

# **Town of Wachapreague, Virginia**

## **Zoning Ordinance**

**Adopted October 16, 1984**

Prepared with the assistance of:

Accomack-Northampton Planning District Commission

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## Article I - General Provisions

### I-1 Purpose and Authority to Zone

Whereas, by act of the General Assembly of Virginia as provided in Title 15.1, Chapter 11, Article 8, Section 15.1-486 through 15.1-498, Code of Virginia, as amended, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape, and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

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

Therefore, be it ordained by the governing body of the Town of Wachapreague, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Section 15.1-427 that the following be adopted as the zoning ordinance of the Town of Wachapreague, Virginia, together with the accompanying map. 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, 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 be in accord with and to implement the goals, objectives and policies set forth in the Wachapreague Town Plan, as adopted by the Wachapreague Town Council.

## I-2 Repeal of Conflicting Ordinances

All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

## I-3 Ordinance Sets Minimum Standards

Whenever the standards set forth in this ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, deed restrictions, covenants, or ordinances, the most restrictive, or that imposing the highest standards shall govern.

## I-4 Town Liability

The zoning of any land and the granting of any permit or certificate for the use of land and/or structure shall not be interpreted as a guarantee by the Town of Wachapreague of the suitability of such land or structure for developing or use.

## I-5 Severability Clause

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof other than the part so declared to be unconstitutional or invalid.

## I-6 Nonexclusionary Intent

It is not the intent of this ordinance to exclude any economic, racial, religious or ethnic group from enjoyment or residence, land ownership or tenancy within the Town; nor is it the intent of this ordinance to use public powers in any way to promote the separation of economic racial, religious, or ethnic groups except as may be the incidental result of meeting the purpose outlined in Section I-1, herein.

## I-7 Provisions for Official Zoning Map

The boundaries of the zoning districts are shown on the official zoning map of the Town of Wachapreague, Virginia, which together with all notations, amendments, and explanatory matter thereon are hereby made a part of this ordinance. The official zoning map shall be attested by the signature of the Mayor of the Town, whose signature shall be witnessed, and shall remain on file in the office of the Zoning Administrator where it shall be accessible to the general public.

An exact copy of such map shall be filed with the Clerk of the Circuit Court of Accomack County, Virginia.

I-7.1 Changes or Amendments If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the change has been approved by the Town Council, or no more than ten (10) days after approval. Such changes shall be attested by the initials of the Zoning Administrator and the date of entry. A copy of such map or maps shall be filed with the Clerk of the Circuit Court of Accomack County. Changes to this ordinance which involve matters shown on the

official zoning map shall become effective immediately upon being entered onto the official zoning map or matter shown thereon except in conformity with the procedure set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under Article VII.

I-7.2 Replacement. In the event that any or all of 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. The new official zoning map may correct drafting or other errors, or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be attested by the signature of the Mayor and shall be witnessed. Unless the prior official zoning map or maps have been lost or totally destroyed, the prior map or maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to the adoption and amendment, if any, of the prior map or maps.

I-7.3 Application and Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

- A. Unless otherwise indicated, district boundaries indicated as approximately following the center lines of existing or proposed roads, streets, highways, alleys, or railroads; mean low water or center lines, as indicated, of streams, ponds, drainage ditches, or other natural and manmade bodies of water; property lines; or civil boundaries shall be construed to follow such lines.
- B. Boundaries indicated as parallel to or extensions of features indicated in subsection A above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- C. If no distance, angle, 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 size of the scale shown on the official zoning map.
- D. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals shall hear and decide the exact location of the district line in keeping the provisions of Article VIII.
- E. Where the exact location of district boundaries is not clear after application of the rules presented, the Board of Zoning Appeals shall hear and decide such questions in accordance with the provisions of Article VIII.

#### I-8 Application of District Regulations

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided:

- A. No building or land shall hereinafter be used or occupied, and no building or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except

in conformity with all of the regulations herein specified for the district in which it is located or is to be located.

