotation of barber poles. Changing signs and multi-prism sign units are not permitted except time/temperature signs. Signs which are not permanently attached to the ground or a building, except as otherwise noted in this Ordinance, are prohibited.
  6. A flush-mounted sign is an on-structure sign which shall not protrude from the face of the building more than fifteen (15) inches. The flush mounted sign shall allow an eight (8) foot clearance from the sidewalk or ground to the bottom of the sign.
- C. Lighting/Illumination.
1. No sign shall be illuminated in such a way that light may shine into oncoming traffic, affect highway safety or shine directly into a residential dwelling.

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2. The light from any illuminated sign shall not cause direct glare into or upon any building other than the building to which the sign may be related.
3. No sign shall display flashing or intermittent lights or other lights of changing degrees of intensity, brightness or color, except a sign indicating time or temperature, with changes alternating on not less than a five-second cycle when such time or temperature sign does not constitute a public safety or traffic hazard, in the judgment of the Zoning Administrator.
4. No colored lights shall be used at any location, or in any manner, so as to be confused with, or constituted as, traffic control devices.
5. No exposed reflective type bulb and no strobe or incandescent lamp which exceeds fifteen (15) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.
6. Any sign located in a residential district shall only be illuminated by indirect lighting such a self-contained light from within the sign or by a concealed light directed upon the sign. In no case will there be any type of neon sign permitted in any residential district.

**Section 11-8 Non-Conforming Signs**

- A. Any sign lawfully in existence on the date of enactment of this Article may be maintained even though it does not conform with the provisions featured in this Article.
- B. No non-conforming sign may be enlarged or altered in such a manner as to expand the non-conformity, nor may illumination be added to any non-conforming sign.
- C. A non-conforming sign may not be moved or replaced except to bring the sign into complete conformity with this Article.
- D. A non-conforming sign destroyed by any cause may not be repaired, reconstructed or replaced except in conformity with this Article. For the purposes of this section, a non-conforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds fifty (50) percent of the appraised value of the sign so damaged.
- E. The message of a non-conforming sign may be changed so long as this does not create a new non-conformity.
- F. A pre-existing sign must be removed if the structure, building or use to which it is necessary is destroyed, or demolished to an extent exceeding fifty (50) percent of the appraised value of the principal structure, building or use.

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**Section 11-9 Enforcement and Appeals**

- A. *Violations.* Violations of this Article constitute violations of the Zoning Ordinance and the Town of Clarksville may obtain compliance through any of the methods available for other zoning violations.
- B. *Removal of Signs in Violation.* The Zoning Administrator may order the removal of any sign erected or maintained in violation of this Article. He shall give thirty (30) days notice in writing to the owner of such sign or of the building, structure or premises, on which such sign is located, to remove the sign or to bring it into compliance with this Article. The Zoning Administrator may remove the sign immediately, and without notice, if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. Any surface exposed by the removal of a sign shall be restored to its original condition by the property owner and be compatible with adjacent surfaces.
- C. *Removal of Abandoned Signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove such a sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator, or his duly authorized representative, may remove the sign at the cost of the property owner.
- D. *Appeals.* Any person aggrieved by any decision or order of the Zoning Administrator may appeal to the Board of Zoning Appeals (BZA) by serving written notice to the Zoning Administrator, who, in turn, shall immediately transmit the notice to the BZA, which shall meet to hear it within thirty (30) days thereafter. The Zoning Administrator shall take no further action on the matter, pending the Board's decision, except concerning unsafe signs which present an immediate and serious danger to the public, as provided in this Article.

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Schedule 11-1

Type of Sign

District	On Structure		On Premises			Off Premises		Home Occupation		Temporary		Portable	
	Max #	Total Max Area (sf)	Max #	Total Max Area (sf)	Height (ft)	Max #	Total Max Area (sf)	Max #	Total Max Area (sf)	Max #	Total Max Area (sf)	Max #	Total Max Area (sf)
R-1	1	4	1	6	35								
R-2	1	4	1*	6	35			1**	4	1	40		
R-3	1	4	1*	6	35			1**	4	1	40		
B-1	2	150	1	100	35	1	150			3	40	1	12
B-2	2	200	1	100	45	1**	150			3	40	1	12
I-1	2	200	2	100	45	1**	300			3	40		

Signs not covered by this chart and not exempted from this ordinance shall be prohibited.

\*Signs for multiple-family dwellings shall not exceed 32 sf in dimension. Only one such sign shall be permitted per complex subject to the approval by the Town Council for Special Use Permit.

\*\*Special Use Permit Required.

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**ARTICLE 12. NONCONFORMING USES**

**Section 12-1 Applicability**

The regulations of this Article govern nonconforming uses, nonconforming structures and nonconforming lots that came into existence legally but that do not comply with one or more requirements of this Zoning Ordinance.

**Section 12-2 Purpose and Scope**

It is the general policy of the Town of Clarksville to allow uses, structures and lots that came into existence legally in conformance with then applicable requirements to continue to exist and to be put to productive use, but to bring as many aspects of such situations into compliance with the provisions of this zoning ordinance as allowed by law. This Article establishes regulations governing uses, structures and lots that were lawfully established but that do not conform to one or more existing requirements of this Zoning Ordinance. The regulations featured in this Article are intended to:

- A. Recognize the interests of property owners in continuing to use their property;
- B. Promote reuse and rehabilitation of existing buildings; and
- C. Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

**Section 12-3 Authority to Continue**

Any nonconformity that legally existed on the date of adoption of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Zoning ordinance may be continued only in accordance with the provisions of this Article. Unless otherwise expressly stated, any variation from these standards shall require review and approval as a Variance in accordance with the procedures featured in Article 5 of this Ordinance.

**Section 12-4 Repairs and Maintenance**

Normal repairs and routine maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Zoning Ordinance. Nothing in this Article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

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**Section 12-5 Nonconforming Uses**

- A. **Scope.** The regulations of this section apply to the continuation, enlargement, or expansion of a nonconforming use.
- B. **Continuation.** The lawful use of any structure existing as of the effective date of this Ordinance may be continued, although such use does not conform to the provisions of this Ordinance.
- C. **Enlargement.** A nonconforming structure in which a nonconforming use is operated shall not be enlarged or expanded except as required by law.
- D. **Change to a Conforming Use.** A nonconforming use may be changed to any use that is allowed in the zoning district in which it is located, subject to all applicable standards and requirements applicable to the new use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.
- E. **Change to Other Nonconforming Use.** A nonconforming use may be changed to the same use or a use of a more restrictive classification; however, it shall not thereafter be changed to a use of a less restrictive nature.
- F. **Abandonment.** Once abandoned, a nonconforming use shall not be reestablished or resumed. Any subsequent use or occupancy of the structure or open land must comply with the regulations of the district in which it is located and all other applicable requirements of this Ordinance. A nonconforming use shall be presumed abandoned when any one of the following has occurred:
  - 1. The owner has in writing or by public statement indicated intent to abandon the use;
  - 2. A conforming or less intensive nonconforming use has replaced the nonconforming use;
  - 3. The building or structure housing the nonconforming use has been removed through the applicable procedures for the condemnation of unsafe structure;
  - 4. The owner has physically changed the building or structure or its permanent equipment in a manner that clearly indicates a change in use or activity to something other than the nonconforming use; or
  - 5. The use has been discontinued, vacant or inactive for a continuous period of more than two years.
- G. **Overcoming Presumption of Abandonment.** A presumption of abandonment based on the evidence of abandonment stated in paragraph (F) of this subsection may be rebutted upon a showing, to the satisfaction of the Clarksville Board of Zoning Appeals, that the owner:

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1. Has been maintaining the land and structure in accordance with all applicable regulations, including the Building Code, and did not intend to discontinue the use;
2. Has been maintaining all applicable licenses; and
3. Has filed all applicable tax documents.
4. In addition, the owner of the nonconforming use shall be required to demonstrate, to the satisfaction of the Clarksville Board of Zoning Appeals, that during the period of inactivity or discontinuance the owner has been actively and continuously marketing the land or structure for sale or lease; or has been engaged in other activities that would affirmatively prove there was no intent to abandon.

**Section 12-6 Nonconforming Sites**

- A. **Scope.** This section applies to continuation, enlargement or expansion of nonconforming sites.
- B. **Continuation.** Any lawfully existing nonconforming site may be continued so long as it remains otherwise lawfully subject to this Article.
- C. **Enlargement.** A conforming use located on a nonconforming site shall not be expanded until the site is brought into conformance with the provisions of this Ordinance. However, single-family residential structures that are located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this Ordinance.
- D. **Relocation.** No structure shall be relocated to a nonconforming site until the site is brought into conformance with the provisions of this Ordinance.
- E. **Abandonment.** When the use of a nonconforming site has been abandoned for a period of more than two years, the site shall not be used, developed, or improved until it is brought into conformance with this Ordinance.
- F. **Exception for Repairs Pursuant to Public Order.** Nothing in this section shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided such restoration is not otherwise in violation of the provisions of this Article prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.

**Section 12-7 Nonconforming Structures**

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- A. **Scope.** This section applies to the continuation, enlargement, or expansion of a nonconforming structure.
- B. **Continuance.** Any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended.
- C. **Enlargement.** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of this Article, but no such use shall be extended to occupy any land outside the building.
- D. **Restoration or Replacement of Structures.**
1. Any nonconforming residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in the Code of Virginia § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.
  2. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the current zoning ordinance.
  3. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then such building shall have an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the

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property owner to commit an arson under § [18.2-77](#) or [18.2-80](#), and obtain vested rights under this section.

