

## CHAPTER 11 ZONING

### ARTICLE I. LEGAL BASIS AND GENERAL ADMINISTRATION

**§11-1. Title.** This Article of the Code of the Town of Dillwyn, shall be known as the “Zoning Ordinance of the Town of Dillwyn,” and cited throughout as the “Zoning Ordinance”.

**§11-2. Overall Purpose and Intent.** This Zoning Ordinance shall apply to the incorporated territory within the Town of Dillwyn. It is the intent of this Ordinance that the extent of its applicability shall be automatically changed in accordance with the provisions of the laws of the Commonwealth of Virginia which may affect the applicability of the various portions of this Ordinance.

**§11-3. Authority and Enactment.** For the purpose of promoting the health, safety, and general welfare of the public and of further accomplishing the objectives of Title 15.2 Code of Virginia, as amended, the following shall be adopted as the Zoning Ordinance of the Town of Dillwyn, Virginia incorporating and superseding the previous Town of Dillwyn Zoning as amended.

This Ordinance was adopted on December 11, 2018 by the Town Council of Dillwyn, Virginia, and became effective immediately upon passage.

**§11-4. Purposes of Zoning Regulation:** (Found primarily in Article II) For the purpose of promoting the health, safety and general welfare of the public and of further accomplishing the objectives of Section 15.1-427 of the Code of Virginia, this zoning ordinance is hereby adopted by the Town Council of the Town of Dillwyn. This ordinance has been designed;

1. To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
2. To reduce or prevent congestion in the public streets;
3. To facilitate the creation of a convenient, attractive and harmonious community;
4. To expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
5. To protect against destruction of or encroachment upon historic areas;
6. To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers;

7. To encourage economic development activities that provide desirable employment and enlarge the tax base.
8. To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
9. To protect approach slopes and other safety areas of licensed airports;
10. To promote affordable housing; and;
11. To protect the quality of surface and groundwater resources.

**§11-5. Severability.** Should any article, section, subsection, or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**§11-6. Regulations to be minimum requirements:** The regulations established herein within each district shall be minimum regulations and shall be uniformly applied to each class of structure and land, except as hereinafter provided.

**§11-7. Conflicting Ordinances.** If another State or Federal statute or Town Ordinance or regulation contains conflicting provisions with this Ordinance, the more restrictive of the provisions, ordinances, or regulations shall govern.

**§11-8. Nonexclusionary intent.** It is not the intent of this Ordinance to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within the Town of Dillwyn; nor is it the intent of this chapter to use public powers in any way to promote the separation within the Town of Dillwyn of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the lawful purposes outlined in the various Articles herein.

**§11-9. Relation to Other Laws and Contracts.** The requirements of this ordinance are separate from, but supplementary to, all other applicable requirements of the Town Code, state and federal law, private agreements and covenants, private easements, proffers and conditions of zoning, and other applicable ordinances and regulations.

**§11-10. Rules of Construction.** The following rules of constructions shall apply to the regulations of this Ordinance;

1. Words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number, unless the obvious construction of the wording indicates otherwise.

2. Words and terms not defined within this Ordinance shall be interpreted in accord with their normal dictionary meaning and customary usage unless otherwise defined in §11-11.
3. The word “approve” shall also include the term “or disapprove” when used in connection with an action to be taken by Council, Commission, Board or officer of the Town in the administration and maintenance of this Ordinance.
4. The word “building” or “structure” includes any part thereof, and the word “building” includes the word “structure”.
5. The terms “main”, primary and “principal” are used herein as synonymous.
6. The word “shall” is mandatory; “may” is permissive.
7. The terms “land use” and “use of land” shall be deemed also to include “building use” and “use of building”.
8. Any reference to any specific gender (male or female) shall, by definition, include the corresponding opposite gender (for example, Him/Her, him /her, etc.).
9. The word “used” shall be deemed also to include “erected”, “built”, “reconstructed”, “altered”, “placed”, or “moved”.
10. All references to days shall be to “calendar days.”
11. The word “State” means the Commonwealth of Virginia.
12. The word “Town” means the Town of Dillwyn, Virginia.
13. The term “Virginia Code” means the Code of Virginia 1950, as amended through the most recent session of the General Assembly.
14. The title “Zoning Ordinance” or “Ordinance” refers to Chapter 11 of the Town of Dillwyn Code.

**§11-11. Specific definitions.** As used in this chapter, the following terms shall have the meanings indicated:

*ABANDONED VEHICLES, INOPERATIVE MOTOR VEHICLE:* Any vehicle which is not covered from public view is deemed inoperable by the fact that any of the following requirements are not met: valid license, inspection sticker, valid Town tag, or can operate under its own power. Additionally, any vehicle that is not in operating condition for 60 days, or longer, or is partially or totally dismantled shall be considered an inoperative motor vehicle.

*ABATTOIR:* A commercial slaughterhouse.

*ACCESSORY USE OR BUILDING:* See "use, accessory" or "building, accessory."

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

*ADMINISTRATOR, THE:* The official charged with the enforcement of the Zoning Ordinance. He or she may be an appointed or elected official who is by formal resolution designated to the position by the Town Council. He may serve with or without compensation as determined by the Town Council.

*AGRICULTURE:* The tilling of the soil, the raising of crops, horticulture, and forestry, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies or similar uses, but not including an abattoir.

*ALLEY:* A platted service-way providing a secondary means of access to abutting properties.

*ALTERATION:* Any change in the total floor area, adaptability, or external appearance of an existing structure.

*ANIMAL HOSPITAL OR CLINIC:* An establishment where treatment is received and no activity is conducted outside the main building. Kennels are not included.

*ANIMAL OR POULTRY HUSBANDRY:* Any keeping, boarding, breeding, or raising of any number of horses, goats, sheep, poultry, or other customary farm animals for any purpose.

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

*APARTMENT DEVELOPMENT:* A development containing one or more multifamily dwellings containing apartments, with accessory parking, open space, recreation and management facilities, and any other facilities for common use.

*AUTOMOBILE GRAVEYARD:* Any lot or place which is exposed to the weather upon which more than three motor vehicles of any kind, not displaying current Commonwealth of Virginia inspection certification, are placed, located, or found.

*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 service automobiles, but excluding

painting, major repair, sale of autos and trailers, and mechanical washing machines.

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

*BED-AND-BREAKFAST/INN:* A building or part thereof other than a hotel, motel, lodging house, or restaurant, where meals and/or lodging are provided for compensation for three to 10 unrelated persons, where no cooking or dining facilities are provided in individual rooms, and in which the length of stay is usually less than one week in duration.

*BOARD:* The Board of Zoning Appeals as established under this chapter.

*BOARDINGHOUSE (ROOMING HOUSE):* A building or part thereof other than a hotel, motel, bed-and-breakfast, or restaurant, where meals and/or lodging are provided for compensation for three to 10 unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one week in duration. A "lodging house" is also included in this definition.

*BUFFER STRIP, PLANTED:* A strip of land running adjacent to and along a property line, which shall be planted with evergreen shrubbery at least seven feet high from the ground.

*BUILDING:* Any structure designed or intended for support, enclosure, shelter, or protection of persons, animals, or property.

*BUILDING, ACCESSORY:* A subordinate building located on the same lot as the main building, the use of which is incidental and accessory to that of the main building or use.

*BUILDING, ACCESSORY DWELLING:* An accessory building designed to be used as an independent dwelling.

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

*BUILDING, FRONT LINE 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, 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:* The building official appointed by Buckingham County to administer and enforce the provisions of the Building Code, or their designated representative or agent.

*BUILDING, MAIN:* A building in which is conducted the main or principal use of the lot on which said building is situated.

*CELLAR:* A story having more than 1/2 of its height below grade.

*CENTER LINE OF STREETS:* A line surveyed and monumented as such, or if a center line has not been surveyed and monumented, it shall be that line running midway between the outside lines of the right-of-way for the street.

*CHILD-CARE CENTER OR NURSERY:* Facilities or programs for the primarily for the noneducational care of six or more children away from their own home for any part of a twenty-four-hour day, for compensation or otherwise.

*CHURCH or HOUSE OF WORSHIP:* A building where persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to conduct public worship.

*CLERK:* The Clerk of the Buckingham County Circuit Court having jurisdiction in the Town of Dillwyn.

*COMMISSION, THE:* The Town of Dillwyn Planning Commission.

*COMMON ELEMENTS:* All portions of a cooperative other than the units.

*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 an organization consisting of all individual owners.

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

*COOPERATIVE:* Real estate owned or leased by a cooperative organization.

*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.

*COTTAGE INDUSTRY:* A small, nonpolluting business or industry employing fewer than five workers.

*COVERAGE:* That percentage of the plot or lot area covered by the building.

*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.

*DAIRY:* A commercial establishment for the manufacture and sale of dairy products.

*DAIRY FARM:* A livestock establishment where the production of milk is its primary purpose.

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

*DEVELOPMENT:* A tract of land developed or to be developed as a unit under single ownership or unified control which is to contain three or more residential

dwelling units. The term "development" shall not be construed to include any property that will be principally devoted to agricultural production.

*DISCHARGE:* Dispose, deposit, spill, pour, inject, dump, leak or place by any means; or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

*DISTRICT:* A section of the Town of Dillwyn in which the zoning regulations are uniform as referred to in § 15.2-2280, Code of Virginia, 1950, as amended.

*DRIVEWAY:* Any private way provided for the principal purpose of providing vehicular access to an off-street parking area or service in the case of a drive-in-type use.

*DUMP HEAP (TRASH PILE):* Any area lying within 1,000 feet of a state highway, a residence, or a food-handling establishment where trash, garbage, or other waste or scrap material is dumped or deposited.

*DWELLING:* Any building or portion thereof which is designed for or used for residential purposes, except hotels, boardinghouses, 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 in units which are movable, but not designed for regular transportation on highways, and which are designed to be constructed on and supported by a permanent foundation and not by a chassis permanently attached to the structure and which meet the requirements of the Virginia Uniform Statewide Building Code. [Added 3-9-2004]

*DWELLING, MULTIFAMILY:* A building designed for, or occupied exclusively by, two or more families living independently of each other; the term includes condominiums of similar physical appearance, character, and structure.

*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:* Two 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 be at least 600 square feet in size, or meet the minimum dwelling unit square footage for a specific zoning district.



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

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

*FAMILY*: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boardinghouse, lodging house, or hotel, as herein defined.

*FAMILY DAY-CARE HOME*: Any private family home providing care, protection, and guidance to not more than 10 children during only part of the day. Children related by blood or marriage to the person who maintains the home shall not be counted.

*FAMILY, IMMEDIATE MEMBER OF*: Any person who is a natural or legally defined offspring, spouse, sibling, or parent of the owner.

*FARM ANIMALS*: Animals normally found on a farm that are utilized as food or for food products or for the enjoyment of their owners or the public. These shall include such animals as cattle, swine, poultry (chickens, domesticated ducks, turkeys, guinea hens, etc.) and/or horses and may include other indigenous and non-indigenous domesticated not explicitly listed in this definition.

*FEEDLOT*: Any parcel of land upon which the mechanical or hand feeding of five or more livestock animals per acre is performed for a period exceeding 30 days.

*FLOOD*: A general temporary inundation of land not normally covered by water that is used or usable by man. Concurrent mudslides shall be deemed to be included in this definition.

*FLOOD HAZARD AREA*: The maximum area of the floodplain which is likely to be flooded once every 100 years or for which mud slides can be reasonably anticipated. These areas are defined by the Department of Housing and Urban Development's Flood Hazard Mapping or Rate Study Mapping, as appropriate.

*FLOODPLAIN*: An area, usually a relatively flat or low land area adjoining a river, stream, or watercourse, which has been in the past, or can reasonably expected in the future to be, covered temporarily by a flood.