B. No building shall hereinafter be erected, constructed, or altered so as to exceed height or bulk limits, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required.

C. No new yard or lot shall hereinafter be created nor shall any yard or lot existing at the time of enactment of this ordinance be altered so that width, depth, or area requirements; front side, or rear requirements; or other requirements of this ordinance are not maintained, except when a portion of a lot is acquired for public use.

D. No part of a yard, other open space, off street parking space, or loading space required about or in connection with any building for the purpose of complying with the regulations of this ordinance shall be included as part of a yard, other similarly required for another building, except as provided hereinafter.

E. Nothing contained herein shall require any changes in the plans or construction of any building for which a building permit was granted prior to the effective date of this ordinance. However, if such construction does not commence within six (6) months or less after this ordinance becomes effective, construction shall be in conformity with the provisions of this ordinance for the district in which the activity is located.

## **Article II - Definitions**

For the purpose of this ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

### **II-1 Abattoir**

A commercial slaughter house.

### **II-2 Accessory Use or Structure**

A subordinate use or structure incidental or secondary to, and located on the same lot as, the principal use or structure. The use of tractor-trailers, truck bodies, shipping containers, refrigerator bodies, or other similar containers or other types of vehicles or parts of vehicles is prohibited in all zoning districts.

### **Revision Effective 08/07/01**

### **II-3 Acreage**

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

### **II-4 Administrator, The**

The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

### **II-5 Agriculture**

The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl, and including any agricultural industry or business such as fruit packing plants, dairies, or similar uses.

### **II-6 Alteration**

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

### **II-7 Apartment House**

A building used or intended to be used as the residence of three (3) or more families living independently of each other.

### **II-8 Automobile Graveyard**

Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles

of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found.

#### II-9 Basement

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

#### II-10 Boarding House

A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.

#### II-11 Building

Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.

#### II-12 Building, Accessory

A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

#### II-13 Building, Height of

The vertical distance measured from the level of the curb or the established curb grade opposite the middle 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 ridge of a gable, hip, or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

#### II-14 Building, Main

The principal structure or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot.

#### II-15 Cellar

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

#### II-16 Condominium

For the purpose of this ordinance the meaning of "condominium", and related terms such as "common elements", "condominium instruments", and "condominium units", shall be controlled by Section 55-79.41 of the Code of Virginia, 1950, as amended.

II-17 Commission, The

The planning commission of the Town of Wachapreague, Virginia.

II-18 Dairy

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

II-19 District

Districts as referred to in the State Code, Section 15.1-486.

II-20 Dump Heap (Trash Pile)

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

II-21 Dwelling

Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, automobile trailers, and mobile homes.

II-22 Dwelling Unit

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

II-23 Dwelling, Single Family

A building containing one (1) dwelling unit, entirely surrounded by a yard. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

II-24 Dwelling, Duplex

A building containing two (2) dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

II-25 Dwelling, Multiple-Family

A building containing three (3) or more dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

### II-26 Family

One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home, or hotel.

### II-27 Frontage

The minimum width of a lot measured from one (1) side lot line to the other along a straight building setback line as defined as required herein.

### II-28 Garage, Private

Accessory building designed or used for the storage of not more than three (3) automobiles 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 one and one-half (1 1/2) times as many automobiles as there are dwelling units.

### II-29 Garage, Public

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

### II-30 Golf Course

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

### II-31 Golf Driving Range

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

### II-32 Governing Body

The Town Council of Wachapreague, Virginia.

### II-33 Guest Room

A room which is intended, arranged, or designed to be occupied, or which is occupied, by one (1) or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

### II-34 Historical Area

An area indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage.

### II-35 Home Garden

A garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises.

### II-36 Home Occupation

Any occupation or profession carried on in a dwelling unit or on the premises thereof, provided that:

A. No person other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit or twenty-five (25) percent of said floor area if conducted in an accessory building, shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated.