- E. **Change in District Boundaries.** Whenever the boundaries of a district are changed, any structures or buildings which become nonconforming as a result shall be subject to the provisions of this Article.
- F. **Change of Use.** The use of a nonconforming structure or building may be changed to the same use or a use of a more restrictive classification; however, it shall not thereafter be changed to a use of a less restrictive nature.
- G. **Manufactured Homes.** Manufactured homes, single or sectional, are not permitted within the town limits of Clarksville. Existing manufactured homes in the Town of Clarksville at the time this Ordinance was adopted will be grandfathered and designated as non-conforming uses. In the event these structures become uninhabitable due to fire, flood, or natural disaster, the non-conforming use may be re-established using the provisions in Section 12-7 D and any replacement manufactured home must be a new manufactured home and shall comply with the current HUD manufactured housing code.

**Section 12-8 Nonconforming Lots**

- A. **Scope.** This section applies to the continuation, enlargement, or expansion of a nonconforming lot.
- B. **Continuance.** The regulations of this section apply to nonconforming lots of record, which are lots or land parcels that were legally created but which no longer comply with the minimum area or width standards of the underlying zoning district. Nonconforming lots may be occupied and used in accordance with the standards of this section.
- C. **Vacant Parcels.** If a nonconforming lot was vacant at the time it became nonconforming, it may be used for any use allowed in the underlying zoning district provided all applicable dimensional standards are met or a variance is obtained from the Clarksville Board of Zoning Appeals for any building or portion thereof which will not comply with the applicable dimensional standards.
- D. **Developed Lots.** If a nonconforming lot contained a building or structure at the time it became nonconforming, then the building or structure may be maintained and expanded in accordance with all applicable dimensional standards of the underlying zoning district.

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**Section 12-9 Change of Tenancy or Ownership**

The status of a nonconforming use is not affected by changes of tenancy, ownership or management.

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**ARTICLE 13. FLOODPLAIN REGULATIONS**

**Section 13-1 Intent**

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

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

**Section 13-2 Applicability**

The provisions of this Article shall apply to all lands within the Town of Clarksville identified as areas of special flood hazard shown on the Flood Insurance Rate Map (FIRM) or included in the Flood Insurance Study (FIS) provided by the Federal Emergency Management Agency (FEMA) to the Town.

**Section 13-3 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 Article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Article.
- B. The degree of flood protection sought by the provisions of this article 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 article does not imply that districts

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outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

- C. This article shall not create liability on the part of the Town of Clarksville or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision made based on this Article.

**Section 13-4 Records**

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

**Section 13-5 Description of Districts**

- A. Basis of districts. The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for the Town of Clarksville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 11, 2009, as amended.
- 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. In case of any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
  - 3. In the event that any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

**Section 13-6 District Boundaries**

The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this article and what shall be kept on file in the office of the Zoning Administrator

- A. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles for elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For

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these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the US Army Corps of Engineers Floodplain Information Reports, US Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine the base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

- B. The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus the height of community freeboard. Community freeboard height can be found in the definition for freeboard. During the permitting process, the Zoning Administrator shall obtain:
  - 1. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and
  - 2. If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.
- C. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals that exceed 50 lots or five acres, whichever is the lesser.

### **Section 13-7 District Boundary Changes**

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

### **Section 13-8 Interpretation of District Boundaries**

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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/her case to the Board and to submit his/her own technical evidence if he/she so desires.

### **Section 13-9 General Provisions**

- A. Permit Requirement. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Clarksville 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 of any watercourse, drainage ditch or any other drainage facility or system.
- B. Alteration or Relocation of Watercourse. 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 United States Army Corps of Engineers, the Virginia State Water Control Board, 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 Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.
- C. Site Plans and Permit Applications. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
  - 1. Where BFE data is utilized, the elevation of the base flood at the site.
  - 2. For structures to be elevated, the elevation of the lowest floor (including basement).
  - 3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
  - 4. Topographic information showing existing and proposed ground elevations.

### **Section 13-10 General Standards**

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In all special flood hazard areas, the following provisions shall apply:

- A. New construction and substantial improvements shall be according to the VA USBC, and shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- D. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities, including ductwork, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- E. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- G. On-site waste disposal system shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction, or improvements to the building that is in compliance with the provisions of this Article shall meet the requirements of “new construction” as contained in this Article.
- I. Any alteration, repair, reconstruction, or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not further, extended, or replaced.
- J. 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 US 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.
- K. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

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**Section 13-11 Specific Standards**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study, the following provisions shall apply:

- A. Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen inches.
- B. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen inches. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus eighteen inches are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood proofed, shall be maintained by the Zoning Administrator.
- C. Elevated Buildings. Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
  - 1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
  - 2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
  - 3. include, in zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

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- a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
  - b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
  - d. The bottom of all required opening shall be no higher than one foot above the adjacent grade;
  - e. Openings may be equipped with screens, louvers, or other openings, coverings, or devices, provided they permit the automatic flow of floodwaters in both directions.
- D. Standards for Recreational Vehicles
1. All recreational vehicles placed on sites must either:
    - a. Be on the site for fewer than 180 consecutive days;
    - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or,
    - c. Meet all the requirements for manufactured homes.

**Section 13-12 Standards for Approximated Floodplain**

The following provisions shall apply within the approximate floodplain District:

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

1. The elevation of the lowest floor (including the basement) of all new and substantially and play proved structures; and,
2. If the structure has been flood proved in accordance with the requirements of this article, the elevation to which the structure has been flood proof.

When base flood elevation data are not available, the lowest floor (including the basement) of all new and/or substantially improved structures shall be elevated to at least one foot above the lowest adjacent grade.

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When base flood elevation data are not available and the new and/or substantially improved structure is to be flood-proofed, it shall be flood-proofed to at least one foot above the lowest adjacent grade.

### **Section 13-13 Standards for the Shallow Flooding District**

The following provisions shall apply within the Shallow Flooding District:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
- B. All new construction and substantial improvements of non-residential structures shall:
  - 1. Have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,
  - 2. Together with the attendant utility and sanitary facilities to be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- C. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

### **Section 13-14 Standards for Subdivision Proposals**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals that exceed 50 lots or five acres, whichever is the lesser.

### **Section 13-15 Variance Requests and Procedure**

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- A. When acting upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this ordinance and consider the following additional factors:
1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.
  2. The danger that materials maybe swept onto other lands or downstream to the injury of others.
  3. The proposed water supply and sanitation systems and the ability of the systems to prevent disease contamination and unsanitary conditions.
  4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  5. The importance of the services provided by the proposed facility to the community.
  6. The requirements of the facility for a waterfront location.
  7. The availability of alternative locations not subject to flooding for the proposed use.
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  10. The safety of accessed by ordinary and emergency vehicles to the property in time of flood.
  11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  12. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  13. Such other factors which are relevant to the purposes of this article.
- B. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

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- C. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in an unacceptable or prohibited increases in flood heights, additional threats to public safety, or extraordinary public expense and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws and/ordinances.
- D. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.
- E. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct the structure below the 100-year flood elevation increases the risk to life and property and will result in increased premium rates for flood insurance.
- F. 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.

**Section 13-16 Existing Structures and Floodplain Districts**

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

- A. Existing structures in the floodway district shall not be expanded or enlarged unless it is 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 100-year flood elevation.
- B. Any modification, 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 50% of its market value shall be elevated and/or flood-proofed to the greatest extent reasonably possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location on a floodplain area, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this Article and the Virginia Uniform Statewide Building Code.

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**ARTICLE 14. LANDSCAPING**

**Section 14-1 Purpose and Intent**

The purpose of this Article is to establish standards for landscape architecture, site design, site buffering and landscape screening in order to promote the health, safety and general welfare of Clarksville. More specifically, this Article is intended to:

- A. Preserve and enhance the aesthetic character of the Town;
- B. Enhance erosion control;
- C. Improve the relationship between adjacent properties through screening and buffering;
- D. Protect the Town’s streams, wetlands and lakefront.

**Section 14-2 Application of Landscape Standards**

- A. These landscape requirements shall apply to:
  - 1. All new developments, or redevelopment, requiring an approved site plan as specified by this Ordinance.
  - 2. All properties for which a rezoning or a special use permit is applied for under the requirements of this Ordinance.
- B. These requirements shall not apply to parcels containing single-family detached dwellings or two-family dwellings.

**Section 14-3 Landscape Plan Requirements**

- A. The landscape plan shall include:
  - 1. Location, type, size, height, and number of proposed plantings.
  - 2. Planting specifications or installation details.
  - 3. Location and size of all existing plants and trees to be retained during construction, as well as protection measures to be implemented during construction.
  - 4. Location, size and other related design details for all landscape improvements, signage, recreational improvements and open space areas, fences, walls, barriers and other related elements.
  - 5. Designation of required setbacks, yards and screening areas.
  - 6. Location of other man-made site features, including parking lots, overhead structures and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements.

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**Section 14-4 General Standards**

- A. Any required landscaping shall be acknowledged by the Zoning Administrator prior to the issuance of a certificate of occupancy by the County Building Official.
- B. Existing healthy trees and shrubs shall be credited toward any minimum landscaping required by the Article, provided they meet minimum size standards and are protected before and during construction and maintained thereafter in a healthy growing condition.
- C. The owner of the property upon which the required landscaping or buffering is installed shall be responsible for landscape maintenance and replacement. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successor or assigns, shall be responsible for replacing each by the end of the next planting season with trees or shrubs of the same or similar species, type, color, or character.
- D. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.
- E. Landscape designers should make every effort to use healthy and locally sourced trees, shrubs and other plants and to create landscapes that minimize the need for maintenance and irrigation. Invasive species are not recommended for use in the Town of Clarksville.