*FLOODPROOFING*: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding required for new

construction in the floodplain by the Virginia Uniform Statewide Building Code, Section 135.6.

*FLOODWAY:* The channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the one-hundred-year flood can be carried without substantial increases in flood heights.

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

*FRONTAGE:* The minimum width of a lot measured along a straight line at which no point shall be closer than the minimum setback.

*GARAGE, PRIVATE:* An accessory building designed or 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.

*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.

*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.

*GOVERNING BODY:* The Town Council of the Town of Dillwyn, Virginia.

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

*GUEST ROOM:* A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking, but which does not include rooms located in dormitories.

*HEALTH DEPARTMENT:* The Buckingham County Health Department or its designated agent or representative.

*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 containing 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.

*HOG FARM:* A farm where swine are raised commercially as a principal farm enterprise.

*HOG PEN:* An enclosure for concentrated confinement or housing of swine.

*HOME FOR ADULTS:* Any facility, other than a nursing home, providing part-time or full-time care to three or more aged, infirm, or disabled adults. Persons related by blood or marriage to the operator of the facility shall not be counted.

*HOME OCCUPATION:* An accessory non-residential use in a residential district that is carried on by the owner of a dwelling or an occupant that has written approval of the owner of the property if the applicant is a tenant. No one is employed other than immediate members of the family residing on the premises with the exception that up to two employees other than immediate members of the family residing on the premises. In connection with which there is no display, the activities are conducted within the dwelling or accessory buildings and shall not equal in size more than fifty (50) percent of the total floor area of the primary residence. The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, radioactivity, or other conditions detrimental to the character of the surrounding area, and in general, shall give no evidence of the nonresidential character of use other than through the use of a sign meeting requirements for professional name plates, as provided for in § 11-44C(3). There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, nonilluminated and mounted flat against the wall of the residence. The building in which the home occupation is to be located must be an existing structure ready for occupancy and not a proposed structure. Examples of potential home occupations are child care babysitting of not more than five children, offices for practice of medical, legal, accounting, engineering, real estate, and surveying professions, beauty shops, baking, catering, and insurance agencies.

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

*IMMEDIATE FAMILY MEMBER:* A person relating to the primary resident of the property as defined in the Code of Virginia, (i.e. son, daughter, parent, sibling, etc.)

*INDUSTRIALIZED BUILDING UNIT:* A building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specific components, as a finished building or as part of a finished building comprising two or more industrialized building units, and not designed for ready removal to or installation or erection on another site; sometimes referred to as "modular building unit," "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.

*JUNKYARD* (including an automobile wrecking yard): A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition; or for the sale of parts thereof. This term shall include "automobile graveyard." Three or more inoperable motor vehicles shall constitute an automobile graveyard.

*JURISDICTION:* The area or territory subject to the legislative control of the governing body.

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

*LANDSCAPING:* The improvement of a lot or parcel with grass, ground covers, shrubs, trees, other vegetation or ornamental objects. Landscaping may include earth forms, flower beds, ornamental objects such as trellises or fountains and other natural features.

*LAND USE PLAN:* The Comprehensive Plan of the Town of Dillwyn, as amended.

*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.

*LIVESTOCK/FARM ANIMALS:* Swine, sheep, cattle, poultry, horses, or other animals or fowl that are being produced primarily for food or food products for human consumption, or kept for sale or use.

*LIVESTOCK MARKET:* A commercial establishment wherein livestock is collected for sale, sold, or auctioned off.

*LOADING SPACE:* A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks and other carriers.

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

*LOT AREA:* The total horizontal area within the lot lines of a lot. No alley, public way, public land, or area proposed for future street purposes is 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:* The ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.

*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 a lot that is not rectangular or square.

*LOT LINES:* The lines bounding a lot as defined herein.

*LOT OF RECORD:* A lot or parcel of land the existence of which, location, and dimensions have been recorded in the office of the Clerk of the Circuit Court of Buckingham County at the time of the adoption of this chapter.

*LOT WIDTH:* See "frontage."

*MAIN USE:* The primary purpose for which land or a building is used.

*MANUFACTURE and/or MANUFACTURING:* The processing and/or converting of raw unfinished materials or products, or either of them, into articles or substances of different character, or for use for a different purpose.

*MANUFACTURED HOME:* A structure constructed to federal regulation, 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 a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

*MANUFACTURED HOME, DOUBLE-WIDE:* A manufactured home consisting of two units designed to be joined on a permanent foundation.

*MANUFACTURED HOME PARK:* Any development in which space is leased providing for three or more mobile homes intended for residential use for a period of time longer than 30 days; includes mobile home courts and camps.

*MANUFACTURED HOME, SINGLE-WIDE:* Same as a manufactured home comprised of a single unit, and not exceeding 14 feet in width.

*MANUFACTURED HOME STAND:* A plot of ground within a mobile home park designed to accommodate one mobile home.

*MANUFACTURED HOME SUBDIVISION:* Any area designated to accommodate three or more mobile homes intended for residential use on lots owned by the mobile home owner.

*MANUFACTURED HOME, SUPER SINGLE-WIDE:* Same as a mobile home/manufactured home; generally comprised of a single unit, and exceeds 14 feet in width.

*MODULAR HOME:* See "industrialized building unit."

*MOTOR HOME or CAMPER:* A unit or subunit that is or becomes self-propelled and is designed for human habitation on a short-term basis.

*MOTOR VEHICLE:* All vehicles as defined as such in the Code of Virginia, 1950, as amended.

*NONCONFORMING LOT:* An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

*NONCONFORMING STRUCTURE:* A structure existing at the time of enactment or amendment of this chapter which does not conform to the requirements of this chapter by reason of height or condition, or by reason of its impingement upon required yard areas.

*NONCONFORMING USE OF LAND:* A use of land existing at the time of the enactment of this chapter, or at the time of a zoning amendment, which does not conform with the regulations of the use district in which it is located.

*NONCONFORMING USE OF STRUCTURES:* The otherwise legal use of a building or structure that does not conform to the use regulations of the chapter for the district in which it is located, either at the effective date of the chapter or as a result of subsequent amendments to this chapter.

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

*OFF-STREET PARKING AREA:* Parking space provided for vehicular parking outside the dedicated street right-of-way.

*ONE-HUNDRED-YEAR FLOOD:* A flood that, on the average, is likely to occur once every 100 years.

*OTHER WASTES:* Decayed wood, sawdust, shavings, bark, leaves, lawn clippings, lime, garbage, refuse, ashes, offal, tar, paint, solvents, petroleum products, antifreeze and chemicals.

*OVERHANG:* Any projection, either roof, bay, window, or similar cantilevered construction, which extends beyond the foundation of a structure. No such construction shall project into any required yard more than two feet, and no such projection shall have a vertical surface the area of which is more than 25% of the total area obtained by multiplying the mean height of the structure by the length of the structure along the side in question.

*PARKING SPACE:* An area consisting of a minimum of 10 feet by 20 feet.

*PARKS, PLAYGROUNDS, AND OUTDOOR RECREATION AREAS:* Land publicly or privately owned devoted to recreational pursuits, usually an open area reserved for outdoor activities such as play, hiking, exercise, or competitive sport not requiring structures for habitation.

*PEN:* A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of 200 square feet shall not be regarded as a pen. Any enclosure containing a hog is a hog pen.

*PERSON:* Any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof.

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

*PROFESSIONAL:* When used in connection with "use" and "occupancy," a use or occupancy by persons generally engaged in those services associated with certified public accountants, architects, surveyors, professional engineers, doctors, and lawyers. The term "use" or "occupancy" does not include repair or sale of tangible personal property stored or located within the structure nor any use that should create any loud noises or noxious odors.

*PROFFER:* A voluntary offer to perform an act, and an ability and willingness to so perform, and which is dependent on and to be performed only if approval and acceptance of the profferor's primary request is granted.

*PROPERTY OWNERS ASSOCIATION:* A corporation or other legal entity or a nonprofit organization, which has as its purpose maintenance of streets and/or other common areas.

*PUBLIC SERVICE OR STORAGE BUILDINGS:* Governmental facilities necessary for the public health, safety, and welfare.



*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 TRANSMISSION SYSTEMS:* Includes water, sewer, telephones, electricity, gas lines, or related transmission facilities for public use.

*REQUIRED OPEN SPACE:* Any space required in any front, side, or rear yard.

*RESIDENTIAL USE:* Any place, building, or establishment used in whole or in part as a dwelling.

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

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

*RETAIL STORES AND SHOPS:* Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumberyards), such as the following, which will serve as illustrations: drugstore, newsstand, food store, candy shop, milk dispensary, hardware store, household appliance store, tailor shop, and beauty and barber shop.

*RIGHT-OF-WAY:* Access over or across particularly described property for a specific purpose or purposes.

*RIGHT-OF-WAY LINE:* The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

*SANITARY SEWER:* A sewage collection device consisting of pipelines or conduits, pumping stations and force mains and all other construction devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

*SAWMILL:* A mill or machine for the processing of timber into lumber.

*SCHOOL, BUSINESS OR COMMERCIAL:* A privately owned and operated educational institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit, or tuition to prepare individuals to pursue any occupation for profit in business administration, bookkeeping, accounting, data processing, stenography, clerical, secretarial, receptionist, or other office occupations.

*SCHOOL, PRIVATE:* A privately owned and operated educational institution or educational organization, maintained or conducting classes for the purpose of offering instruction of students up to and including the twelfth-grade level.

*SCHOOL, PUBLIC:* A publicly owned and operated educational institution or educational organization regulated by the Commonwealth of Virginia and maintained or conducting classes for the purpose of offering instruction of students up to and including the twelfth-grade level.

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

*SCREENING:* A barrier to vision or noise consisting of trees, bushes, shrubbery, fences, or properly landscaped mounds or berms of soil.

*SETBACK:* The minimum distance by which any building structure must be separated from the front, rear, or side lot line.

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

*SEWAGE:* The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

*SHOPPING CENTER:* A development consisting of three (3) 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.

*SIGN:* Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an

individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used as an outdoor display. A display of less than one square foot in one area is excluded from this definition.

*SIGN, ACCESSORY:* A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities sold or provided on the premises.

*SIGN AREA:* The smallest square, rectangle, triangle, circle, or combination thereof encompassing the entire advertising area, excluding architectural trim and structural supports.

*SIGN, HOME OCCUPATION:* A sign directing attention to a product, commodity, or service available on the premises; but which product, commodity, or service is clearly a secondary use of the dwelling.

*SIGN, NON-ACCESSORY OR GENERAL ADVERTISING:* A freestanding structure, the primary purpose of which is to display a sign not related to a company or product sold or manufactured on the premises of the sign.

*SIGN, OFF-PREMISES:* A sign other than an on-premises sign.

*SIGN, PORTABLE:* Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

*SIGN, PUBLIC OR SEMIPUBLIC DIRECTIONAL:* A sign that directs attention to a public or semipublic activity, such as a school, church, fraternal organization, or the like.

*SIGN, TEMPORARY:* Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other materials with or without frames intended to be displayed for a period of not more than 30 consecutive days, but not including A- or T-frame signs, nor menu and sandwich board signs.

*SIGN, WALL:* Any sign that shall be affixed parallel to the wall or printed on the wall of any building in such a manner as to read parallel to the wall on which it is mounted; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this chapter, any sign display surface that is affixed flat against the sloping surface

of a mansard roof shall be considered a wall sign. Any sign that is affixed to the building marquee, building awning, or a building canopy shall be considered a wall sign.

*SITE PLAN:* The proposal for a project, development or a subdivision, including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable sections of this chapter.