D. There shall be no sales, other than items handcrafted on the premises, in connection with such home occupation.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family dwelling, or outside the dwelling unit if conducted in other than a single family dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed home occupations; the conducting of a beauty or barber shop, tea room or restaurant, rest home, clinic, doctor or dentist office, child care center, real estate office, or cabinet, metal, or auto repair shop shall not be deemed a home occupation.

### II-37 Hospital

An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums; but in all cases excluding institutions primarily for mental patients, epileptics, alcoholics, or drug addicts (certain nursing homes and homes for the aged may be "home occupations" if they comply with the definition herein).

#### II-38 Hospital, Special Care

A special care hospital shall mean an institution rendering care primarily for mental patients, epileptics, alcoholics, or drug addicts.

#### II-39 Hotel

A building designed or occupied as the more or less temporary abiding place for fourteen (14) or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

#### II-40 Junk Yard

An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

#### II-41 Kennel

Any place in which more than three (3) dogs, more than six (6) months of age are kept, or any number of dogs are kept for the purpose of sale or rental or in connection with boarding, care, or breeding, for which any fee is charged.

#### II-42 Livestock Market

A commercial establishment wherein livestock is collected for sale and auctioned off.

#### II-43 Lot

A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat or record or considered as a unit of property and described by metes and bounds.

#### II-44 Lot, Corner

A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets.

#### II-45 Lot, Depth of

The average horizontal distance between the front and rear lot lines.

#### II-46 Lot, Double Frontage

An interior lot having frontage on two (2) streets.

#### II-47 Lot, Interior

Any lot other than a corner lot.

#### II-48 Lot, Width

The width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, then the setback line shall also curve or angle uniformly with the street line and the "lot width shall be calculated along the said curve or angle setback line.

#### II-49 Lot of Record

A lot which has been recorded in the Clerk's Office of the Circuit Court.

#### II-50 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.

#### II-51 Manufactured Home

“Manufactured home” means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical system contained in the structure.

#### II-52 Mobile Home Park or Subdivision

Any area designed to accommodate two (2) or more mobile homes intended for residential use where residence is in mobile homes exclusively.

#### II-53 Motor Home

Fully self-contained unit which is built on a truck or bus chassis and designed as temporary living accommodations for recreation, camping, and travel use.

#### II-54 Nonconforming Lot

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

#### II-55 Nonconforming Activity

The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date

of this ordinance or as a result of subsequent amendments to the ordinance.

#### II-56 Nonconforming Structure

An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

#### II-57 Parking Space

A permanently paved area, with an all weather surface, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.

#### II-58 Parking Area, Off-Street

Parking (as defined in II-57) space provided for vehicles outside the dedicated street right-of-way.

#### II-59 Public Water and Sewer Systems

A water or sewer system owned and operated by the Town of Wachapreague or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.

#### II-60 Recreational Vehicle

Vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use. There are four (4) basic types of recreational vehicles-travel trailers, motor homes, truck campers, and camping trailers.

#### II-61 Required Open Space

Any space required in any front, side, or rear yard.

#### II-62 Restaurant

Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

#### II-63 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 lumber yards) such as the following which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, drygoods

and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

II-64 Satellite Dishes Any dish shaped device greater than three feet in diameter used to facilitate radio and television reception.

#### II-65 Sawmill

A portable sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

#### II-66 Seafood

Edible marine fish and shellfish.

#### II-67 Seafood Processing

Processing of edible marine fish and shellfish for the purpose of human consumption. Processing of sea products for industrial or agricultural uses does not constitute "seafood processing". Examples of seafood processing include: crab picking, oyster shucking, and table-fish cleaning.

#### II-68 Setback

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

#### II-69 Sign

Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one (1) square foot in area is excluded from this definition.

II-69.1 Business. A sign which directs attention to a product, commodity, or service available on the premises.

II-69.2 Home Occupation. A sign not exceeding four (4) square feet in area 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.

II-69.3 General Advertising. A sign which directs attention to product, commodity, or service not necessarily available on the premises.

II-69.4 Location. A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

II-69.5 Directional. A directional sign which indicates the direction to which attention is called,

four (4) square feet or less in area, giving the name only of the farm or business responsible for the erection of same, one end of which may be pointed, or on which an arrow may be painted.