**Section 14-5 Buffering**

Landscape buffering is intended to provide a year-round visual screen between two or more properties in order to minimize visual and other adverse impacts. Buffering may consist of fencing, evergreens, boulders, mounds, or a combination of materials.

- A. A landscape buffer area shall be required where a commercially zoned development abuts a residential zoning district, or where multi-family residential development abuts any property zoned for single-family use.
- B. In the above conditions, a buffer strip five (5) feet in width shall be required. Where site considerations do not allow a natural buffer of five (5) feet width, a smaller buffer or a privacy fence or wall, may be substituted for all or a portion of that buffer as approved by the Zoning Administrator during the site plan process.

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- C. Plants should be sufficiently large and planted in such a fashion that a year-round screen at least six (6) feet in height should be produced within two growing seasons.
- D. No buildings, structures, storage of materials, or parking shall be permitted within a buffer area.
- E. Buffer plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this Article continue to be met. And dead or dying plants shall be removed by the property owner.

**Section 14-6 Screening**

- A. Screening shall be required to conceal specific areas from both on-site and off-site views. Such area shall be screened at all times, regardless of adjacent usage, adjacent districts, or other proximate landscaping material. Specific areas to be screened include:
  - 1. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers)
  - 2. Loading in service areas
  - 3. Outdoor storage areas (including storage tanks)
  - 4. Ground-based utility equipment with size in excess of twelve (12) square feet.
  - 5. Ground level mechanical units
- B. The above-mentioned areas shall be screened using an appropriate combination of landscape plants, fencing, or masonry walls to adequately screen them from views both on and off the subject property.
- C. Screening plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this ordinance continue to be met.

**Section 14-7 Parking Lot Landscaping**

All vehicle parking areas shall include landscaping around its perimeter to provide shade, screen views, mitigate runoff, and provide aesthetic appeal. However, the landscape provisions of this Article shall not apply to off-street parking for individual single or two-family residential dwellings, or for parking garages or vehicle display areas.

- A. Parking lots adjacent to lot lines: for parking lots immediately adjacent to lot lines, the following landscape regulations shall apply:
  - 1. Where a parking lot (or a private driveway providing access to a parking lot for building entry) abuts a property line not common with the right-of-way of a street, a landscaping strip of two and

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one half (2 ½) feet in width shall be located between the parking lot and the abutting property line.

- B. Parking lots adjacent to public streets: for parking lots in private access adjacent to public streets which are subject to site plan approval, the following landscape regulations shall apply:
  - 1. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right-of-way, a landscaping strip of five (5) feet in width (not including the sidewalk) shall be located between the parking lot or private driveway and the right-of-way line.
- C. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubs and other live planting material may be used to complement the primary, tree landscaping.

**Section 14-8 Walls and Fences**

Fences and walls may be used within landscaped areas to provide buffering, privacy, separation, security, or for aesthetic reasons, but may not create an unsightly or unsafe condition on or off of the public or private property on which the fence or wall is proposed.

- A. The provisions of this section shall apply to all construction, reconstruction, or replacement of fences or walls except:
  - 1. Those required for support of a principal or accessory structure.
  - 2. Engineered retaining walls necessary to the development of a site.
  - 3. Temporary fences for construction activities, trees protection, and erosion and sediment control.
- B. Fences or walls shall not be located within the public right-of-way.
- C. Fences and walls may be located within any required yard or setback
- D. Fences located within an easement shall receive written authorization from the easement holder. The Town shall not be responsible for damage to, or the repair replacement of, fences that must be removed to access such easements or facilities.
- E. No fence or wall shall be installed in a manner or in a location so as to block or divert a natural drainage flow on to or off of any other land.
- F. A fence or wall in any residential zoning district shall not exceed six (6) feet in height above the existing grade without approval of a special use permit.

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- G. A fence or wall in a commercial zoning district shall not exceed eight (8) feet in height above the existing grade without approval of a special use permit.
- H. No fence or wall shall be constructed in a manner or in a location that impairs safety or sight-lines for pedestrians and vehicles traveling on public rights-of-way.
- I. All fences and walls and associated landscaping shall be maintained in good repair in a safe and attractive condition. The owner of the property on which a fence or wall is located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

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**ARTICLE 15. ENFORCEMENT AND PENALTIES**

**Section 15-1 Responsibility for Enforcement**

The Zoning Administrator shall have the authority and the duty to ensure that all buildings and structures and the uses of all land in the Town of Clarksville comply with this Ordinance. In acting to enforce this Ordinance, the Zoning Administrator, or authorized agent thereof, shall act in the name of the Town of Clarksville. The Zoning Administrator shall have all necessary authority on behalf of the Clarksville Town Council to administer and enforce this Zoning Ordinance.

**Section 15-2 Compliance Required**

- A. Any building or structure erected or any improvements constructed contrary to any of the provisions of this Zoning Ordinance and any use of any building or land which is conducted, operated, or maintained contrary to the provisions of this Ordinance or the provisions of any approval granted by the Town of Clarksville under this Ordinance shall be a violation of this Zoning Ordinance and the same is hereby declared to be unlawful.
- B. Any person, firm or corporation, whether owners, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or who fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structure or land in violation of the provisions of this Zoning Ordinance or the provisions of any approval granted by the Town of Clarksville under this Ordinance shall be subject to the enforcement provisions of this Article.
- C. A written notice of a zoning violation or written order of the Zoning Administrator or designee sent by certified and first class mail to the last known address of the property owner as shown on the current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements under general law. In addition the Zoning Administrator may post a violation notice at the related property.

**Section 15- 3 Notice of Zoning Violation**

- A. Upon becoming aware of any violation of the provisions of this Article, the Zoning Administrator is empowered to issue written notice to the person committing or permitting the violation(s). Notice shall be mailed or hand delivered.

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- B. The notice of violation shall state the nature of the violation, the date that it was observed, action required to remedy or correct the violation and a reasonable time period for the correction of the violation.
- C. Every written notice of violation shall include a statement informing the recipient of their right to appeal the notice of violation or written order within 30 days in accordance with this Article and this Ordinance. The decision made by the Zoning Administrator shall be final if an appeal is not filed within 30 days.
- D. If the recipient chooses to appeal, an application and appeal fee shall be submitted as established by the Clarksville Town Council.
- E. Appeals shall be heard by the Clarksville Board of Zoning Appeals in accordance with the procedures set forth in Article 5 of this Ordinance.

**Section 15-4 Legal Action to Correct Violations**

Should the notice of violation and order of remedy fail to result in the correction of a violation, the Zoning Administrator shall have the authority to bring legal action to ensure compliance with the Ordinance, including the issuance of an injunction, an abatement order or another appropriate action or proceeding authorized under the laws of the Commonwealth.

**Section 15-5 Zoning Administrator Coordination with the Town Attorney**

The Zoning Administrator shall provide the Town Attorney with a copy of each written notice and order involving a violation of this Ordinance. The Town Attorney, in turn, will advise and assist the Zoning Administrator in securing a positive resolution and outcome.

**Section 15-6 Penalties**

Any violation of the provisions of this Ordinance shall be a misdemeanor punishable upon conviction by a fine of not less than \$100.00 for each violation and not more than \$500.00. Each day a violation exists shall constitute a separate offense.

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**ARTICLE 16. GENERAL RULES & DEFINITIONS**

**Section 16.1. General Rules.**

The following rules of interpretation shall apply throughout this article and the words as they were appropriate to the context:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The word “shall” is mandatory, and the word “may” is permissive.
4. The words “used” or “occupied” include the words “intended, designed or arranged to be used or occupied.”
5. The words “building” or “structure” include any part thereof, and the word “building” includes the word “structure.”
6. The terms “main” and “principal” are synonymous.
7. The word “lot” includes the words “plot” or “parcel.”
8. The word “land” includes the words “water” and “marsh.
9. All references to public officials, agencies and bodies are those of the Town of Clarksville, Virginia, unless indicated otherwise.
10. Words and terms not defined with this Ordinance shall be interpreted in accord with other Ordinances in the Town of Clarksville or normal dictionary meaning and customary usage unless otherwise defined in Section 16.1 of this Ordinance.

**Section 16.2. Words and Terms Defined.**

The following words and terms shall be interpreted as having such meaning as described herein, unless a specific meaning to the contrary is indicated elsewhere in this Article or this Ordinance.

**Abandonment:** The discontinuance of a nonconformity for a period of 24 months with an intent to abandon, or the commission of an overt act of discontinuance for a period of 24 months with or without voluntary intent.

**Abut or abutting:** Having property lines in common.

**Access:** A way to provide vehicular or pedestrian physical entrance to a property.

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**Accessory Building/Use:** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

**Accessory Dwelling/Apartment:** A separate complete housekeeping unit that is substantially contained within the structure of a single-family unit but can be isolated from it without jeopardizing the single-family character of the neighborhood. Detached garages may be used for such purpose.

**Acre:** A measure of land area containing 43,560 square feet.

**Addition:** A structure added to the original structure at some time after the completion of the original structure or an extension or increase in floor area or height of a building or structure.

**Adjacent:** This term includes the word contiguous.

**Administrator, Zoning:** The official charged with administration and enforcement of this Zoning Ordinance.

**Adult Daycare Center:** A non-residential facility, subject to Title 63.2 Welfare (Social Services) of the Code of Virginia, as amended, and licensed by the Virginia Department of Social Services, that provides a variety of health, social, and related support services in a protective setting during part of the day for four or more aged, and infirmed, or disabled adults who reside elsewhere.