*STORM SEWER SYSTEM:* The system of roads, streets, catch basins, curbs, gutters, ditches, swales, pipes, ponds, channels, storm drains and other facilities located within the Town of Dillwyn which are designed or used for collecting, storing or conveying stormwater or through which stormwater is collected, stored or conveyed.

*STORMWATER:* Runoff from rain, snow or other forms of precipitation, and surface runoff and drainage.

*STORY:* That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then it shall be the space between the floor and ceiling next above it. A cellar shall not be counted as a story in determining building height.

*STORY, HALF:* A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two thirds of the floor area is finished off for use.

*STREET:* The principal means of access to abutting properties, including street right-of-way.

*STREET, CENTER LINE:* A line generally parallel to the right-of-way lines that equally divide the street right-of-way.

*STREET, INTERNAL:* A private street providing access to lots within a development, but not including driveways.

*STREET LINE:* The dividing line between a street or road right-of-way and the contiguous property.

*STREET WIDTH:* The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, planting strips, and bikeways.

*STRUCTURE:* Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, and includes satellite dish antennas, swimming pools both above and below ground, communication towers, billboards, fuel pumps, and aboveground elevation valves for the transmission of oil and natural gas.

*SUBDIVISION, MAJOR:* A subdivision shall be considered major if it consists of six or more lots or any subdivision of land requiring 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.

*TELEVISION AND/OR RADIO STATIONS:* A broadcasting facility licensed in the public interest, convenience, and necessity by the Federal Communications Commission, which includes transmitting and receiving equipment, studios, offices, utility buildings, and other necessary accessories required to operate a station.

*TOURIST COURT, AUTO COURT, CABIN or MOTOR LODGE:* A building or buildings containing individual sleeping rooms, designed for, or used temporarily by, automobile tourists or transients, with garage or parking space conveniently located to each unit, where cooking facilities may be provided for each unit.

*TOURIST HOME:* A dwelling where only lodging is provided for compensation for up to 14 persons (in contrast to hotels and boardinghouses) and open to transients.

*TOWNHOUSE:* A unit separated from adjacent units by a vertical wall with no openings, providing a dwelling for a single family, in which separate access to the outside is provided, and in which the major orientation of the unit is vertical rather than horizontal and can be individually sold or rented.

*TOWNHOUSE DEVELOPMENT:* One or more single-family dwellings consisting of townhouses, with accessory parking, open space, and recreational and management facilities.

*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."

*TRAVEL TRAILER/RECREATIONAL TRAILER PARK or TRAVEL/RECREATIONAL TRAILER CAMP:* Premises where travel trailers are parked temporarily in conjunction with travel, recreation, or vacation.

*TREE:* A woody perennial plant having a single main stem.

*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. A conditional use is a use not permitted in a particular district except by a conditional use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

*USE, CONDITIONAL:* A conditional use is a use not permitted in a particular district except by a conditional use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith. Such a use may be allowed when the Town Council, after consideration by the Planning Commission of the application and hearing thereon, thereby finds as a fact that the proposed use is consistent with the Comprehensive Plan; is compatible with surrounding uses; is consistent with the intent of the chapter, is in the public interest, and will comply with all other provisions of the law and ordinances of the Town of Dillwyn.

*VARIANCE:* A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship.

*WAREHOUSE:* A structure for storing goods, wares or merchandise.

*WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET:* Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

*WHOLESALE SALES:* An operation that sells chiefly to retailers, other merchants, or industrial, institutional, and commercial uses for resale or business use.

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

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

*YARD, REAR:* An open space, excluding steps, on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot.

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

**§11-12. Ordinance or Zoning Map Amendment Process:** Whenever public necessity, general, good land-use practice requires, the Town Council may, from time to time, amend, supplement or change, by ordinance the regulations herein established.

- A. *Initiation of Change-* Any such amendment may be initiated either by;
1. Resolution by the Town Council;
  2. Motion of the Planning Commission;
  3. By petition of a property owner, contract purchaser with the owner's written consent or the owner's agent addressed to the Town Council or the Planning Commission.
    - a. Documents to be Submitted for an Ordinance Text or Map Amendment, as applicable;  
:
      1. For Zoning Text Amendments the Proposed wording or revision(s) of the text to be amended with references to the division, section, and subsection that is/ are proposed to be amended, including sections to be repealed, deleted or replaced in or on a form approved by the Zoning Administrator.
      2. Narrative description of the purposes to be served by the proposed amendment and how it would effect and improve the Zoning Ordinance.

3. A filing fee to defray the cost of processing advertising and holding the public hearings as are required by the Code of Virginia.

- B. *Notice, Hearing, and Recommendation by Planning Commission:* The Planning Commission shall hold a public hearing on a complete application for a proposed amendment as described above. Notice of public hearing before the Planning Commission shall be in accord with the relevant procedures outlined in the Code of Virginia as amended. The Planning Commission shall make a recommendation to approve, deny or give no recommendation on the proposed amendment within the timeframes set forth in the Code of Virginia.
- C. *Notice, Hearing, and Determination by Town Council:* Upon the action of the Planning Commission, the Town Council shall hold a public hearing on the application for a proposed amendment. Notice of public hearing before the Town Council shall be in accord with the relevant procedures outlined in the Code of Virginia as amended. The Town Council shall either approve, or deny the request within the requisite time-frames set forth in the Code of Virginia.

**§11-13. Disclosure of interest.** The applicant for a land-use ordinance text amendment, zoning map amendment, conditional use permit, variance request or an appeal of the Zoning Administrator's decision shall make complete disclosure of the equitable ownership of the real estate to be affected, including, in the case of corporate ownership, the name of the stockholders, officers and directors, and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange or having more than 500 shareholders. Petitions brought by property owners or their agents, including contract purchasers, shall be sworn to under oath before a Notary Public or other official before whom oaths may be taken stating whether or not any member of the Planning Commission or Dillwyn Town Council has any interest in such property, either individually, by ownership of stock in a corporation owning such land, partnership, as the beneficiary of a trust, or the settlor of a revocable trust, or whether a member of the immediate household of any member of the Planning Commission or Dillwyn Town Council has any such interest.

**§11-14. Duties of Town Council:** The Town Council has the following duties in the administration of this Zoning Ordinance;

- A. *Zoning Ordinance Text Amendments:* The Town Council may initiate potential amendments to the Zoning Ordinance by requesting the Planning Commission to study the proposed the revision(s) and give a



stated reasonable period of time for a recommendation to be made by the Planning Commission (see the relevant section below dealing with the role of the Planning Commission).

The Town Council makes the final decision for the Town of Dillwyn after a duly advertised public hearing to approve or deny the language in proposed Zoning Ordinance text amendments pursuant to the Code of Virginia. This is after the amendment(s) are reviewed by the Planning Commission with a public hearing being held by the Planning Commission pursuant to the Code of Virginia and a recommendation from the Planning Commission is received.

*B. Zoning Map Amendments:* The Town Council pursuant to the Code of Virginia has the final responsibility after a duly advertised public hearing and after receipt of a recommendation from the Planning Commission to approve or deny requests for zoning map amendments (rezonings). The Town Council shall determine whether the request is appropriate based on the Town's Comprehensive Plan, the proposed zoning map amendment's compatibility with adjacent and nearby uses, and standards set by the Code of Virginia, and related case law.

The Town Council may also initiate potential amendments to the Zoning Map by requesting the Planning Commission to study the proposed the revision and give a stated reasonable period of time for a recommendation to be made by the Planning Commission (see the relevant section below dealing with the role of the Planning Commission).

*C. Conditional Use Permits:* The Town Council pursuant to the Code of Virginia has the final responsibility after a duly advertised public hearing to approve or deny requests for conditional use permits. The Town Council shall determine whether the proposed use is appropriate based on the Town's Comprehensive Plan and its compatibility with adjacent and nearby uses, standards set by the Code of Virginia and related case law. The Town Council may add, modify or remove conditions recommended by the Planning Commission that would make the proposed conditional use permit compatible and appropriate for the proposed location.

**§11-15. Duties of the Planning Commission:** The Planning Commission has the following duties for this Zoning Ordinance;

*A. Zoning Ordinance Text Amendments:* The Planning Commission may initiate potential Text Amendments to the Zoning Ordinance on its own initiative or in conjunction with the Zoning Administrator.

The Planning Commission shall also receive potential Zoning Text Amendments (conceptual or written) from Town Council upon request and act on said proposals in a timely fashion.

The Planning Commission may also receive potential Zoning text amendments (conceptual or written) from citizens of Dillwyn or persons with a financial interest in property within the Town of Dillwyn or from the Zoning Administrator. If accepted, the proposed amendments shall proceed in the manner prescribed below.

In all of the above situations, the Planning Commission shall hold a public hearing and make a recommendation to the Town Council within the time period prescribed in the Code of Virginia.

- B. *Zoning Map Amendments:* The Planning Commission shall hold a public hearing or hearings and make recommendations to the Town Council on requests for Zoning Map Amendment(s) from either the Town Council; the Planning Commission or from citizens of Dillwyn or persons with a financial interest in property within the Town of Dillwyn; or; from the Zoning Administrator. In making their recommendation, the Planning Commission shall consider whether the request is appropriate based on the Town's Comprehensive Plan, the proposed zoning map amendment's compatibility with adjacent and nearby uses, and standards set by the Code of Virginia and related case law.
- C. *Conditional Use Permits (CUP's):* The Planning Commission shall hold a public hearing or hearings and make recommendations to the Town Council on requests for Conditional Use Permits from either; the Town Council; from citizens of Dillwyn or persons with a financial interest in property within the Town of Dillwyn; or; from the Zoning Administrator. The Commission in making its recommendation shall determine whether the proposed use is appropriate based on the Town's Comprehensive Plan and its compatibility with adjacent and nearby uses, standards set by the Code of Virginia and related case law. The Commission may recommend conditions that could make the proposed conditional use permit compatible and appropriate for the proposed location.

**§11-16. Duties of Board of Zoning Appeals.** The Board of Zoning Appeals shall have the following duties and powers:

- A. *Appeals.* To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer in the administration or enforcement of the Article

II of this Ordinance and the portions of Article I of this Ordinance that deals with Zoning (See § 11-58 for the Appeals process).

*B. Variances.* To authorize, upon original application in specific cases, such variance from the terms of the Zoning Ordinance.

**§11-17. Duties of the Zoning Administrator.** The Zoning Administrator shall have the following duties and powers:

*A. Zoning Administrator.* The Zoning Administrator shall be appointed by the Town Council of the Town of Dillwyn, and may be an elected official, private citizen or employee of the Town. The Zoning Administrator is authorized and empowered on behalf of and in the name of the Dillwyn Town Council to administer and enforce the provisions set forth herein, to include receiving and processing of applications, inspecting premises, and issuing zoning permits for uses and structures which are in conformance with the provisions of this Ordinance. The Zoning Administrator shall have all necessary authority on behalf of the Dillwyn Town Council pursuant to the Code of Virginia to administer and enforce this the applicable portions of this Ordinance, including ordering, in writing, the remedy for any condition found in violation of this chapter, and bringing legal actions including injunction, abatement, or other appropriate action or proceeding, to insure compliance with this chapter. As the Zoning Administrator, he/she will have the responsibility to inform and make recommendations on problems with the administration of this Ordinance, changes in State or Federal law or other areas affecting the administration of the Zoning Ordinance to the Planning Commission and Town Council, and as needed, propose amendments to this Ordinance.

*B. Planner.* The Zoning Administrator in the Planner role shall assist the Planning Commission and Town Council in the processing and approval/denial of all zoning text and map amendments, conditional use permits, and site-plans and in the Comprehensive Planning process.