II-69.6 Identification. A sign, not exceeding sixteen (16) square feet in area, for the purpose of showing the name and use of a convent, monastery, seminary, church, country club, sanitarium, cemetery, children's home, orphanage, fraternal organization, hospital, or other similar establishment, when such use is permitted in a residential zone as specified in this article and such sign is erected or displayed on the property as identified.

#### II-70 Sign Structure

Includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign.

#### II-71 Sign, Temporary

A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.

#### II-72 Store

See Item II-63, Retail Stores and Shops.

#### II-73 Story

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

#### II-74 Story, Half

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

#### II-75 Street, Road

A public thoroughfare which affords principal means of access to abutting property.

#### II-76 Street Line

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

#### II-77 Structure

Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

#### II-78 Tourist Court, Auto Court, Motel, Cabins, or Motor Lodge

One (1) or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

#### II-79 Tourist Home

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

#### II-80 Travel Trailer

Vehicular structure mounted on wheels which is designed as temporary living accommodations for recreation, camping, and travel use and can be easily towed by automobile or small truck and does not require special highway movement permits.

#### II-81 Truck Camper

Portable structure designed to be loaded onto or affixed to the bed or chassis of a truck. Designed to be used as temporary living accommodations for recreation, camping, and travel use.

#### II-82 Use, Accessory

A subordinate use customarily incidental to and located upon the same lot occupied by the main use.

#### II-83 Variance

A variance is a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk, or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

#### II-84 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.

#### II-85 Yard

An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

II-85.1 Front. An open space on the same lot as a building between the frontline of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

II-85.2 Rear. An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

II-85.3 Side. An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

## **Article III - Districts**

### III-I Enumeration of Districts

For the purpose of this ordinance, the incorporated area of the Town of Wachapreague, Virginia, is hereby divided into the following districts:

**Residential - R**

**Commercial waterfront - CW**

**Commercial Neighborhood - CN**

### **III-2 Residential District, R**

III-2.1 Statement of Intent. This residential district and its regulations are intended to protect the essential residential character of the district and to protect against encroachment of commercial or industrial uses and other uses likely to generate noise, crowds, large concentrations of traffic, light, dust, odors, smoke and other obnoxious influences.

III-2.2 Principal Permitted Uses and Structures. The following uses shall be permitted subject to all the other requirements of this ordinance as a matter of right in the Residential District (R).

A. Single-family, conventional or modular construction dwellings. In District R, manufactured or mobile homes are not permitted dwellings.

#### **Revision Effective 05/06/03**

B. Public Utilities: Poles, lines, transformers, pipes, meters and similar facilities; water and sewer distribution lines.

C. Home occupations, as defined.

D. Churches, as defined.

E. Signs as permitted under Article 23 hereof.

F. Accessory uses and structures.

1. Notwithstanding the setback requirement set forth in Section III-7-1 below, no accessory structure may be located in front of a primary structure or forward of a straight line extending from the front wall of a primary structure to the side property lines.

2. No motor vehicle or portion of a motor vehicle, including the trailer portion of a tractor-trailer, truck bodies, shipping containers, refrigerator bodies or other similar containers, may be use as an accessory of storage structure.

Effective 08/07/01

G. (RESERVED)

H. Drainage, erosion and flood control structures.

I. Satellite Dishes: To comply with the setback regulations for accessory structures, to be not more than fifteen (15) feet high nor twelve (12) feet in diameter. This applies to owned and rented satellite dishes.

III-2.3 Special Exceptions

A. Day care centers and nurseries.

B. Public and private schools.

C. Public Utilities: Public water and sewer transmission mains or trunk lines and treatment facilities, pumping stations; electrical power transmission and distribution substations and transmission pipelines and pumping stations, unmanned telephone exchange centers, microwave and radio transmission and relay towers and substations.