**Alley:** A public way afforded secondary means of vehicular access to abutting properties and situated along the side or rear of such properties.

**Alteration:** Generally, as applied to a building or structure, a change or rearrangement in the structural parts of the building or an enlargement, whether by extending on a side or by increasing in height, of the structure or by moving the building from one location or position to another.

**Amend or Amendment:** Any repeal, modification, or addition to a regulation, any new regulation, any change in the number, shape, boundary, or area of a district; or any repeal or abolition of any map, part thereof, or addition thereto.

**Antenna:** Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips but not including satellite earth stations.

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**Animal Shelter:** Any place so designed to provide for the temporary accommodation of five or more common household pets which are stray or not wanted by their owner until appropriate disposition of such pets can be effected.

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

**Arts Center:** A facility for the provision of instruction in fine and applied arts such as painting, printmaking, sculpture, textiles and glassmaking. Such facilities may include leasable studio space on the premises, as well as areas for the exhibition and sale of artwork.

**Assisted Living/Care Facility:** A facility licensed by the Virginia Department of Social Services which provides non-medical services for adults who have physical or mental impairments and require assistance with the activities associated with daily living.

**Auto and Truck Sales and Service Establishment:** Any establishment for the display and sale of new or used automobiles or trucks, including rental, servicing, major and minor mechanical repair, body repair and painting, when conducted as accessory uses.

**Auto Service Center:** An establishment for the servicing and repair of motor vehicles with enclosed service bays or stalls, and which may include the sale, installation and repair of tires, batteries, shocks, exhaust systems and similar minor automobile parts and accessories.

**Automobile Graveyard:** Any lot or place which is exposed to the weather upon which more than two motor vehicles of any kind, not displaying current Commonwealth of Virginia inspection certification and incapable of being operated, are placed.

**Automobile Service Station:** Any area of land including structures thereon, used for the retail sale of gasoline and other vehicle fuel, automobile accessories, or incidental services, including facilities for lubricating, hand washing and cleaning. This definition includes any retail or wholesale stores which sell vehicle fuels, or otherwise services automobiles, but excluding painting, major repair, sale of autos and trailers, and mechanical motor vehicle washing machines.

**Awning:** A shelter/cover extending from the exterior wall of a building.

**Average Setback:** The mean setback from a street right-of-way of buildings on both sides of a lot.

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**Balcony:** A platform that extends from the exterior wall of a building above the first level and is surrounded by a rail, balustrade or parapet.

**Basement:** A story having part but not less than ½ of its height below grade. A basement shall account as a story for the purpose of height regulations if it is used for business purposes, or for dwelling purposes.

**Bed and Breakfast:** Overnight accommodations and a morning meal provided in a single-family detached residence that is owner or manager occupied, in which four or fewer rooms without cooking facilities are rented to transient guests. Bed and Breakfasts located in a commercial zoning district may have weddings, receptions and business meetings as an ancillary use with a special use permit.

**Berm:** A landscaped earthen mound intended to screen, buffer, mitigate noise, and generally enhance views of parking areas, storage areas or required yards particularly from public streets or adjacent uses.

**Board:** The Clarksville Board of Zoning Appeals as established in this ordinance.

**Boarding House/Transient Lodging:** Any building other than a hotel, bed and breakfast, motel, or commercial inn where for compensation or by prearrangement for definite periods, lodging, lodging and meals, or meals are provided on a commercial basis for at least three and up to twelve persons on either a weekly or monthly basis.

**Boat Dock, Private:** A dock or wharf for private use to which a boat house or other structure is not attached.

**Boat House:** A structure for not more than five (5) boats designed and intended for use by boat-owners, but with no commercial facilities.

**Block:** A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad-rights-of-way, shorelines of waterways, or boundary lines of local governments.

**Brewery:** A site devoted to the production, warehousing, and distribution of malt beverages.

**Brew Pub:** A restaurant that prepares hand crafted beer, and/or other malt beverages, as an accessory use intended for consumption on the premises or sold for consumption off premises in hand-capped or sealed containers and quantities up to ½ barrel (or 15.5 gallons), up to a maximum total of 5000 barrels (31 gallons/barrel) per year. The area used for brewing, including bottling and kegging, shall not exceed 25% of the total floor area of the use.

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**Buffer:** Landscaping, fences, berm, walls or similar barriers or borders used to visibly separate one use from another or to shield or block noise or other nuisances.

**Buffer-Yard:** Buffer-yards are the combination of buffer plus screening required to physically separate and to obscure the view of an adjoining land use. Buffer-yards shall not be used for the storage of materials, buildings, parking or loading areas for motor vehicles or equipment or signs.

**Buildable Area:** The area of the lot remaining after required yards have been provided.

**Building:** A structure having one or more stories and a roof, designed primarily for shelter of persons, animals, or property of any kind.

**Building Code:** The Virginia Uniform Statewide Building Code, as adopted by the Town of Clarksville and as amended.

**Building, Frontline of:** The line of that face of the building nearest the front line of the lot. This face includes sun parlors, decks, and covered porches, whether enclosed or unenclosed, but does not generally include steps.

**Building Footprint:** The area of ground covered by a building or structure.

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

**Building Inspector:** An appointed official employed by Mecklenburg County who is responsible for enforcing the provisions of the Uniform State Building Code and certifying building inspections within the Town of Clarksville.

**Building/Structure, Principal:** Means the principal structure or the principal building on a lot or the building or principal building housing the principal use on a lot.

**Caliper:** The diameter of a tree trunk measured 6 inches above the ground level for nursery stock that is less than 4 inches in diameter and 12 inches above ground for larger sizes.

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**Canopy:** Any structural cover that is not enclosed on any of its four sides and is provided as a service area such as a gas station.

**Carport:** Space for housing or storage of motor vehicles and enclosed on not more than three (3) sides by walls.

**Car Wash:** A structure, or portion thereof, containing facilities for washing motor vehicles by hand or by using production line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical devices.

**Cattery:** Any place or establishment, located within a fully enclosed structure, in which cats are kept or boarded for a fee.

**Cemetery:** Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

**Certificate of Occupancy:** A certificate indicating that the premises comply with all provisions of the zoning ordinance and the building code. The certificate is issued after construction has occurred pursuant to a development being approved.

**Child Care Center:** An establishment which is licensed or approved to operate as a childcare center in the Commonwealth of Virginia by the Virginia Department of Social Services, that involves two or more children under the age of 13 in a facility that is not the residence of the provider, or of any of the children in care, or 13 or more children at any location for whose care tuition, fees or other forms of compensation are charged. A childcare center may include nursery schools or kindergartens. Other facilities for which the purpose is primarily educational, recreational or medical treatments that are not exempt from licensure by the Virginia Department of Social Services, and child day center operated by religious institutions exempt from licensure are considered Child Care Centers.

**Church, House of Worship, Fellowship Hall:** A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to conduct public worship.

**Circuit Court:** The circuit court for Mecklenburg County, Virginia.

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**Clinic:** A facility providing medical, dental, optical, surgical or psychiatric services to persons on an outpatient basis. The term clinic includes the term “office” when used in conjunction with such services.

**Club:** A facility where the principal purpose is for members of associations or organizations, such as but not limited to fraternal organizations, to meet to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. The term shall not include nightclubs or other institutions operated as a business.

**Cluster Development:** An alternate means of developing a lot in a residential district premised on the concept of design that preserves and protect sensitive natural or man-made features. Cluster development permits a reduction in lot area, yard and bulk requirements in exchange for creating common open space within the cluster.

**Commercial:** Any wholesale, retail or service business activity established to carry on trade for a profit.

**Commission:** The Planning Commission of the Town of Clarksville, Virginia.

**Commonwealth:** The Commonwealth of Virginia.

**Comprehensive Plan:** The Comprehensive Plan for the Town of Clarksville, Virginia as adopted and amended.

**Community Center:** Community entertainment, recreation, or meeting place operated by a nonprofit organization.

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

**Communication Facility:** Facilities with requisite towers or antenna of over 50 feet in height for telephone, television or radio transmission of a commercial or public serving nature. This includes “cell towers,” radio and television station broadcast antenna towers, and satellite/cable television facilities with requisite multiple dish antennas and antennas for the dispatching of commercial or industrial vehicles. It does not include radio antennas for private recreational use.

**Condominium:** A dwelling unit in an apartment building or residential development which is individually owned, but in which the common areas are owned, controlled, and maintained through a nonprofit organization composed of all real estate owners within the development as required by the state.

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**Construction Sales and Service:** Any establishment involved in the sale of materials for the erection of buildings and structures.

**Convenience Store:** A store in a principal building of less than 4000 square feet where a limited selection and quantity of groceries and other items is offered for sale, and which may also offer packaged food, delicatessen or fast food items. A convenience store may also include gas sales.

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

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

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

**Coverage:** The percentage of the lot area covered by a building or structure.

**Court:** An open, on occupied space, other than a yard, with a building or group of buildings which is bound on two or more sides by such building or buildings and every part of which is clear and unobstructed, except for landscaping, from its lowest point to the sky.

**Cul-De-Sac:** A circular turning area at the end of a dead-end street.

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

**Daycare Center:** A facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during a part of the day only, or for the purpose of providing care to adults during a part of the day only, and which includes personal supervision of the adults and promotes social, physical and emotional well-being through companionship, self-education and leisure time activities.

**Deck:** A platform extending horizontally from the rear or side yard of a building, located to the rear of the front building lot line and not within the front yard.