**§11-18. Public Hearing Process.** For Zoning Ordinance Text Amendments, Zoning Map Amendments, Conditional Use Permits, Variance Requests and Appeals of a Zoning Officials Actions, the adverting and notification process in the Code of Virginia §15.2-2204 as amended and other future legal requirements shall be followed..

**§11-19. Posting of Property.** The Zoning Administrator shall have posted in a conspicuous place on the property which is the subject matter of the application one or more signs, each of which shall not be less than 1 1/2 square feet in area, and shall contain information as to the proposed change and the date and time of

the public hearing. These signs shall be posted at least 15 days prior to the public hearing.

**§11-20. Permits.** All departments, officials, and public employees of the Town of Dillwyn who are vested with the duty to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of these regulations. Any such permit, if issued in conflict with the provisions of these regulations, shall be null and void.

**§11-21. Violation.** Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Planning and Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon provided by this chapter. It shall be the responsibility of the Zoning Administrator or as delegated by the Administrator to enforce this Ordinance and have the violation corrected pursuant to the Code of Virginia.

**§11-22. Penalties.** The following are subject to penalties as violations under this Ordinance.

*A. Violations.* Any person, firm, or corporation, whether as a principal, agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of the regulations contained in this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined pursuant to penalties in the Code of Virginia. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this chapter is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as herein provided.

*B. Mitigation.* Any person who, intentionally or otherwise, commits any of the acts prohibited of this chapter shall be liable to the Town for all costs of containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system and shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day that a violation of this chapter continues. The court assessing such penalties may, at its discretion, order such penalties to be paid into the Treasury of the Town of Dillwyn for the purpose of abating, preventing or mitigating environmental pollution.

*C. Legal procedures.* The Zoning Administrator may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or in equity, shall not be a defense to any such action.

*D. Cumulative Penalties.* The remedies set forth in this section shall be cumulative and not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

## ARTICLE II. GENERAL PROVISIONS

**§11-30. Types of Uses:** No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or structurally altered except in conformity with the regulations herein specified for the district in which it is or is to be located.

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

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

**§11-31. Buildings:** No structure shall hereafter be erected, constructed, or altered so as to exceed the height limit, to accommodate or house a greater number of families, or to occupy a greater percentage of the lot area than is required or specified in the regulations herein for the district in which it is located.

**§11-32. Principal Structures.** Only one principal structure and its customary accessory buildings shall hereafter be erected on any one residential lot unless otherwise approved or implied as part of apartment, condominium or other form of housing where multiple principal structures are approved by right or as part of a conditional 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.

**§11-33. Other Structures.** After a review of an application by the Zoning Administrator, additional buildings on the same lot or parcel of land may be permitted provided the following criteria are met or as noted in the individual zoning districts:

*A. Additional buildings and dwellings.* Additional buildings on a parcel of land in a district where residential uses are permitted shall conform to the minimum lot area, minimum lot width, maximum lot coverage, and yard requirements for that district.

*B. Special requirement for manufactured homes.* No more than one manufactured home is allowed on any lot, tract, or parcel of land within the Town limits, unless said manufactured/mobile home is located in an approved manufactured home park. A manufactured home located on a lot, tract or parcel of land within the Town of Dillwyn shall be located in accordance with the setback requirements of this Ordinance. of this chapter. Additionally, such placement shall be parallel to the nearest street or curblin.

*C. Arrangement of additional dwellings.* The arrangement of such additional dwellings is in such a manner so that if the lot or parcel of land is ever subdivided no substandard lots are created.

*D. Temporary buildings in all zoning districts.* Temporary buildings used solely in conjunction with construction work may be permitted in any district but shall be removed immediately upon completion or abandonment of the construction.

*E. Accessory buildings.* The location of accessory buildings and uses must meet the following conditions:

- (1) Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof, and therefore such attached accessory building shall comply in all respects with the requirements applicable to the main building;
- (2) A detached accessory building shall be located as prescribed in § 11-38 for the district in which the lot is located;
- (3) A detached accessory building, not more than two stories in height, may be constructed on not more than 30% of the rear yard;
- (4) No detached accessory building may be located in the front yard of a lot;
- (5) A truck chassis, bus, or trailer, regardless of configuration, may not be used as an accessory structure. Cargo containers may be used by permit in an agricultural, industrial, or business zone when being used in conjunction with an agricultural, industrial, or business use, but not more

than two containers may be permitted at any one time in an industrial, business, or agricultural zone. Cargo containers in use before the enactment of this subsection are to be considered nonconforming and shall be allowed to continue unabated. Cargo containers must have a buffer screening them from public view. Portable commercial containers may be used for temporary storage by permit only in all zones for a period of 45 days per permit, not to exceed 90 days.

**§11-40. Zoning Map.** The Zoning Map, entitled the "Official Zoning Districts Map for the Town of Dillwyn, Virginia," dated December 11, 2018, as amended, hereinafter referred to as the "Official Zoning Map," with all notations, references, amendments, and dates thereof, and other information shown thereon, shall constitute a part of this chapter. The map shall be made public record and shall be kept permanently in the Town office, where it shall be accessible to the general public. As evidence of its authenticity, the Zoning Map and amendments shall be certified by the Clerk of the Town of Dillwyn.

**§11-41. Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. Unless the prior Official Zoning Map has been lost or totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

**§11-42. Determination of District Boundaries.** Unless district boundary lines are fixed by dimensions and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following shall apply:

*A. Lines.* Unless otherwise indicated, district boundaries indicated as approximately following property lines, land lines, center lines of streams, roads, highways, alleys, the shorelines of reservoirs, or other bodies of water or civil boundaries shall be construed to follow such lines.

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

*C. Split Parcels.* Where a district boundary line as appearing on the Official Zoning Map divides a lot which is in single ownership at the time of this enactment, the use classification of the larger portion may, as a zoning map amendment application, be extended to the remainder of the property.

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

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

*F. Disputes.* If no distance, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the Official Zoning Map. In case of subsequent dispute, the matter shall be referred to the Zoning Board of Appeals, which shall determine the boundary.

**§11-43. Permits issued prior to adoption of chapter.** Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this chapter. However, if such construction does not commence within 30 days after this chapter becomes effective, or if construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

**§11-44. Miscellaneous General Regulations.** The following general regulations shall apply.

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

*B. Swimming Pools and Dish-type Antennas.* All types of swimming pools (above- and below ground) and dish-type antennas greater than 24 inches in diameter shall be regulated as accessory structures.



*C. Recreational vehicles and travel trailers.* Such vehicles shall be stored within the minimum yard requirements and shall be prohibited from occupancy. Any such vehicle shall be properly licensed and shall be prohibited from being used as an auxiliary structure, must be to the rear of the front setback line, and be either behind or to the side of the main residential dwelling unit.

*D. Solid waste storage areas.* For business, industrial and approved higher density residential uses, storage areas, solid waste dumpsters and large items for solid waste pickup shall be confined in an enclosed area that is screened on all sides. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), shall be of solid construction, six feet high with locking gates providing access. Enclosures shall be constructed of durable, weatherproof, permanent materials such as concrete or stone block, metal, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site. Bollards shall be installed in front of the gates to prevent refuse vehicles from inadvertently bumping into the gates or causing dumpsters to damage the gates. This enclosure, the dumpster(s) and solid waste shall be placed on an asphalt or concrete pad, and the access drive to the enclosure shall be concrete or asphalt. However, where compliance with this section is, in the opinion of the Zoning Administrator, impractical due to accessibility, conflict with other applicable regulations of the Town Code of Ordinances or other relevant circumstances, the Zoning Administrator is authorized to permit such placement as to provide adequate accessibility or relief from such conflict with other applicable Code requirements under the following conditions of use:

- 1. No noxious odors.* The solid waste dumpster shall not be used for or contain any waste which might emit offensive or noxious odors, or the user of such solid waste dumpster or the property owner shall contract to provide for additional pick up of the dumpster as to prevent any offensive or noxious odors.
- 2. Administration.* Relief for such accessibility of conflict shall only be to the extent as determined by the Zoning Administrator.
- 3. Non-compliance.* Where the user or property owner fails to comply with any condition of use, the user or property owner shall replace the dumpster in compliance with this section or remove the dumpster entirely. Should the user fail to comply with any condition of use or notice to comply, the Town shall be authorized to remove or replace the dumpster and charge the user or property owner with any and all cost to remedy the noncompliant condition.

**§11-45. Division of Town into Districts.** For the purposes of the chapter, the Town of Dillwyn is divided into zoning districts named and described in the following sections. The boundaries of said zoning districts are hereby established and shown on the Official Zoning Map on public file in the Circuit Court Clerk's office located in Buckingham County, Virginia, and a copy of which is located in the Town offices. These districts are designated as follows:

R-1 Neighborhood Residential

R-2 General Residential

B-1 Business

M-1 Limited Industrial

M-2 General Industrial

**§11-46. Zoning Permits.** Zoning permits must be issued by the Town of Dillwyn prior to the issuance of a Buckingham County building permit, land disturbance permit, or if required, business license in accordance with the following provisions and procedures:

*A. Permit Required.* The Zoning Administrator shall issue a zoning permit to any land owner, or his or her legal representative, for any permitted use or structural alteration, provided such proposed use of land or structure, or use or structural alteration, is in conformance with the provisions set forth in this Ordinance. The zoning permit application shall indicate whether the proposed use is a permitted use, whether it is a conditional use permit with conditions to be followed, or a variance with permitted variations to the zoning requirements of this Ordinance. Such Zoning Permit shall show the required setbacks and other requirements of the given Zoning District to the Zoning Administrator's satisfaction and shall be signed by the owner, contract agent or owner's legal representative of the property in question.

*B. Site plan and Other Required Information.* An application for a zoning permit shall be accompanied by two copies of an acceptable site plan if required by the Zoning Administrator along with such any other reasonable information necessary to approve the requested activity. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

*C. Fees.* No such permit shall be reviewed until the applicant has paid the fees due for the permit if applicable

*D. Approval Process.* If the proposed use or structure described in the application required herein is in conformity with the provisions set forth herein and other appropriate codes and regulations of the Town of Dillwyn, the Zoning Administrator shall sign and return one copy of the Zoning Permit and site plan to the applicant. The Zoning Administrator shall retain the application and one copy of the site plan for the Town's records.

*E. Denial and Appeal.* If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the Zoning Administrator shall not issue a zoning permit, but shall return one copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this chapter with which the submitted plan does not comply. The Zoning Administrator shall retain one copy of the site plan and one copy of the refusal. A full explanation of the Zoning Administrator's decision to deny a Zoning Permit may be requested and appeals of the decision may be made to the Board of Zoning Appeals using the process described in this Ordinance.

*F. Expiration.* Any zoning permit shall automatically expire six months from the date of issuance if the person, firm, or corporation to which the permit has been issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one year or more.

**§11-47. Certificate of occupancy.** Certificates of occupancy shall be issued by the Buckingham County Building Department with the coordination of the Zoning Administrator for areas within his/her purview as defined within this Ordinance.

**§11-48. Nonconformity Intent.** It is the intent of this chapter to recognize that the elimination of existing lots, structures, and structures or uses that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this chapter. It is the intent of this chapter to permit these nonconformities to continue but not to encourage their survival, permit their expansion, or permit their use as grounds for adding other structures or uses prohibited elsewhere in the same district. Therefore, any structure or use of land existing at the time of the enactment of this chapter, and amendments

thereto, but not in conformity with its regulations and provisions, may be continued subject to the following provisions:

**§11-49 Nonconforming Lots of record.** Where a lot of record at the time of enactment of this chapter does not contain land of sufficient area or width to permit conformity with the dimensional requirements of this chapter, the following provisions shall apply:

A. When two or more adjoining and vacant lots with continuous frontage are in single ownership at the time of enactment of this chapter or amendments thereto, and each of such lots have a width or lot area less than is required by the district in which they are located, such lots shall be platted and re-parceled, at the owner's expense, so as to create one or more lots which conform to the minimum lot width and area requirements of the district, prior to use or transfer of ownership of such parcels.