D. Parks and playgrounds, country clubs, golf courses, swim and tennis clubs.

E. Duplex units.

F. Fire and Rescue stations.

G. Funeral homes.

H. Apartment Conversion

1. Each dwelling unit shall not be permitted more than one apartment, which shall be contained within the dwelling unit itself.

2. The apartment shall not occupy more than thirty (30) percent of the floor area in the dwelling unit.

J. Apartment Houses

### III-2.4 Uses Prohibited

a. It shall be unlawful for any property owner, tenant or occupant of any lot within a Residential or Commercial Neighborhood District to allow or permit the use of Recreational Vehicles, as defined in Section II-60 of this Ordinance, for living quarters for guests, relatives, or any other persons for a period of more than seven (7) days.

### **III-3 Commercial Waterfront District, CW**

III-3.1 Statement of Intent. The district is designed to accommodate water related commercial activities and their accessory uses to enhance the Town's tidal water resources.

#### III-3.2 Principal Permitted Uses and Structures

- A. Marinas, country and yacht clubs, including dry storage, fueling, and repair of watercraft.
- B. Motels and hotels, under the same height, placement, land use density and intensity regulations as R1, Multi-family Structures.
- C. Restaurants in an enclosed building; boarding houses and inns.
- D. Dry dock for pleasure boats and small commercial workboats.
- E. Drainage, erosion and flood control structures and devices.
- F. Public and private beaches and boat landings.
- G. Accessory uses and structures
  - 1. Notwithstanding the setback requirement set forth in Section III-7.1 below, no accessory structure may be located in front of a primary structure or forward of a straight line extending from the front wall of a primary structure to the side property lines.
  - 2. No motor vehicle or portion of a motor vehicle, including the trailer portion of a tractor-trailer, truck bodies, shipping containers, refrigerator bodies or other similar containers, may be used as an accessory or storage structure.

#### **Revision Effective 08/07/01**

- H. Bait and tackle shops.
- I. Retail shops and outlets in seafood; marine related equipment and repairs.
- J. Accessory uses and structures.
- K. Water related facilities of the Federal, State and local government.
- L. Signs, as permitted under Article 23 herein.
- M. Craft industries, water orientated.
- N. Boat ramps and related facilities.
- O. Public Utilities: Poles, lines, transformers, pipes, meters, and similar facilities; water and sewer distribution lines.
- P. Boat building, repair and railways.
- Q. Marine salvage facilities.

R. Marine, rail and truck terminals.

S. Gift shops.

T. Recreational vehicle areas - campgrounds - as provided for under Section 26-10 herein.

U. Satellite Dishes: To comply with the setback regulations for accessory structures, to be not more than fifteen (15) feet high nor twelve (12) feet in diameter. This applies to owned and rented satellite dishes.

### III-3.3 Uses Permitted by Special Use Permit

A. Facilities for the processing and shipment of seafood.

B. Public Utilities: Public Water and sewer transmission main or trunk lines and treatment facilities, pumping stations; electrical power transmission lines and towers, oil and gas transmission lines and pumping stations; unmanned telephone exchange centers, microwave, TV, and radio wave transmission and relay towers and substations.

C. OCS energy related facilities such as gas-oil pipelines, service bases, partial processing plants, gas processing and treatment plants, pipe coating yards, general shore support.

### III-4 Commercial Neighborhood District, CN

III-4.1 Statement of Intent. This district is intended to provide for the conduct of limited business which provide convenience, goods and services to Town residents.

III-4.2 Principal Permitted Uses and Structures. The following uses shall be permitted by right:

A. Accessory uses and structures.

1. Notwithstanding the setback requirement set forth in Section III-7.1 below, no accessory structure may be located in front of a primary structure or forward of a straight line extending from the front wall of a primary structure to the side property lines.
2. No motor vehicle or portion of a motor vehicle, including the trailer portion of a tractor-trailer, truck bodies, shipping containers, refrigerator bodies or other similar containers, may be used as an accessory or storage structure. **Eff 08/07/01**

B. Professional and business offices.

C. Banks and lending institutions.

D. Fire and rescue station.

E. Parking garages and lots.

F. Libraries.

G. Clothes pressing and cleaning shops.

H. Restaurants, enclosed.

I. Signs as permitted under Article 23 herein.

J. Retail service stores such as barber shops, beauty parlors, shoe repair shops, hand laundries, laundromats, establishments for receiving and distributing articles for laundering or cleaning and blue print, photostat and similar reproduction establishments and printing establishments.