**Density:** The number of persons or dwelling units per one acre of land.

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**Developer:** An owner, agent, tenant, or assignee of property being subdivided or improved, whether or not requested by an agent.

**Development:** The construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures.

**Distances:** Space measured horizontally and at right angles to the line in relation to which the distance is specified.

**District:** A portion of the territory of the Town of Clarksville in which certain uniform regulations and requirements of various combinations thereto apply under the provisions of this adopted Zoning Ordinance.

**Distillery:** A site devoted to the production, warehousing and distribution of alcohol and spirits.

**Distribution Facility:** An establishment engaged in the receipt of goods, products, cargo and materials, individually or in bulk, the short-term holding or storage of such goods or merchandise, and/or the breaking up into lots or parcels and subsequent shipment off-site of such goods and merchandise. Distribution may be provided to an entity within an identity of interest with the distribution facility or two businesses and individuals unrelated to the distributor. The term will also include a transshipment facility for the temporary holding, storage and shipment of goods or vehicles.

**Drive-In:** An establishment which is designed to provide, either whole or in part, service to customers while in their automobiles parked upon the premises.

**Drive-Up Window/Facility:** A window through which service is rendered to or business is transacted directly with customers who are located within motor vehicles.

**Driveway:** An area specifically designated and designed for vehicle access to a residential lot.

11. Pipe stem Driveway: vehicular access constructed on the stem or stems of a pipe stem lot or lots.
12. Common Driveway: vehicular access to single-family detached lots constructed on ground of common ownership.
13. Private Driveway: vehicular access constructed entirely within the limits of one lot for use only by that lot and which may connect to a street, pipe stem driveway, common driveway or common parking court.

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**Dump Heap (Trash Pile):** As defined by the Virginia Health Department, any area of 100 square feet or more lying within 1000 feet of a state highway, a residence, a dairy barn, or food-handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary landfill.

**Dwelling:** Any building or portion thereof which is designed for or used for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, and travel trailers, recreational vehicles and manufactured homes.

**Dwelling, Modular:** A type of single-family detached dwelling unit which is constructed off-site in units which are movable, but not designed for regular transportation on highways, and which are designed to be assembled and finished at the building site on and supported by a permanent foundation and not by a chassis permanently attached to the structure. A modular dwelling must meet the requirements of the Virginia Uniform Building Code.

**Dwelling, Multi Family:** A building designed for, or occupied exclusively by, three or more families living independently of each other. The term includes apartments, condominiums, townhouses and with varying arrangements of entrances and party walls.

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

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

**Dwelling Unit:** One or more rooms in a dwelling designed for living or sleeping purposes and having at least one kitchen area and one bathroom. Each unit must meet the minimum dwelling unit square footage for a specific zoning district.

**Dwelling Use:** Any principal use in dwelling units or lodging units which are not generally available for occupancy for periods of less than one week, as distinguished from units located within hotels, motels, tourist homes and similar facilities intended for transient occupancy. The term “Dwelling Use” shall also include dwelling in a bed and breakfast establishment, group home, assisted care facility or nursing home.

**Easement:** Authorization by a property owner for another to use the owner’s property for a specified purpose.

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**Eating Establishment:** A building wherein the principal use is the sale of food and beverages for dining on premises.

**Eating Establishment, Fast-Food:** An establishment which sells food and beverages in a ready-to-consume state within the restaurant or within a motor vehicle parked on the premises or off-premises.

**Elderly Housing:** A structure containing multi-family dwelling units where the occupancy of the dwellings are restricted to persons 60 years of age or older, or couples where either the husband or wife is 60 years of age or older and which meets the Fair Housing Amendments Act of 1988 for elderly housing. Such a structure may consist of individual dwelling units, community dining areas, community recreation areas, special support services and limited medical or nursing care.

**Electronic Data Storage Center:** A worksite used as a facility for the storage of and the operation of computer hardware equipment for processing, storage and/or routing of electronic data.

**Engineer:** A professional engineer currently registered by the Commonwealth of Virginia.

**Façade:** The exterior of a building exposed to public view or that wall viewed by persons not within the building.

**Fair:** A fair is a recreational, social, educational, or cultural event, included but not limited to, seasonal celebrations such as a haunted house, or other annual events, open to the public or a designated part of the public, operated by a public or nonprofit group or agency for the benefit of a charity or public institution such as schools, hospitals or other philanthropic organizations.

**Family:** One or more persons related by blood, marriage or adoption, including foster children, or not more than three unrelated persons living together as a single housekeeping unit and occupying a single dwelling unit, except as otherwise provided herein. Domestic servants or employees residing on the premises shall be considered as part of a family. The term “family” shall not be construed to include a fraternity, sorority, club or a group of persons occupying a hotel, motel, tourist home, boarding house or institution of any kind, but shall include the occupants of a group, as defined in this Article.

**Family Daycare Home:** A single-family dwelling in which a facility as defined in the Code of Virginia, §63.1-195, is operated for the purpose of providing care for more than five but less than 13 children separated from their parents or guardians during a portion of the day, exclusive of the owner’s children

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and any children who reside in the home. The care of five or less children for portions of a day shall be considered a home occupation.

**Farmers Market:** Any area of land, buildings or structures, open or enclosed, used for the display and retail or wholesale sale of agricultural or horticultural products, but not including livestock.

**Fence:** A confining barrier, usually made of posts and wire or boards but can include trees and shrubs or other material, intended to prevent escape, trespass or intrusion or to mark a boundary.

**Flag:** Emblem or insignia of a nation or other unit of government, political subdivisions of the United States or a bona fide civic, charitable, fraternal or welfare organization.

**Flag Pole:** A pole that can be placed in the ground or can be wall-mounted on which a flag is raised.

**Flea Market:** An occasional or periodic market conducted in an open area or in buildings or structures, where groups of individual sellers offer a variety of goods for sale to the public and where there are ordinarily no long-term leases of selling space between sellers and operators

**Flood:** A general and temporary inundation of normally dry land areas. (See Article 13, Floodplain Regulations, for additional definitions pertaining to flood and floodplains.)

**Floor Area:** The sum of the horizontal areas of all usable floors of a building as measured from the exterior faces of exterior walls and including all intervening walls, partitions, hallways, corridors, lobbies and stairways. In calculating the floor area of an attached building or the floor area of a use occupying a portion of a building, measurement shall be made to the centerlines of common or shared walls. Floor area shall not include unenclosed porches, balconies, carports, parking garages, or any basement or attic areas which are not improved and available for use and occupancy.

**Frontage:** The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

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

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

**Garden Center:** A business primarily engaged in retail or wholesale sale of trees, shrubs, flowers, plants, seeds, fertilizer, pesticides, and other lawn or garden products, supplies or accessories.

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

**Gasoline Service Station:** Any establishment involving the dispensing of motor fuels and related products at retail and having pumps, underground storage tanks and other facilities for such activity, and which may include the retail sale or installation of minor automobile parts and accessories and the inspection, servicing or minor repair of motor vehicles in enclosed service bays or stalls. Such establishments might also provide the services of a convenience store.

**Golf Course:** A tract of land, publicly or privately owned, on which the game of golf is played, including accessory uses in buildings customary thereto.

**Golf Driving Range:** A limited area on which golfers do not walk but on which they hit/drive golf balls from a central driving tee or set of tees.

**Governing Body:** Shall mean the Town Council of the Town of Clarksville, Virginia.

**Grade:** Grade elevation shall be determined by averaging the elevations of the finished ground at all corners or principal points in the perimeter wall of a building.

**Greenhouse:** An enclosed structure for the raising of plants which can be offered for sale on the premises.

**Group Home:** A residential facility in which not more than eight individuals who are aged, infirmed, disabled, mentally ill, mentally retarded, or otherwise developmentally disabled reside, with one or more resident counselors or other staff persons. For the purposes of this definition, mental illness and developmental disability shall not include current illegal use of for addiction to a controlled substance as defined in the Code of Virginia, § 54.1-3401. The term “group home” shall include any other residential facility for which the [Virginia Department of Social Services and Virginia Department of Behavioral Health

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and Developmental Services are the licensing authority under state law and shall for purposes of this appendix be considered residential occupancy by a single family.

**Guest Room:** A place that is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation for the room, but in which no provision is made for cooking.

**Guyed:** A style of antenna supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other and the entire assembly is attached to a foundation connected to anchors placed in the ground or on a building.

**Health Department:** The Mecklenburg County, Virginia Health Department or its designated agent or representative.

**Height:** The vertical distance measured from grade to the highest point of a roof, if a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge for a gable, hip or gambrel roof.

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

**Historical Area:** An area featuring buildings or places in which historic events occurred or which have special public value because of notable architecture or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

**Home Occupation:** An occupation, enterprise or similar activity conducted within a dwelling unit which is the residence of the practitioner. In order to qualify as a home occupation, an activity must be clearly secondary to the principal dwelling use of the premises and must meet the criteria set forth in Article 8 of this Ordinance.

**Home Occupation, Class A:** No person other than a member of the family residing on the premises is engaged in the home occupation.

**Home Occupation, Class B:** Up to three persons other than the members of the family residing on the premises may work in an accessory structure.

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**Hospital:** An institution rendering medical, surgical, obstetrical, or convalescent care, including any institution licensed as a hospital by the State Department of Health.

**Hospital, Special Care:** An institution rendering care primarily for mental illness, mental retardation, alcoholism, or drug addiction.

**Hotel or Motel:** A building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance through a common lobby, corridor or directly from the outside. The term “hotel or motel” is intended to apply to inns, lodges and similar facilities.