B. Where a single nonconforming lot of record at the time of enactment or amendment of this chapter is not of continuous frontage with other lots in the same ownership, such lot may be used as a building site, provided that yard dimensions and requirements, other than those applying to area or width of the lot, shall conform to the regulation for the district in which such lot is located. Variances of yard requirements may be obtained only through appeal to the Board of Zoning Appeals, as provided in this chapter.

C. When two or more nonconforming lots platted before July 1, 2001 are combined together and are not less than 90% of the required lot size for the current zone, they may be used as a building site, provided that all yard dimensions and requirements other than those applying to area are met.

**§11-50 Nonconforming structures.** Where a lawful structure exists at the time of enactment or amendment of this chapter that could not be built in the district in which it is located by reason of restrictions on lot coverage, height, yard dimensions, or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Any structure or portion thereof declared unsafe by the Building Inspector may be restored to a safe condition, provided that the requirements of this article are met, and that the cost of restoration of the structure to a safe condition shall not exceed 50% of its replacement cost at the time of the Building Inspector's declaration.

B. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity, and any structure or portion thereof may be altered to decrease its nonconformity.

C. Notwithstanding the other provisions of this chapter, whenever repairs on or installation of plumbing fixtures in residential structures are required by law or administrative action of the Health Official or the Building Inspector, such alterations shall be permitted, provided that where such alterations require an addition to the structure, such alteration shall be no nearer the lot line than permitted by the requirements of this chapter. Where an existing residential structure exceeds these requirements, said addition shall extend no nearer the lot line than the existing building line.

D. Should a nonconforming structure be moved, it shall thereafter conform to the yard dimension requirements of the district in which it is located after it is moved.

E. Subject to the other provisions of this Ordinance, should a nonconforming structure or nonconforming portion of a structure be destroyed by any means, it shall be reconstructed in conformity with the provisions of this chapter, so far as practical, but not to any greater degree of nonconformity.

**§11-51 Nonconforming uses of land.** Where a otherwise lawful use of land exists at the time of enactment or amendment of this chapter that would not otherwise be permitted by the regulations imposed herein and where such is either an accessory use involving the use of no separate accessory structure or a principal use involving no individual structure, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the time of enactment or amendment of this chapter.

2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the time of enactment or amendment of this chapter.

3. In the event that such use ceases for reasons other than destruction for a period of more than two years, any subsequent use shall conform to all requirements of this chapter for the district in which the land is located.

4. No additional structure not conforming to the requirements of this chapter shall be constructed in connection with such nonconforming use.

5. Nonconforming uses of structures. Where a lawful use involving an individual structure or structures in combination exists at the time of enactment or amendment of this chapter that otherwise would not be permitted in the district in which it is located under the requirements of this chapter, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

a. No structure existing at the time of enactment or amendment of this chapter devoted to a nonconforming use shall be enlarged, extended, moved, or structurally altered, except:

1. Repairs on or installation of plumbing fixtures required by law or administrative action of the Health Official or the Building Inspector; or

2. The changing of interior partitions or interior remodeling; or;

3. In changing the use of the structure to a conforming use.

b. A nonconforming use of a structure may be extended to include use of the entire structure, but shall not be extended to include either additional structures or land outside the structure.

c. When a nonconforming use of a structure or structures and premises in combination is discontinued or abandoned for two years, except when government action impedes access to the premises, or when a nonconforming use is superseded by a permitted use, the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.

d. Upon application to the Board of Zoning Appeals, as provided in of this chapter, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use if the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the

existing use. The Board of Zoning Appeals may impose such conditions relating to the proposed use as it may deem necessary in the public interest and may require that a cash bond or equivalent, a surety bond of a surety company, or a certified check payable to the Treasurer of the Town of Dillwyn, be supplied in an amount equal to the estimated cost of the complying with the conditions imposed to insure that the conditions imposed are being, and will continue to be, met.

**§11-52 Map amendments.** If, in accordance with the provisions herein, changes are made in the district boundaries or other information portrayed in the Official Zoning Map, such changes shall be entered on the Official Zoning Map within 10 days after the amendment has been approved by the Town Council, together with a numerical entry referring to the application for the amendment, submitted in accordance with this Article herein, which shall be kept as a public record by the Zoning Administrator. Said numerical entry shall state the reference number of the application in the records of the Town Council. Amendments to this chapter, which involve matters portrayed on the Official Zoning Map, shall become effective immediately upon being entered onto the Official Zoning Map. The Town of Dillwyn Official Zoning Map shall be the final authority in determining the current zoning status of land and water areas, buildings, and other structures in the Town. No changes of any nature shall be made in the Official Zoning Map except in accordance with the procedures described within this Ordinance and pursuant to the Code of Virginia.

**§ 11-53 Conditional zoning:** It shall be the policy of the Town of Dillwyn to provide for the orderly development of land, for all purposes, through zoning and other Zoning legislation. In those instances where competing and incompatible uses conflict and traditional zoning methods and procedures are inadequate, more flexible and adaptable zoning methods are needed to permit differing land uses and, at the same time, to recognize effects of change. It is the purpose of this section to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

*A. Flexibility.* In order to provide a more flexible and adaptable zoning method to permit differing land uses and to recognize effects of change, conditional zoning is permitted, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

*B. Proffering.* The owner of land seeking a rezoning may provide by voluntarily proffering in writing prior to a public hearing before the Planning Commission, or Town Council, reasonable conditions as part of his application for rezoning, which conditions are in addition to the regulations provided for the zoning district, to constitute a part of the rezoning or amendment to the Zoning Map, provided that the rezoning itself must give rise to the needs for the conditions; such conditions shall have a reasonable relation to the rezoning; all such conditions are in conformity with the Town of Dillwyn Comprehensive Plan.

*C. Enforcement of Proffered Conditions.* The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to an amendment to the Zoning Map, including the ordering in writing of the remedy of any noncompliance with such conditions; the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate actions or proceedings; and requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

*D. Zoning Map Annotation.* The Zoning Map shall show, by an appropriate symbol of the map, the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in the Town office and make available for public inspection a Conditional Zoning Index. The index shall provide ready access to the chapter creating conditions in addition to the regulations provided for in a particular zoning district or zone.

*E. Amendment of Conditions.* There shall be no amendment or variation of conditions created pursuant to the provisions of this section until after a public hearing before the Town Council advertised according procedures set forth herein.

**§ 11-54. Purpose of Conditional Uses.** A conditional use is a use presumed to have certain characteristics of operation which could, under certain conditions, be detrimental to the neighborhood and to abutting property. For example, certain uses cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the



district regulations. These uses either have unusual characteristics, characteristics which are different from those of their immediate surroundings, or are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare. Because of the nature of the use, the importance of relationship to the Comprehensive Plan, and possible impact, not only on neighboring properties, but also on a large section of the Town, these uses require the exercise of planning judgment on the site plan. Site plans showing locations of activities, parking, buffers and landscaping, and signages (when applicable) are required.

**§11-55. Conditional uses- Minimum General Performance Standards.** It shall be the presumption that a use listed as conditional is eligible for location within a district in which it is enumerated, provided the applicant can clearly demonstrate the following conditions exist:

*A. Provision of Buffers.* Adequate provision is made for such items as setbacks, fences, and planted buffer strips in order to protect adjacent properties from possible adverse influence of the proposed use such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors.

*B. Traffic Safety.* Vehicular traffic and pedestrian movement on adjacent roads will not be hindered or endangered.

*C. Parking and Access.* Off-street parking, loading areas and the entrances and exits of these areas will be adequate in terms of location, amount, design, and construction to serve the proposed use.

*D. Compatibility.* The proposed use will not adversely affect the level of property values, general character, or general welfare of the nearby area.

*E. Other Reasonable Standards.* Upon review of a conditional use permit application, the Planning Commission may recommend that the Town Council impose such reasonable restrictions and conditions as in its opinion will accomplish the objectives of this chapter. In considering any application under this section, the Planning Commission may recommend and the Town Council may require the applicant to furnish reasonable site and exterior building plans, the adherence to which may be imposed as such a condition.

**§11-56. Enforcement of Conditions.** The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a Conditional Use Permit, including the ordering in writing of the remedy of any noncompliance with such conditions; the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate actions or proceedings; and requiring

a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required uses occupancy, or building permits, as may be appropriate.

**§11-60 Neighborhood Residential District R-1. Intent.** The intent of the R-1 Neighborhood Residential District is to encourage residential neighborhoods and to stabilize and protect the essential character of such neighborhoods. The regulations for the district tend to protect against encroachment of commercial, industrial, and other uses likely to generate noise, crowds, and concentrations of traffic, light, dust, odors, smoke, or other obnoxious influences. No abandoned vehicles are permitted. Farm animals are prohibited.

**§11-61. Neighborhood Residential District R-1 Permitted Uses.** Within the Neighborhood Residential District R-1 the following uses are permitted by right:

- A. Single-family dwellings, except for single- wide manufactured/mobile homes as defined in the Code of Virginia.
- B. Places of worship such as churches, temples and synagogues and related structures that may be on adjoining parcels (Sunday School buildings, parsonages, parking lots, etc.)
- C. Public parks, playgrounds, recreational buildings and grounds, tennis courts, swimming pools and outdoor recreation activities, all of a noncommercial nature. No public swimming pool or structure shall be located closer than 100 feet to any residential lot.
- D. Privately owned swimming pools with membership for neighborhood subdivisions or developments.
- E. Single lot, minor and major subdivisions as defined within this ordinances following the procedures outlined in Article III.
- F. Second Dwelling or accessory apartment for an immediate family member not to equal more than one third (33.3 percent) of the square footage area of the primary dwelling.

G. Public utilities such as power distribution lines, telephone lines and pump stations for sanitary sewerage systems that are customary and necessary for neighborhood and community facilities.

**§11-62. Neighborhood Residential District R-1 Accessory uses.** Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized.

A. Home occupations

B. Living quarters in the main structure of persons employed on the premises.

C. Recreational vehicles and travel trailers which shall be stored within the minimum yard requirements and shall be prohibited from occupancy. Any such vehicle shall be properly licensed and shall be prohibited from being used as an auxiliary structure, must be to the rear of the front setback line, and be either behind or to the side of the main residential dwelling unit.

D. Temporary structures for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.

E. Signs if otherwise authorized within this Ordinance.

F. Parking as provided in this Ordinance.

G. Private parking garages for residences.

H. Shelter for house pets, but not exceeding two shelters, to house not more than one adult pet per shelter plus dependent animals of up to six months of age.

I. Private swimming pools for residences, which shall be regulated as structures.

J. Satellite antennas or dishes for television reception.

K. Radio antenna for use for private residents not to exceed fifty-five (55) feet in height and be placed so as not to encroach upon the setback area for the principal structure on the property; will be placed in the rear or side of a property and not in front of the dwelling; and; will have a distance to all property lines exceeding the maximum height of the antenna.

L. Recreational facilities normally found pursuant to an individual single family dwelling (driveway basketball courts, backyard tennis courts, etc.).

**§11-63. Neighborhood Residential District R-1 Conditional Uses.** The following Conditional Uses may be applied for utilizing the procedures in this Ordinance;

- A. Single-wide manufactured homes.
- B. Child-care centers and family day-care homes.
- C. Group homes for adults.
- D. Schools (public and private).
- E. Recreational facilities (other than those normally found pursuant to an individual single family dwelling), such as gymnasiums, indoor or outdoor tennis courts, whether privately owned by a community organization or by a church or other religious affiliated entity. No such recreational facility shall be located closer than 100 feet to any residence.
- F. Private or commercial cemeteries.
- G. Bed and Breakfast facilities.
- H. Public utility structures such as water towers, sewage treatment plants, etc. that exceed the needs for such a utility for the immediate neighborhood or community.