**Immediate Family Member:** A person related to the primary resident of the property that shall be interpreted to include natural parents, adoptive parents, foster parents, stepmother, stepfather, wife, husband, children, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law.

**Industrialized Building Unit:** A building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection. Also referred to as “modular building unit,” or “modular home.”

**Industrial Waste:** Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

**Inoperable Vehicle:** Any motor vehicle on which valid license plates or a valid inspection decal is not displayed, or any motor vehicle which is wrecked, partially or totally dismantled or disassembled, such that it cannot be lawfully operated on a public street.

**Junk:** Any worn-out, cast-off or discarded article or material that is ready for destruction or conversion to some other use.

**Junkyard:** An outdoor area used for the depositing, keeping, storing, buying or selling of discarded materials no longer usable in their present form, including but not necessarily limited to: scrap metals, building materials, machinery, household appliances, plumbing supplies, furnishings, fixtures, or motor vehicles or parts thereof. The term “junkyard” includes an automobile graveyard as defined herein, but

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shall not include a garbage dump, tire dump, landfill as defined under the solid waste management regulations promulgated by the Virginia Waste Management Board.

**Kennel, Boarding:** A place where companion animals not owned by the proprietor are sheltered, fed and watered, for a period not exceeding 30 consecutive days, and in exchange for a fee.

**Landscaping:** The planting and maintenance of grass, shrubs, trees, and other vegetation or ornamental objects on a lot or parcel of land in concert with a land development activity. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as terraces, retaining walls, street furniture, sculpture, fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect. Additional criteria are featured in Article 14 of this Ordinance.

**Laundromat:** A building or part thereof where clothes or other household articles are washed in self-service machines and where such washed clothes and articles may also be dried or ironed and no delivery service is provided in conjunction there with.

**Library:** A building primarily used to store, and allow access to books, films, maps and other educational material.

**Limited or Light Industry:** Includes warehousing and light manufacturing uses which produce some noise, traffic congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise or odors. Examples are lumber yards, warehouses, laboratories, food preparation or processing, auto repair shops, bakeries, bottling plants, electronic plants, farm implements, contractor's storage yards, steel or metal fabrication.

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

**Loading Zone:** A space so designated on a public street whose sole purpose is for the loading and/or unloading of any make, model or type of vehicle. The time each zone is reserved for the exclusive use of loading and/or unloading may or may not be posted. Vehicles may continue to occupy said space as long as bona fide loading and/or unloading activities are underway.

**Lodge, Private:** Those associations and organizations of a fraternal or social character not operated or maintained for profit, but the terms shall not include nightclubs or other institutions operated as a business.

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**Lodging Unit:** A room or group of rooms within a building, consisting of living quarters for one or more persons, and not containing cooking facilities. A room or group of rooms within a hotel, motel or tourist home constituting living quarters for transient guests shall be considered a lodging unit even though it may contain partial or complete kitchen facilities.

**Lot:** A parcel of land occupied or to be occupied by one main building or group of main buildings and accessory buildings and uses, together with such yards and open space as required by this Ordinance.

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

**Lot Corner:** A lot abutting upon two or more streets or street rights-of-way at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.

**Lot Coverage:** That portion of a lot, which when viewed from directly above, would be covered by any building or structure.

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

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

**Lot, Interior:** Any lot other than a corner lot.

**Lot, Irregular:** An “irregular lot “is not rectangular or square in appearance.

**Lot Lines:** A line marking the boundary of a lot.

**Lot Line, Front:** The line separating the lot from the street on which it fronts.

**Lot Line, Rear:** Is the lot line opposite and most distant from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line. A side lot line separating a lot from the street shall be called a side street lot line. A side lot line separating a lot from another lot shall be called a side lot line.

**Lot of Record:** A lot which is part of a subdivision recorded in the Clerk’s office of the Mecklenburg County, Virginia Circuit Court, or a lot whose existence, location and dimensions have been legally recorded.

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**Lot, Width of:** The main horizontal distance between the side lot lines.

**Main (Principal) Use:** The primary purpose for which land or a building is used.

**Manufactured Home:** A structure, also called a mobile home, subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation when connected to the required utility; and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Industrialized buildings, as defined by the Uniform Statewide Building Code, are not considered to be manufactured homes. Rather they are referred to as modular homes.

**Manufacturing:** Operations required in the mechanical, biological, or chemical transformation of materials or substances into products, including the assembling of component parts; the manufacturing of a product; and the blending of materials, such as lubricating oils, plastics, resins or liquors. Manufacturing covers all mechanical, biological, or chemical transformations, whether the new product is finished or semi-finished as raw materials in some other process.

**Marina:** A facility for the storing, servicing, fueling, birthing and securing of boats and which may include eating, sleeping and retail facilities for owners, crews and guests.

**Master Deed:** A legal instrument under which title to real estate is conveyed and by which a condominium is created and established.

**Metes and Bounds:** A method of describing the boundaries of land by directions (bounds) and distances (metes) from a known point of reference.

**Micro-Brewery, Micro-Distillery, Micro-Winery and/or Micro-Cidery:** A facility for the production and packaging of alcoholic beverages for distribution, retail or wholesale, on- or off-premises and which meets all Virginia Alcoholic Beverage Control laws and regulations. The facility may include other uses such as retail sales, tasting rooms and restaurants.

**Mixed Use Development:** The development of a tract of land, building or structure with a variety of complementary and integrated uses, such as but not limited to, residential, office, manufacturing, retail, public and recreation in a compact form.

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**Mixed Use Zoning:** Regulations that permit a combination of different uses within a single development or zone either by-right or through the granting of a special use permit.

**Mobile Home:** A residential dwelling designed to be a permanent residence and built prior to the enactment of the Federal Manufactured Home Construction and Safety Standards in 1976. A mobile home is built on a permanent chassis. Mobile homes are not permitted in the Town of Clarksville.

**Modular Home:** A sectional, prefabricated house that consists of multiple sections called modules. Modular is a method of construction wherein the modules are constructed at an off-site facility, delivered to the intended site of use and then assembled on the building site. Modular homes, also called prefabricated homes or precision built homes, are built to the same or higher building standards as on-site stick-built homes because they must satisfy local and state building codes. Manufactured homes, which do not have a running gear or wheels, are governed by a federal building code.

**Monopole:** A style of free-standing antenna composed of a single staff that is attached to a foundation. This type of structure is designed to support itself without the use of guy wires.

**Monopole Antenna Structure:** A self-supporting, pole-type structure with no guy wire support, tapering from base to top, and so designed to support fixtures that hold one or more antennas and related equipment for wireless telecommunications transmission.

**Motel:** An establishment, also known as a hotel, providing sleeping accommodations for transients.

**Neighborhood Business Area:** A commercial area providing convenience goods and services for residents of the surrounding area within a half mile radius. The major characteristic of the neighborhood business area is its scale in that it does not contain large stores or uses designed to serve several neighborhoods.

**Neighborhood Plan:** A master plan or specific design plan for a particular neighborhood, district or sub-area portion of the larger community. The resulting plan provides recommended standards and guidelines for future land-use and development.

**Net Acreage:** The area of the lot excluding those features or areas that the zoning ordinance excludes from the calculations.

**Non-Conforming Building:** A building or structure having one or more non-conforming features.

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**Nonconforming Feature:** A feature of a use, as distinguished from the use itself, or a feature of a building, which feature was lawfully existing at the effective date of this Ordinance or subsequent amendment thereto, and does not conform with the requirements established by this Ordinance or an amendment thereto. Features of uses or buildings shall be construed to include density, lot area, lot dimensions, yards, open spaces, height, bulk, number of occupants, screening, landscaping, lighting, and off-street street parking requirements. A building having any such nonconforming feature may be referred to as a nonconforming building.

**Non-Conforming Lot:** A lot of record which was lawfully existing at the effective date of this ordinance or subsequent amendment thereto, which does not meet the lot area, lot width or other dimensional requirements of this ordinance or amendments thereto.

**Nonconforming Use:** A principal or accessory use of land or of a building or structure, which use was lawfully existing at the effective date of this Ordinance or subsequent amendment thereto and is not a permitted use under the provisions of this Ordinance or amendment thereto. A legal nonconforming use exists when it meets two requirements: 1) it must have existed before the prohibitory regulation was enacted; and 2) the use must have been lawful when the change was created. Thus, use that was in violation of the zoning ordinance when the ordinance was amended does not gain status as a pre-existing and lawful nonconforming use upon adoption of the amendment or revised zoning ordinance. It must have been a fully conforming use at the time of the amendment.

**Nuisance:** A condition or situation that results in an interference with the enjoyment and use of property.

**Nursing Home:** Any facility or identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and help-related services for the treatment and inpatient care of two or more unrelated individuals, and which is licensed by the Commonwealth, including facilities known by varying nomenclature or designation such as “convalescent homes,” “skilled care facilities,” “intermediate-care facilities,” “extended-care facilities,” and “infirmaries.”

**Occupancy:** The period during which one owns, rents, uses or occupies a certain dwelling or land.

**Occupant:** A person who, on a regular basis, spends nights at a dwelling or land. A person is considered an occupant regardless of whether they spend the majority of their nights at such dwelling or land, if the

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times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupied if their clothes or other daily living supplies are maintained at such dwelling or land.

**Office:** Any room or group of rooms used for conducting the affairs of a business, profession, service, or industry, and generally furnished with desk, tables, files and communication equipment.

**Office, Home:** A home occupation in which part of a dwelling unit is used as the office.

**Office Building:** A building used primarily for conducting the affairs of the business, profession, service, industry or government, or like activity. The building may include ancillary services for office workers, such as a coffee shop, restaurant, business supplies and child-care facilities.

**Official Map:** A map showing existing streets, roads and related public improvements with setback lines laid out, adopted and established by law. The official map may also show recorded and approved subdivision plats.

**Official Zoning Map:** The map of all zoning districts, including any overlay and planned unit development districts, that is on file and is maintained by the Clarksville Zoning Administrator.

**Off-Site:** Any premises not located within the area of the property subject to development approval, whether or not in the common ownership of the applicant.

**Off-Site Parking:** Parking provided for a specific use but located on a site other than the one on which the specific use is located.

**Off-Street Loading:** Designated areas located adjacent to or very near buildings, where trucks may load and unload cargo.

**Open Space:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designed or reserved for public or private use or enjoyment, or for the use and enjoyment of owner and occupants of land adjoining or neighboring such open space. This area of land is to be unoccupied by habitable buildings, streets, or parking lots.

**Open Space, Common:** Land within or related to a development, not individually owned or dedicated for public use, which is designed an intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

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**Ordinance:** A law or regulation adopted by the Clarksville Town Council such as the Clarksville Zoning Ordinance.

**Outdoor Storage:** The keeping of goods, materials, products or merchandise outside of a completely enclosed building on the same lot for more than 24 hours.

**Overlay Zoning District:** A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements in addition to those applicable in the underlying base zoning district.

**Owner:** An individual, firm, association, syndicate, partnership, or corporation having legal title to or sufficient proprietary interest in seeking to develop land under the definition of same ownership.

**Park:** A tract of land designated and used by the public for active and/or passive recreation.

**Parking Lot:** An off-Street (i.e., not on a public street or alley), ground level area paved in accordance with Town of Clarksville parking lot standards, for the short- or long-term storage of motor vehicles.

**Parking Lot or Structure, Commercial (Auto):** An area or structure devoted to the parking or storage of automobiles for a fee.

**Parking Space:** An off-street (i.e., not on a public street or alley) area, paved in accordance with Town of Clarksville parking lot standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with a public street.

**Patio Home (Zero-Lot-Line Dwelling):** A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to 0 feet in order to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line.

**Patio:** Is an uncovered courtyard composed of a paved surface such as concrete, tile, or brick which lies directly on the ground.

**Party Wall:** A separating barrier common to two or more adjacent dwellings consisting of a masonry wall. Projection above the roofline may be eliminated.

**Performance Guarantee:** Any security that may be accepted by a municipality to ensure that improvements required as part of an application for development will be satisfactorily completed.

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**Permit:** Is any written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

**Permitted Use:** Means any allowable use in a zoning district.

**Personal Service Business:** An establishment or place of business providing a service directly to persons involving the repair, alteration, maintenance, cleaning or customizing of personal property worn by or carried on a person, and including, health spas, fitness centers, shoe repair shops, tailor and dressmaking shops, travel agencies, clothing rental stores, watch and jewelry repair shops, photographic studios, studios for music, dance or martial arts instruction, tattoo parlors, hobby and craft instruction, and similar uses.

**Place of Worship/Church/Synagogue:** Structure or location where services or rites are held showing reference for a deity.

**Planned Unit Development:** A development constructed on a track of minimum size under single ownership planned and developed as an integral unit and consisting of a combination of residential and nonresidential uses on the land.

**Planned Development, Commercial (PCD):** An area of at least 10 contiguous acres in size to be planned, developed, operated, and maintained as a single entity and containing one or more structures with appurtenant common areas to accommodate office, retail, and commercial uses, and other uses incidental to the predominate commercial use.

**Planned Development, Industrial (PID):** An area of at least 10 contiguous acres in size to be planned, developed, operated, and maintained as a single entity and containing one or more structures with appurtenant common areas to accommodate industrial, technology, manufacturing, warehousing, office, retail, and commercial uses, and other uses incidental to the predominant industrial and/or technology-oriented use.

**Planned-Unit Residential Development (PURD):** An area of at least five contiguous acres in size to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters, which may include appropriate commercial, public, or quasi-public uses primarily for the benefit of the residential development.

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**Planning Commission:** An advisory body appointed by the Clarksville Town Council charged with the preparation of a comprehensive plan for the Town of Clarksville, recommending specific tools of plan implementation, and the review of development proposals.

**Plat:** A map representing a tract of land showing the boundaries and location of individual lots, easements and streets.

**Police Power:** The inherent, delegated or authorized legislative power to provide for the public health, safety and general welfare through regulatory means.

**Preliminary Plat:** A map or plan, with supporting documentation, showing the proposed layout of the subdivision or site plan that is submitted to local staff and the planning commission for approval.

**Principal Use:** The primary or predominant use of any lot or parcel.

**Process, Development Review:** The act of reviewing and providing a decision on an application. This includes providing notice to the applicant and all interested parties, conducting a hearing, making recommendations, and rendering a decision.

**Processing and Warehousing:** The storage of materials in a warehouse and where such materials may be combined, broken down, or aggregated for shipment or storage and where the original material is not chemically or physically changed.

**Public Access Easement:** Any area through which ingress and egress is not restricted or limited to any individual occupant of the development or guest.

**Public Building:** Any building used exclusively for public purposes by any department or branch of government and buildings of an institutional nature which serve the public need such as houses of worship, hospitals, schools, libraries, museums, post offices, police, rescue and fire stations, and public utilities and services.

**Public Domain:** Land owned by the government.

**Public Notice:** The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place and nature of the public hearing and where the application and pertinent documents may be inspected.

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**Public Services:** The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems reasonably necessary for the furnishing of adequate town-wide, community or neighborhood service by such public utilities or municipal or other governmental agencies for the public health or safety or general welfare, but not including buildings.

**Public Utilities:** Public service structures such as power plants or substations, water treatment plants, sewage treatment plants, or such similar operations publicly or privately owned furnishing electricity, gas, water, sewage disposal and treatment, rail transport, communications, or related services to the general public.

**Public Utility Easement:** A right granted by an owner of property to a public utility or governmental agency to erect and maintain poles, wires, pipes or conduits on, across, or under the land, for telephone, electric power, gas, water, sewers, or other utility services.

**Public Utility Facilities:** Buildings and structures, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters, receivers and valves relating to the furnishing of electric, gas, telephone, water, sewer and related public utility services to the public.

**Public Right-of-Way:** A strip of land acquired by reservation, dedication, prescription, or condemnation, and used or intended to be used, wholly or in part, as a public street, alley, walkway, drain or public utility line.

**Rear Yard:** An area extending the full width of a lot between the rear lot line and the nearest principal structure.

**Reasonable Use Doctrine:** A common law principle that prohibits the use of one's property in such a way as to deprive others of the lawful enjoyment of their property.

**Recreation Facility:** A place designed and equipped for the conduct of sports and leisure-time activities. Some recreation facilities may be operated as a business and open to the public for a fee, while others may be operated by a private organization and only open to members and their guests. A public recreation facility will be open to the general public.

**Recreational Vehicle:** A vehicle built on a single chassis intended to be towed or self-propelled or attached to the chassis of another vehicle, and designed or used for recreational, travel or sporting

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purposes or for temporary living quarters in conjunction with such purposes. “Recreational vehicle” shall include, but shall not be limited to, travel trailers, pick up campers, camping trailers, motorhomes, and converted trucks and buses.

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

**Rental Unit:** A dwelling unit intended for rental to transients on a day-to-day or week-to-week basis, but not intended for use or used as a permanent dwelling.

**Required Yard/Open Space:** The portion of a lot required by the specific district regulation to be open from the ground to the sky and may contain only explicitly listed obstructions.

**Reservation:** The designation of a portion of a property for a proposed right-of-way without dedication of the right-of-way to the agency providing the improvement.

**Reservoir:** A pond, lake or basin, natural or man-made, used for the storage, regulation and control of water.

**Residential Density:** The number of dwelling units per acre of residential land.

**Residential Structure:** A single-family home, an apartment house, a townhouse, a condominium, or any other type of dwelling unit.

**Restaurant:** Any building in which, for compensation, food or beverages are prepared and dispensed for consumption on or off the premises.

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

**Restrictive Covenant:** A restriction on the use of land usually set forth in the deed.

**Retail Food, Mobile:** A vehicle, usually a van, truck, towed trailer, or wheeled cart, which is designed and equipped for preparing, serving and selling food and operated at temporary locations. This definition shall apply to food trucks, food trailers and food carts and shall not apply to ice cream trucks.

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**Retail Stores and Shops:** Buildings for the display and sale of merchandise at retail to the general public for personal and household consumption and rendering services incidental to the sale of such goods.

**Retirement Community:** Any age-restricted development, which may be in any housing form, including detached and attached dwelling units, and residences. Assisted living and nursing homes are excluded from this definition.

**Rezone:** To change the zoning classification of particular lots or parcels of land.

**Rezoning Application:** A form to be completed requesting the re-designation of a lot, or parcel from one zoning district/classification to another.

**Right-of-Way:** Property that is publicly owned or upon which a governmental entity has an express or implied property interest (e.g., fee title or easement) held for a public purpose.

**Run with the Land:** A restriction, condition or covenant to the use of land that is binding on the present and all future owners of the property in question.

**Satellite Dish/Antenna:** A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, cone or horn; and is designed to receive electromagnetic radio waves.

**Screening:** A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms or planted vegetation.

**Self-Storage Facility:** A building or group of buildings containing separate, individual and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**Setback:** The distance between a building and the street line nearest to the building. This establishes the minimum required yard and governs the placement of structures and uses on the lot.

**Setback Line:** The distance from which a building or structure is separated from a designated reference point, such as a property line.