**§11-64 R-2 General Residential District- Intent.** The intent of the R-2 General District is to allow the development of higher density housing alternatives within the Town boundaries.

**§11-65 R-2 General Residential District- Permitted uses.** Within the R-2 General Residential District the following uses are permitted:

- A. All uses permitted in the R-1 Neighborhood Residential District.
- B. Duplexes.

**§11-66 R-2 General Residential District- Accessory Uses.** Accessory uses in the R-2 General District.

- A. All accessory uses in the R-1 Neighborhood Residential District.
- B. All accessory uses normally found in conjunction with an approved conditional use permit for apartments, townhouses and/or condominiums.

**§11-67 R-2 General Residential District- Conditional uses.** The following are Conditional uses within the R-2 General Residential District.

- A. All conditional uses found in the R-1 Neighborhood Residential District.
- B. Residential uses; single family detached, apartments, townhouses, condominiums and duplexes.

**§11-68. R-2 General Residential District- Townhouse, Apartment and Condominium Regulations in the R-2 General District.** Special regulations for townhouses apartments and condominiums.

- A. Groupings of Eight. No more than eight and no less than two townhouses shall be included in any townhouse grouping.
- B. Building Code. Attached dwellings shall conform to the Commonwealth of Virginia Uniform Statewide Building Code.
- C. Frontage. Each townhouse shall front on a dedicated public street or a forty-foot minimum width access easement. For apartments and condominiums either direct access to a street or to an approved parking area with direct access to a street or a private access easement. The following minimum standards of development shall be observed:
  - 1. Concrete curb and gutter on both sides of the street easement;
  - 2. A sidewalk five feet in width on at least one side of the easement, constructed of concrete, brick, cobblestone, or some other material of reasonable durability and safeness;
  - 3. The radius for all cul-de-sacs shall be at least 55 feet;
  - 4. Common areas. Common areas shall be maintained by and are the sole responsibility of the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to a homeowners' association (if applicable), whose members shall be all the individual owners of the townhouse development. In such cases, said land shall be conveyed to and be held by said homeowners' association solely

for the recreational and parking purposes of the owners. In the event of such conveyance by the developer-owner to a homeowners' association, deed restrictions and covenants shall provide, among other things, that the cost of maintenance of those areas shall constitute a pro-rata lien upon the individual townhouse lots. Maintenance of townhouse exteriors, lawns, refuse handling, taxes, lighting, and drainage shall be provided in a similar manner so as to discharge any responsibility from the Town of Dillwyn.

5. Utilities. Any utility entering a townhouse unit must do so on the property of that unit.

**§11-70. B-1 Business District-General.** This district covers that portion of the Town intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, restaurants, taverns, garages, and service stations.

**§11-71. B-1 Business District- Permitted uses.** Within the B-1 Business District, the following uses are permitted:

- A. Individual retail and wholesale providers (such as apparel, shoe stores, department stores, grocery stores, variety stores, specialty shops (retail), and appliance stores of under 10,000 square feet, and not a part of a shopping center;
- B. Shopping centers of under 10,000 square feet of retail area.
- C. Restaurants, taverns, soda fountains;
- D. Business, professional and governmental offices including banks, loan and finance offices, police, fire, and rescue squad stations, and post offices.
- E. Barber shops, beauty salons, nail salons and similar shops;
- F. Laundries and dry-cleaning shops;
- G. Movie and cultural art theaters, (not to include adult theaters), assembly halls, playhouses, dinner theaters of under 10,000 square feet;

- H. Pawn shops, public billiard parlors and poolrooms, bowling alleys, dance halls, and amusement centers
- I. Contractors office for construction, electrical, plumbing, heating, provided all equipment and vehicles shall be completely enclosed either within a building or storage yard such that it not visible to the public;
- J. Appliance, bicycle sales and repair, or any other similar shop, provided that business shall be conducted within a completely enclosed building;
- K. Donut shops and bakeries;
- L. Hotels, motels of bed-and-breakfast houses of under 10,000 square of rentable area;
- M. Churches, other places of worship, and related church schools;
- N. Schools such as business or commercial schools, trade schools, public schools and colleges and private schools and colleges having similar academic curriculum;
- O. Public Libraries;
- P. Personal fitness establishments and gymnasiums;
- Q. Hospitals;
- R. Funeral homes and/or mortuaries (but not included a crematorium);
- S. Automobile service stations for the dispensing of fuel;
- T. Repair garages for vehicles (all repairs and storage of vehicles being repaired must be under completely enclosed or screened from the public's view);
- U. Clubs and lodges;
- V. Automobile sales, (all repairs and storage of cars being repaired that are or will be for sale must be under completely enclosed or screened from the public's view);
- W. Public utility transmission systems;

- X. Public service and storage buildings;
- Y. Child-care centers;
- Z. Newspaper office including publication presses and other production equipment;
- AA. Bus stations, train stations and taxi stands;
- BB. Radio and television broadcasting studios, not to include transmission towers of over 55 feet in height;
- CC Wholesale and retail greenhouses and plant nurseries;
- DD. Parking garages and parking lots;
- EE. Mini storage warehouses (must be at least 50 feet from any residence);
- FF. Recording studios, dance studios, and other music-related instructional facilities;
- GG. Museums.

**§11-72. B-1 Business District- Accessory uses in the B-1 Business District.** Where a lot is devoted to a permitted principal use, customary accessory uses and structures are hereby authorized.

- A. Signs as designated under this Ordinance.
- B. Parking spaces and /or lots as designated under this Ordinance.
- C. Living quarters for persons employed on the premises.
- D. Satellite television antennas or dishes, radio dispatching antennas of under 55 feet in height and be placed so as not to encroach upon the setback area for the principal structure on the property and will have a distance to all property lines exceeding the maximum height of the antenna.

**§11-73. B-1 Business District-Conditional Uses in the B-1 Business District.** The following Conditional Uses may be applied for using the procedures of this Ordinance



- A. Television and radio transmitting antennas (if otherwise under 55 feet in height);
- B. Athletic fields, stadiums, and arenas;
- C. Areas and grounds for outdoor events such as circuses, carnivals, fairs, and sideshows;
- D. Drive-in theaters;
- E. Recreational vehicle parks;
- F. Apartments in structures where other businesses are in operation;
- G. Kennels and animal hospitals, provided such use is at least 200 feet from any adjoining residential lot,
- H. Bowling alleys, skating rinks, miniature golf courses, or similar recreational use of facility if located at least 200 feet from any residential lot;
- I. Multi-family apartments or townhouses following the requirements for such in the R-2 Residential District;
- J. Lumber and building supply, plumbing and electrical supply (all with storage under cover or concealed from public view) wholesale or retail sales;
- L. Automobile painting, upholstery, rebuilding, reconditioning, and body and fender works;
- M. Individual freestanding retail and wholesale providers (such as apparel, shoe stores, department stores, grocery stores, variety stores, specialty shops (retail), and appliance stores of over 10,000 square feet, and not a part of a shopping center;
- N. Shopping Centers
- O. Business, professional and governmental offices including banks, loan and finance offices, police, fire, and rescue squad stations, post offices of over 10,000 square feet of usable office space, this includes a combination of buildings in a unified office park;

P. Movie and cultural art theaters, (not to include adult theaters), assembly halls, playhouses, dinner theaters of over 10,000 square feet;

Q. Hotels, motels of bed-and-breakfast houses of over 10,000 square feet of rentable area;

**§11-80. Limited Industrial M-1.** The primary purpose of this district is to permit certain uses adjacent to residential or commercial uses that do not detract unnecessarily from the adjacent uses. These uses are meant to have very little noise, dust or other nuisances and that cause little inconvenience to and are otherwise compatible with the adjacent residential neighborhoods and businesses

**§ 11-81. Limited Industrial M-1. Permitted uses.** Within the M-1 Limited Industrial District, the following uses are permitted:

A. Wholesale and processing, provided that the uses are not objectionable because of dust, noise or odors. Storage or warehousing must be a minimum of 50 feet from any residential structure;

B. Assembly of the following products;

1. Medical and dental equipment;

2. Musical instruments;

3. Communications equipment and instruments;

4. Clocks and watches;

5. Electronic instruments and metering equipment;

6. Drafting equipment;

7. Toys and games;

8. Heating, ventilating and air conditioning equipment;

C. Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping, or battery manufacturing;

D. Blacksmith shop, welding or machine shop;

- E. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yarn, and paint, provided the above does not utilize a boiling process;
- F. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet soap, toiletries, and food products;
- G. Manufacture of pottery and figurines or other similar ceramic products, the processing of previously pulverized clay, and kilns fired only by electricity or gas;
- H. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;
- I. Building material sales yards, plumbing supplies storage;
- J. Coal and wood yards, lumber yards, feed and seed stores;
- K. Contractor's equipment yards, plants, or rental of equipment commonly used by contractors. Said equipment may only be stored or parked on M-1 zoned land;
- L. Cabinets, furniture and upholstery shops;
- M. Boat building or assemblage;
- N. Monument and architectural stone works;
- O. Wholesale businesses, storage warehouses including mini-storage;
- P. Factory outlets for goods and products manufactured or assembled onsite or by the manufacturer;
- Q. Furniture refinishing
- R. Lumberyard
- S. Lumber/building materials/hardware store

- T. Welding and soldering shops
- U. Off-street parking as required by this Ordinance.
- V. Public service or storage buildings;
- W. Public utilities;
- X. Public utility transmission systems;
- Y. Signs as provided in this Ordinance;
- Z. Office, general, business, professional or administrative
- AA. Restaurant or cafeteria located on the premises of industrial facilities or associated with the industry(ies)
- BB. Tire sales and servicing
- CC. Concrete batching plants
- DD. Radio dispatching antennas of up to 55 feet in height
- EE. Milling of flour, feed or grain
- FF. Factory retail outlets for products produced on the site or by the industry.
- GG. Public or private recycling collection/storage centers;
- HH. Communications facilities;
- II. Radio and Television transmission facilities and/or studios.

**§11-82. Limited Industrial M-1. Accessory uses in the M-1 Limited Industrial District.** Where a lot is devoted to a permitted principal use, customary accessory uses and structures are hereby authorized.

- A. Signs as authorized in this Ordinance;
- B. Parking spaces and /or lots as designated within this Ordinance;
- C. Living quarters for persons employed on the premises.

D. Satellite television antennas or dishes, radio dispatching antennas of under 55 feet in height and be placed so as not to encroach upon the setback area for the principal structure on the property and will have a distance to all property lines exceeding the maximum height of the antenna.

**§11-83. Limited Industrial M-1. Conditional uses.** In the Limited Industrial District M-1, conditional use permits may be granted for one or more of the following uses:

- A. Truck and/or freight terminals;
- B. Laboratories, pharmaceutical and/or medical.

**§11-84. General Industrial M-2.** The specific goals of this district are to: (1). Encourage the construction of and the continued use of land for industrial purposes; (2). Prohibit new residential and new commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation, or expansion of industrial-type uses in the district; (3). Permit new uses under the provisions of this chapter; and ; (4). Encourage the development of industrial parks and other employment creation centers.