**Shopping Center:** A development consisting of three or more commercial establishments planned, developed, owned and managed as a unit related in location, size and type of shops to the area that the unit serves and providing site parking in relation to the types and sizes of shops.

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**Shopping Mall:** A shopping center with stores on both sides of an enclosed or open pedestrian walkway.

**Sidewalk:** A paved or surface area, paralleling a roadway and the adjacent property lines, which is designed for, or is ordinarily used for pedestrian travel

**Sidewalk Café:** A restaurant with tables on the sidewalk in front or on the side of the premises that features movable tables, chairs and appurtenances.

**Sidewalk Display:** The outdoor display of merchandise for sale by a business use.

**Sign:** Any object, fixture, placard or structure, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Standards and protocol to be followed in Clarksville are featured in Article 11 of this Ordinance.

**Sign Area:** Means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the support structures.

**Sign, Business:** Is a sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

**Sign, Directional:** Means signs limited to directional messages, principally for pedestrians or vehicular traffic, such as “one way,” “entrance,” and “exit.”

**Sign, Political:** Means a temporary sign announcing or supporting political candidates or issues in connection with a national, state or local election.

**Sign, Real Estate:** Means a sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.

**Site Plan:** A scaled drawing for a project that shows the proposed development of the lots, parcels or tracks, including elevations, sections, architectural, landscape, engineering, and environmental delineations as is required for development approval of the project.

**Site Plan Review:** The review of a site plan for any public or private project by the town staff, the town planning commission and, if required, the town council.

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**Solar Collector:** A device or combination of devices, structures, or part of a device or structure, that transforms direct solar energy into thermal, chemical, or electrical energy.

**Solar Energy System:** A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

**Solar Sky Space:** Space between a solar energy collector and the sun that must be free of obstructions that shade the collector to an extent that precludes cost-effective operation.

**Solar Sky Space Easement:** A right, expressed as an easement, covenant, condition, or other property interest, in any deed or other instrument executed by or on behalf of any landowner, that protects the solar sky space of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy.

**Special Use Permit:** A permit issued by the Town of Clarksville that must be acquired before selected uses can be implemented in the Town of Clarksville.

**Story:** That part of a building between the surface of a floor and the ceiling above it.

**Street:** A right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and includes space for utilities, sidewalks, pedestrian walkways and drainage. The word “street” shall also include the words “road” and “highway.”

**Street Beautification:** Improving the appearance of a street in accordance with a plan, including, but not limited to, the installation of landscaping, benches, street lighting, sidewalks, wastebaskets, and signage.

**Street Furniture:** Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, trash receptacles, planters, bollards and fountains, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.

**Street Line:** The property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the edge of the sidewalk farthest from the traveled street shall be considered as the street line.

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**Streetscape:** A design term referring to all the elements that constitute the physical make up of a street and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping (including trees and other plantings), awnings and marquees, signs, and lighting.

**Subdivision:** The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

**Subdivision Agent:** An individual authorized and empowered to sign on behalf of the Town of Clarksville to approve subdivision plats for filing in the Circuit Court of Mecklenburg County or to deny subdivision applications in accordance with Clarksville’s Subdivision Ordinance.

**Subdivision, Major:** A subdivision will be considered major if it consists of six or more lots on any subdivision of land requiring the construction of a new street or the extension of an existing street.

**Subdivision, Minor:** A subdivision shall be considered minor if it consists of no more than five lots and it does not require the construction of a new street or the extension of an existing street.

**Surveyor:** A land surveyor currently licensed by the Commonwealth of Virginia.

**Swimming Pool:** Any portable pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or other type of pool, located and designed so as not to create a hazard to be used for swimming or wading.

**Telecommunication Tower:** A structure designed and constructed to support one or more antennas used by telecommunication facilities and including all appurtenant devices attached to it.

**Theater:** The building or part of a building used to show motion pictures or for drama, dance, musical or other live performances.

**Tourism:** The attracting and serving of people visiting an area/community for recreation and vacations.

**Tower:** A structure higher than its diameter, that may be fully walled in or of skeleton framework and is high relative to its surroundings

**Townhouse:** A single-family dwelling unit in a series of more than one and up to twelve units attached to the adjacent dwelling or dwellings by party walls with lots, utilities and other improvements being designated to permit individual and separate ownership of such lots and dwelling units.

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**Transient Lodgings:** A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge.

**Triplex:** A multi-family dwelling or series of attached single-family dwellings containing three units.

**Tree:** A perennial woody plant with single or multiple trunks, with few if any branches on its lower part, and which at maturity will feature a minimum six-inch caliper.

**Trip Generation:** The total number of vehicle trips produced by a specific land use activity.

**Trailer:** A wheeled vehicle designed to be pulled by a motorized vehicle on either improved or unimproved surfaces.

**Travel Trailer/Recreational Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary occupancy for travel, recreation, or vacation; being of any length, provided its overall length does not exceed 40 feet. This definition includes those vehicles commonly known as “motor homes.”

**Truck Or Commercial Vehicle:** Any vehicle that exceeds an empty weight of 5000 pounds or is equipped with or designed to have more than two rear wheels, and is designed or regularly used for carrying freight, merchandise, or more than 10 passengers, including buses. Empty weight shall be that which is identified as such for vehicle title or registration purposes by the Virginia Department of Motor Vehicles. These provisions shall not apply to pick up body type truck

**Use:** The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

**Use, Accessory:** A subordinate use, customarily incidental and located upon the same lot occupied by the main use. No accessory use shall be located in any required front yard.

**Use, Public:** Any use that is under control of a unit of general purpose government or governmental agency.

**Use, Recreation:** Any use of land or water and facilities provided for the enjoyment of the general public.

**Utility Facility:** Any structure involved in the transport of electricity, water, sewage, gas or telephone.

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**Variance:** A reasonable deviation from those provisions regulating the shape, size or area of a lot or parcel of land or the size, height, area, bulk or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such a need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a special use permit.

**Veterinary Hospital and Clinic:** A place where animals are given medical care administered by one or more professionals licensed by the state board of veterinary medicine, and where boarding of animals is limited to short-term care incidental to such hospital care.

**Wall:** The vertical exterior surface of a building and one of the vertical interior surfaces that divide a building's space into rooms.

**Warehouse:** A building used primarily for the storage of goods and materials.

**Warehousing and Distribution:** The storage of materials in a warehouse and where such materials may be combined, broken down or aggregated for transshipment or storage purposes where the original is not chemically or physically changed.

**Watercourse:** A natural or man-made channel through which storm water flows.

**Watercraft:** A boat, craft or other water vehicle.

**Waterfront property:** A property that has frontage on a water body.

**Watershed:** The area drained by a given stream, river, watercourse or other body of water.

**Waters of the United States:** Navigable waters including title waters, and their tributaries, including lakes, rivers, and streams, and wetlands adjacent to these waters.

**Waterway line:** A line marking the division between land and a waterway as established by the Clarksville Zoning Administrator.

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

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**Wholesale Sales:** An operation that sells chiefly to retailers, other merchants, or industrial, institutional, and commercial uses for resale or business use.

**Winery/Cidery:** A site devoted to the production, warehousing, and distribution of alcoholic beverages obtained by the fermentation of the natural sugar content of fruits or other agricultural products.

**Wireless Communications:** Any personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio. Does not include signals transmitted to or from a satellite earth station.

**Wireless Communications Facility:** Any staffed or unstaffed facility used for the transmission and/or reception of wireless communications, usually consisting of an antenna or group of antennas, transmission lines, ancillary appurtenances, and equipment enclosures, and may include an antenna supporting structure. The following developments will be considered as a wireless communications facility: antenna supporting structures (including replacements and broadcast); collocated antennas; roof-mounted structures; surface-mounted antennas; stealth wireless communications facilities; and amateur radio facilities.

**Wireless Communications System:** Antenna support structures for mobile and land-based telecommunication facilities. Whip antennas, panel antennas, microwave dishes and receive-only satellite dishes, cell enhancers, and related equipment for wireless transmission from a sender to one or more receivers, such as for mobile cellular telephones, mobile radio systems facilities, and commercial radio service. This facility is inclusive of the placement of the above-referenced equipment on a monopole tower, a steel lattice tower, and any self-supporting communications tower that does not utilize guy-wire support. This facility shall also allow as one of its components an unmanned equipment shelter.

**Yard:** An area on a lot between the lot line and the nearest principal structure, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Ordinance.

**Yard, Front:** A yard extending the full width of a lot and being adjacent and parallel to the street frontage of the lot.

**Yard, Rear:** A yard adjacent and parallel to the rear lot line of a lot and extending the full width of the lot.

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**Yard, Side:** A yard adjacent and parallel to the side lot line of a lot and extended from the required front yard to the required rear yard. On irregular shaped lots, any yard adjacent to a lot line to which the yard definitions of this article do not clearly apply shall be considered a side yard.

**Zoning:** The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

**Zoning Ordinance:** As used herein, the term refers to this issue of the Clarksville Zoning Ordinance together with any additions and/or deletions thereto that may take place subsequent to the adoption of this Ordinance.

**Zoning Map:** The map or maps that are a part of the Zoning Ordinance and delineate the boundaries of the zoning districts.

**Zoning Officer:** A person or persons assigned to administer the Zoning Ordinance and issue zoning permits.

**Zero Lot Line:** The location of a building on a lot in such a manner that one or more of the building's sides rest directly on or immediately adjacent to the lot line. There are generally no windows on the sides of the homes closest to the property line. The zero lot line method of development has been utilized for attached homes commonly known as duplexes, as well as cottage homes.