**§11-85. General Industrial M-2 Permitted uses.** Within the M-2 General Industrial District, the following uses are permitted:

- A. All uses in the M-1 Limited Industrial District.
- B. The Manufacture of the following:
  - 1. Aluminum extrusion, rolling and fabrication;
  - 2. Automobile, motorcycle, bus or truck;
  - 3. Paper products including corrugated boxes and bags;
  - 4. Plumbing supplies;
  - 5. Structural iron or steel;
  - 6. Tobacco products;
  - 7. Wall board, plaster, building insulation and similar construction materials;
  - 8. Railroad cars (includes repair);

- 9. Oils, shortening or edible fats;
  - 10. Cosmetics, toiletries, drugs and pharmaceuticals;
  - 11. Asphalt;
  - 12. Fertilizer;
  - 13. Insecticides, fungicides, disinfectants or similar products;
- C. Sand, gravel, brick manufacturing and storage operations;
  - D. Mining operations;
  - E. Petroleum storage;
  - F. Medical and pharmaceutical laboratories to include the manufacture, compounding, processing and packaging of drugs and pharmaceuticals
  - G. Forge plants, pneumatic drop and forging hammering;
  - H. Above ground storage tanks of inflammables of greater than 80,000 gallons;
  - I. Stockyards, livestock auction facility or holding pens;
  - J. Truck and/or freight terminals;

**§11-86. General Industrial M-2. Accessory uses.** All accessory uses in the M-1 Limited Industrial Districts are permitted in the M-2 General Industrial District.

**§11-87. General Industrial M-2. Conditional uses.** In the General Industrial District M-2, conditional use permits may be granted for one or more of the following uses:

- A. Junkyards and automobile graveyards;
- B. Power generation plant;

**§11-90. Lots and yards:** No new lot or yard shall hereafter be created, nor shall any lot or yard existing at the time of enactment of this chapter be altered, nor shall any building or structure, whether new or existing, be moved, so that lot width, depth, or area requirements; front, side, or rear yard requirements; or

inner or outer court requirements; or other requirements of this chapter are not maintained, except when a portion of a lot is acquired for public use. No part of a yard or other open space required for any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend into the required yard areas for a distance exceeding two feet. No lot, even though it may consist of one or more adjacent lots in the same ownership at the time of passage of this chapter, shall be reduced in size so that lot width or size of yards or lot area or any other requirement of this chapter is not maintained.

**§11-91. Double-frontage lots.** Both areas of an interior double-frontage lot which front on a street are subject to the minimum front setback requirements, as required in this Ordinance.

**§11-92. Corner lots.** The following provisions shall govern the yard dimensions for corner lots

- A. Of the two sides of a corner lot, the front shall be deemed the shorter of the two sides fronting on streets.
- B. The side yard on the side facing the side street shall be 65 feet from the center of the street adjacent to the side yard.
- C. The minimum side yard requirements for corner lots on the side of the yard facing the street shall not be less than the minimum front yard requirements for adjoining lots on the same street.

**§11-93. Space provisions.** No part of yard or other open space or any part of the off-street parking or loading space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of the yard or other open space or off-street parking or loading space required for another building.

**§11-94. Public street frontage; orientation of primary structure to street.** No building shall be erected on a lot that does not abut on a public street for at least 25 feet. Furthermore, primary structures shall be positioned or oriented square to the street frontage serving the structure such that the primary entrance of the main structure is oriented to the same street frontage. For lots with an irregular shape, main structures shall be placed as approved by the Zoning Administrator in conformance with this chapter as is practically feasible. Accessory structures shall be placed square to the main structure as is

practically feasible; however, doors may be placed as needed to serve the purpose of the accessory structure.

**§11-95. Modification of yard requirements.** Yard requirements may be modified at the time of approval of a Zoning Permit to provide that:

1. An unenclosed porch may project into a required front yard for a distance not exceeding 10 feet.
2. A patio may be included as open space in meeting open space requirements and may be included as yard area in meeting yard dimension requirements, provided no structure is closer than five feet to the property line, and provided that no patio or open court area may be located in the front yard of a lot without adequate visual screening.
3. Minimum setback requirements of the chapter for yards facing streets may not necessarily apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the existing developed lots. This section shall apply only to primary or main structures and shall not be used to reduce the required setback of any accessory or auxiliary buildings.



**§11-96 Table of Area and Density Regulations.**

Zoning District	Lot Size	Lot Width	Setbacks		
			Front	Rear	Side
R-1 Neighborhood Residential	20,000 sq. ft.*	100 ft.	35 ft. (50 ft. ROW)	35 ft.	15 ft.
			If under 50 ROW 60 ft. from center line		
B-1 General Business	None*	70 ft.	10 ft. (50 ft. ROW)	25	10 ft. if adj. to a R-1 or R-2 district
			If under 50 ROW 60 ft. from center line		
M-1 Limited Industrial	None*.	70 ft.	35 ft. (50 ft. ROW)		10 ft. if adj. to a R-1 or R-2 district
			If under 50 ROW 60 ft. from center line		
M-2 General Industrial	None*.	70 ft.	35 ft. (50 ft. ROW)		10 ft. if adj. to a R-1 or R-2 district
			If under 50 ROW 60 ft. from center line		

\*Lots served by individual sewage disposal systems must have the required adequate area for said systems onsite as approved by the Virginia Department of Health.

\*As measured from the front-yard setback line.

**§11-97. Structure Height.** The maximum height for structures shall be 35 feet except as provided for in the individual zoning districts as conditional use permits or as provided within this Article.

**§11-98. Exceptions to Height Regulations.** The following are exceptions to the height limitations of this Ordinance.

*A. Exemptions:* The height regulations of this Ordinance do not apply to spires, belfries, cupolas, silos, barns, water towers, ventilators, chimneys, monuments, flagpoles, or other appurtenances usually required to be placed above the roof level or appendages not intended for human occupancy.

*B. Public or semipublic buildings.* A schools, church, library, or general hospital may be erected to a height of 60 feet from grade, provided that required front, side, and rear yard setbacks shall be increased one foot for each foot in height over 35 feet.

*C. Antennas, Towers and Similar Structures.* Conditional Use Permits for exceptions to height regulations may be provided for, telecommunications and radio or television transmission towers and private non-commercial antennas (over 55 feet in height) as conditional use permits within specific Zoning Districts or as otherwise provided for within this Ordinance.

*D. General Conditional Use Permits for Height.* In all districts, the height limits for proposed structures may be increased as a Conditional Use Permit after public hearing, provided fire safety and an area equal to the structure's height as a fall zone or indications of architectural means to mitigate the structure from damaging neighboring properties are provided.

**§11-99. Off-street parking.** For the purpose of this chapter, the following general requirements are specified:

*A. Parking Space Size.* The term "off-street parking space" shall mean a space at least 10 feet wide and 20 feet in length, excluding area for egress and ingress and maneuvering of vehicles.

*B. Parking Space Provisions.* The following requirements will be followed in except as excluded above.

*1. General Intent.* Parking spaces for all dwellings shall be located on the same lot with the main buildings to be served except as designated below.

*2. Offsite Parking.* If an off-street parking space cannot be reasonably provided on the same lot on which the main use is conducted, such space may be provided on other off-street

property, provided such space lies within 300 feet of the property line of such main use.

3. *Multiple Use Parking.* The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space for one use may not be assigned to another use.

4. *Reserved Off-street Parking.* Areas reserved for off-street parking in accordance with the requirements of this chapter shall not be reduced, encroached upon or changed to any other use unless the use that it serves is discontinued or modified.

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

6. *Minimum Aisle Width.* The minimum aisle width for parking areas shall be in accord with the following table:

Parking Angle	Aisle Width (in feet)
0° to 44°	12
45° to 59°	14
60° to 74°	18
75° to 90°	24

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

1. *Surface Treatment.* Any off-street parking areas where more than five parking spaces are required shall be surfaced with an asphaltic, bituminous, concrete or other properly bound pavement so as to provide a durable and dustless surface. Exception to this requirement may be obtained from the Zoning Administrator on a site-by-site basis. The Zoning Administrator, should an exception be made, shall document in writing the

reason for such an exception and attach it the applicant's zoning permit so as to become public record.

2. *Lighting Requirements.* Adequate lighting shall be provided if off-street parking spaces are to be used at night and that have five or fewer parking spaces. The lighting shall be arranged and installed to minimize glare on property in a residential district. Excluded from this requirement are private driveways and parking lots

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

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

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

a. Access shall be provided by means of not more than two driveways for the first 120 feet of frontage along any one street and shall have not more than one additional driveway for each additional 150 feet of street frontage.

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

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

*D. Parking Space Requirements for all Districts by Use.* In all districts, there shall be provided off-street automobile storage or parking space

with vehicular access to a street or alley, which shall be equal in area to at least the minimum requirement set forth herein for the specific land use set forth.

*E. Table of Parking Space Requirements.* The following table shall be used for the determination of the minimum number of spaces for the given use.

Hospitals and similar uses	1 for each 1 beds, plus 1 for each staff doctor, plus 1 for each 4 employees on the maximum working shift
Kennels and animal hospitals	A net parking area equal to 30% of the total enclosed or covered area
Medical, dental and health offices	At least 10; 3 additional parking spaces shall be furnished for each doctor and dentist having office in such clinics in excess of 3 doctors or dentists, plus 1 additional for each 2 staff members and employees
Homes for adults and similar uses	1 for each 4 beds, plus 1 for every 3 employees
<b>Businesses</b>	
Automobile repair establishments	1 for each 300 square feet of gross floor area, with a minimum of 10 spaces
Food stores	1 for each 200 square feet of floor area designated for retail sales only

General business, commercial or personal service establishments catering to the retail trade	1 for each 200 square feet of floor area designated for retail sales
Governmental offices	1 for each 300 square feet of ground floor area, plus 1 for each 500 square feet of upper floor area, and 1 for each governmental vehicle
Shopping centers	1 per 200 square feet of retail sales area
Furniture stores	1 for each 500 square feet of gross floor area
Public utilities, such as telephone exchanges and substations, radio and TV stations, and electric power and gas substations	1 for each employee on the maximum shift, plus a parking area equal to 25% of the gross floor area
Mortuaries and funeral parlors	5 per parlor unit or chapel unit, or 1 for every 4 seats, whichever is greater

<b>Industrial</b>	
Manufacturing and industrial establishments not catering to the retail trade	1 for each 3 employees on the maximum working shift, plus 1 for each company vehicle or mobile equipment operating from the premises
Wholesale establishments	1 for every 50 square feet of customer service area, plus 2 for each 3 employees on the maximum working shift, plus 1 for each company vehicle operating from the premises

*F. Parking for the handicapped.* Parking for the handicapped shall be provided in accordance with all applicable state and federal standards.

**§11-100. Off-street Loading and Unloading Space Requirements.** Off-street loading and unloading spaces shall be provided as hereinafter required by this chapter:

*A. Certain Large Structures.* For structures with a floor area over 10,000 square feet, there shall be at least two off-street loading dock spaces provided for each hospital, hotel, commercial, or industrial building, or similar use requiring the receipt or distribution of materials or merchandise. For those uses having a floor area of more than 10,000 square feet, there shall be at least one off-street loading space for each 10,000 square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley.

*B. Other Structures.* For structures with a floor area of less than 10,000 square feet, there shall be provided at least one off-street loading dock space for each hospital, hotel, commercial, or industrial building requiring receipt or distribution of materials or merchandise. In addition, there shall be sufficient off-street loading space (not necessarily a full space if shared by an adjacent establishment) so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, road, or alley.

*C. Off-street Loading Space Size.* Off Street Loading Spaces shall have a minimum dimension of 14 feet in height, 12 feet in width, and 50 feet in length.

*D. Access.* Each required off-street loading space shall have direct access to a road or alley or have a driveway that offers satisfactory ingress and egress for the types of trucks that serve the facility(ies).

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

**§11-110. Board of Zoning Appeals.** The Board of Zoning Appeals is as follows:

*A. Membership.* Consists of five members who reside in the Town of Dillwyn and have been nominated by the Town Council and shall be appointed by the Circuit Court of § Buckingham County.

*B. Terms of office.* Appointments shall be for five years each. The Secretary of the Board of Appeals shall notify the Circuit Court at least 30 days in advance of the expiration of any term of office. A member whose term expires shall continue to serve until his successor is appointed.

*C. Exclusions.* No member shall hold any public office, except that one member may be a member of the Planning Commission of the Town of Dillwyn.

*D. Compensation.* Members of the Board may receive such compensation as may be authorized by the Town Council.

*E. Support.* Within the limits of funds appropriated by the Town Council, the Board of Appeals may employ or contract for secretarial, clerical, legal, and consulting services.

*F. Vacancies.* Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Members shall be removable for cause by the Buckingham County Circuit Court upon written charges and after a hearing held after at least 15 days' notice.

**§11-111 Rules of Procedure of Zoning Board of Appeals.** The Zoning Board of Appeals shall observe the following procedures:

A. The Board shall adopt rules in accordance with the provisions of this chapter and consistent with other ordinances of the Town of Dillwyn and general laws of the Commonwealth for the conduct of its affairs.

B. The Board shall elect a Chairman and Vice Chairman from its membership, who shall serve annual terms as such and may succeed themselves. The Board shall appoint a Secretary, whose duty it shall be to keep the minutes and other records of the actions and deliberations of the Board and perform such other ministerial duties as the Board shall direct. The Secretary shall be a salaried Town employee and shall perform the duties of the Secretary of the Board in addition to his or her other regular duties.

C. The Board will keep a full public record of its proceedings and shall submit a report of its activities when active to the Town Council at least once each year.



D. All meetings of the Board shall be open to the public.

E. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

F. The meetings of the Board shall be held at the call of the Chairman and at such other times as a quorum of the Board may determine.

G. The Chairman, or in his absence the Vice Chairman or acting Chairman, may administer oaths and compel the attendance of witnesses.

H. Quorum and Voting. A quorum shall be at least three members. A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is empowered.

**§11-112 Appeals and Variance Procedures.** An application for appeals from the Zoning Administrator or his agent or variances from this chapter may be made by any property owner, tenant, governmental official, department, board or bureau.

**§11-113 Application for Appeals of an Administrative Decision.**

Application shall be made to the Zoning Administrator. The application shall clearly explain why the Appeal is being made, the Section of the Ordinance that the applicant believes that the Zoning Administrator or their agent is in error about along with supporting evidence. The application and supporting evidence or other information shall be transmitted properly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy of the application and materials to the Planning Commission, which may send a recommendation to the Board within 30 days or appear as a party at the hearing.

**§ 11-114 Application for Variance.**

Such application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; road names and road right-of-way lines; and such other information regarding abutting property as directly affects the application. The application and accompanying maps, plans, or other information shall be transmitted properly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy

of the application and materials to the Planning Commission, which may send a recommendation to the Board within 30 days or appear as a party at the hearing.

**§11-115 Posting of the Land for Variance.** The Zoning Administrator shall post in a conspicuous place on the property in question one or more signs, each of which shall not be less than 1 1/2 square feet in area, and which shall contain information as to the proposed change and the date and time of the public hearing. These signs shall be posted at least 15 days prior to the public hearing.

**§11-116 Hearing and action.** The Secretary shall place the matter (whether an Appeal of an Administrative Decision or a Variance) on the docket to be acted upon by the Board. No such Appeal or Variance shall be acted upon except after notice and hearing as required by § 15.2-2204, Code of Virginia, 1950, as amended. The Board shall decide upon the application within 30 days from the date of such hearing.

**§11-117 Limitation of application.** A property owner, or his appointed agent, shall not initiate action for a hearing before the Board relating to the same parcel of land more often than once every 12 months without specific approval of the Board.

**§11-118 Withdrawal of application.** Any petition for a hearing before the Board may be withdrawn prior to action thereon by the Board upon written notice to the Secretary of the Board, from the person, firm, or corporation initiating such petition.

**§11-119 Fee.** Each application for a variance shall be accompanied by payment of a fee as set forth by the Dillwyn to defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded, provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice of the withdrawal is received

**§11-120 Criteria for Variances.** The Board of Zoning Appeals after a duly advertised public hearing may grant a variance subject to the following criteria. A variance from the terms of this Ordinance shall not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done as follows:

- A. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property

immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance shall alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

B. No such variance shall be authorized by the Board unless it finds that:

1. The strict application of this chapter would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property; and;
4. The character of the district will not be changed by the granting of the variance.

C. No such variance shall be authorized except after notice and hearing as required by § 15.2-2204, Code of Virginia, 1950, as amended.

D. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

E. In authorizing a variance, the Board may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure compliance with the conditions imposed.

**§11-121. Appeals from decisions of Board of Zoning Appeals.** The following is the procedure for appealing a decision of the Board of Zoning Appeals.

A. Circuit Court of Buckingham County. *Any* person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board, or bureau of the Town of Dillwyn may present to the Circuit Court of Buckingham County a petition specifying the grounds on which aggrieved, within 30 days after the filing of the decision in the office of the Board.

B. Petition. Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the Town's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision being appealed, but the Court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.

C. Copies. The Board shall not be required to return the original papers acted upon it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision being appealed and shall be verified.

D. Testimony. If, upon hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

E. Costs. Costs shall not be allowed against the Board, unless it shall appear to the Court that the Board acted in bad faith or with malice in making the decision being appealed.

**§11-130. Application Procedures for Ordinance or Map Amendment.** The Town Council may, from time to time, amend these regulations or district maps whenever the public necessity, convenience, general welfare, or good zoning practice requires. Any resolution or motion by the Town Council or Planning Commission proposing the rezoning shall state the above public purposes.

A. Application(s). Applications for amendments initiated by any person, firm, or corporation owning the subject property shall be submitted in writing to the Zoning Administrator and shall be accompanied by two copies of an acceptable site plan, where applicable, of the proposed amendment with such reasonable information shown thereon as shall be required by the Zoning Administrator. Where site plans are required, they shall show, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimension and the use of structures; easements (public and private); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application. Proposals for amendments not initiated by either the Commission or the Town Council shall be accompanied by a payment of a fee as set forth by the Dillwyn Town Council.

B. Planning Commission Public Hearing. The Planning Commission shall consider the proposed amendment after notice and public hearing in accordance with § 15.2-2204, Code of Virginia, as amended. The Planning Commission shall then present the proposed amendment along with site plans and explanatory materials, where applicable, to the Town Council with its recommendations. If the Planning Commission fails to submit its recommendation within 60 days of the first meeting of the Planning Commission after the proposed amendment has been referred to it, the Planning Commission shall be deemed to have approved the proposed amendment.

C. Posting. The Zoning Administrator shall post in a conspicuous place on the property which is the subject matter of the application one or more signs, each of which shall not be less than 1 1/2 square feet in area, and shall contain information as to the proposed change and the date and time of the public hearing. The cost of each shall be paid by the applicant prior to the public hearing. These signs shall be posted at least 15 days prior to the public hearing.

D. Hearing. The Dillwyn Town Council shall consider the proposed amendment after notice and public hearing in accordance with § 15.2-2204, Code of Virginia, 1950, as amended, and shall take action on the proposed amendment within 30 days from the date of the public hearing. The Town Council and the Planning Commission may hold a joint public hearing in accordance with § 15.2-2204, Code of Virginia, 1950, as amended.

E. Withdrawal. Any petition for an amendment may be withdrawn prior to action thereon by the Town Council at the discretion of the

person, firm, or corporation initiating such a request, upon written notice to the Zoning Administrator.

F. Similar Denied Application. No substantially similar application for any amendment affecting a specific parcel of land may be initiated within 12 months after the date of the final determination and decision on a previous application of substantial similarity.

**§11-131. Conditional Zoning Procedures for proffering conditions to zoning district regulations.**

A. Intent. The intent of this subsection is to provide guidelines, pursuant to §§ 15.2-2296 through 15.2-2302 Code of Virginia, 1950, as amended, for allowing reasonable conditions governing the use of property, such conditions being in addition to, or modification of, the regulations provided in the zoning district regulations and the Zoning District Map.

B. Proffer of conditions. An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this chapter, as part of an amendment to the zoning district regulations or the Zoning District Map. The proffered conditions shall be in writing and shall be made prior to the public hearing before Town Council. In addition:

1. The rezoning itself must give rise to the need for the conditions; and
2. The conditions proffered shall have a reasonable relation to the rezoning.

**§ 11-132. Zoning procedures for Conditional Use Permits.** The following are the procedures for Conditional Use Permits (CUP's).

A. Application procedures for conditional uses. An application for a conditional use permit shall be submitted to the Zoning Administrator, who shall refer the application to the Planning Commission for a recommendation to the Town Council. The Planning Commission shall hold at least one public hearing prior to making its recommendation to the Town Council. The Town Council shall hold a public hearing and make a decision on the application. Application for zoning permits for conditional uses must be submitted in accordance with the following procedures:

1. Each application shall be accompanied by two copies of an acceptable site plan drawn in accordance with applicable provisions of this Ordinance, with such reasonable information

shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: the dimensions, with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

2. Each application for a permit for a conditional use or other special exception shall be accompanied by payment of a fee as set forth by the Dillwyn Town Council to help defray the cost of publicizing and conducting the public hearing.

3. Each application shall be sent to the Planning Commission for review and recommendation, and the Planning Commission, after notice and public hearing in accordance with § 15.2-2204, Code of Virginia, 1950, as amended, shall, within 60 days from the date of filing of a completed application, submit a report of its recommendation to the Town Council. If the Planning Commission fails to submit a report within the sixty-day period, it shall be deemed to have recommended approval of the proposed conditional use application.

4. Within 60 days of the Planning Commission's report to the Town Council, the Town Council, after notice and public hearing in accordance with § 15.2-2204, Code of Virginia, 1950, as amended, shall consider the proposed conditional use or other special exception and shall take action on the proposed conditional use application within 30 days from the date of the public hearing.

5. In evaluating the proposed conditional use, the Town Council shall address the following concerns:

a. The effect of the proposed use or special exception on existing and projected traffic volumes in the neighborhood;

b. The current and future need for the proposed use in the Town of Dillwyn;

c. The character of the existing neighborhood and the effect of the proposed use or special exception on existing property values; and

d. The impact of the proposed use or special exception on the health, safety, and welfare of the neighborhood.

6. Conditions set forth in this Ordinance for conditional uses are a minimum. In approving a proposed conditional use or other special exception, the Town Council may impose such additional requirements as are necessary to protect the public interest. The Town Council may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements imposed by the Town Council.

7. If the Town Council approves the application for a proposed conditional use, the Zoning Administrator shall issue a conditional use permit, indicating the conditional nature of the use.

8. If the Town Council disapproves the application for a proposed conditional use, the Town Council shall inform the applicant of the decision in writing within 30 days from the date of the public hearing, stating the reasons for disapproval. The Zoning Administrator shall retain one copy of the site plan and one copy of the refusal, and shall keep them as a public record. Within 15 calendar days from the date of written notice, the applicant shall have the right of appeal to Buckingham County Circuit Court.

9. A property owner, or his appointed agent, shall not initiate action for a conditional use permit relating to the same conditional use affecting the same parcel of land more often than once every 12 months.

10. A conditional use permit must be put into effect within six months after the date the permit is issued, unless otherwise provided in the permit itself. Expiration of a conditional use permit shall occur with the discontinuance or suspension for a period of one year of an activity which was authorized by a conditional use permit.

11. Renewal of a conditional use permit does not require a public hearing unless the original conditions in the permit are changed; however, notice of the renewal will be shown on the agenda of the Town Council.



12. Upon change of ownership of the land and/or ownership of the resident business, any conditional use permit for the property shall expire.