K. Stores for the retail sale, repair (or both) of household appliances, musical instruments, sporting goods furniture.

L. Stores for the retail sales of antiques and crafts, automobile supplies, books, cigars, clothing and apparel of any kind, dry goods, drugs, garden supplies, gifts, electrical goods and supplies, food and food products of any kind including production of bakery goods for retail sale in the same establishment but not including the killing of poultry or any other livestock; furniture, household furnishing and decorator's supplies, hardware, florist goods, luggage and leather goods, office supplies, optical goods, pets and pet supplies but not any veterinary services. Photographic equipment and supplies, variety goods, toys, jewelry, music, stationery, newsstand and similar retail establishments.

M. Public utilities: Pole, lines, transformers, pipes, meter and similar facilities; water and sewer

distribution lines.

N. Radio broadcasting and television stations and studios.

O. Theater (indoor).

P. Virginia ABC Stores.

Q. Health spa centers.

R. Educational institutions.

S. Schools of special instruction.

T. Day care centers.

U. Community centers.

V. Drainage, erosion and flood control devices and structures.

W. Residential apartments above stores.

X. (RESERVED).

Y. Hotels and motels.

Z. Sidewalk cafes, restaurants and coffee shops.

AA. Satellite Dishes: To comply with the setback regulations for accessory structures, to be not more than fifteen (15) feet high nor twelve (12) feet in diameter. This applies to owned and rented satellite dishes.

#### III-4.3 Use Permitted by Special Use Permit

A. Automobile service stations and laundries.

B. Public Utilities: Public water and sewer transmission main trunk lines and treatment facilities, pumping stations; electrical power transmission and distribution substations and transmission lines and. powers, oil and gas transmission lines and substations, unmanned telephone exchange centers, microwave and radio wave transmission and relay towers and substations.

C. Funeral parlors, homes.

D. Craft industry.

E. Condominiums

#### III-4.4 Uses Prohibited

- a. It shall be unlawful for any property owner, tenant or occupant of any lot within a Residential or Commercial Neighborhood District to allow or permit the use of Recreational Vehicles, as defined in Section II-60 of this Ordinance, for living quarters for guests, relatives, or any other persons for a period of more than seven (7) days.

### III-7.1 Schedule of Height, Placement, Land Use Density and Intensity Regulations

	Zone	Minimum Lot Area (Sq. Ft.)	Front Setback (Feet)	Side Setback (Feet)	Rear Setback (Feet)	Height Limit (Feet)	Minimum Lot Width (Feet)
R	Single-Family Structures	7,000**	25	15	35	35 <sup>4,5,6</sup>	60
		12,000*	25	15	35	40 <sup>4,5,6</sup>	60
	Duplex Structures	9,000 <sup>1</sup>	50	15	35	40 <sup>4,5,6</sup>	110
		20,000 <sup>2</sup>	50	15	35	40 <sup>4,5,6</sup>	140
		25,000 <sup>3</sup>	50	15	35	40 <sup>4,5,6</sup>	140
	Multi-Family Structures	3,600 <sup>1,7</sup>	60	15	35	40 <sup>4,5,6</sup>	140
		5,500 <sup>2,7</sup>	60	15	35	40 <sup>4,5,6</sup>	140
		Not allowed <sup>3</sup>	-	-	-	-	-
	Other	25,000	75	20	35	40 <sup>4,5,6</sup>	110
	Accessory Structures	4,000	25	5	None	35	60
CW	Primary Structures	None	20	10	None	45 <sup>4,5,6</sup>	60
	Accessory Structures	None	20	10	None	45 <sup>4,5,6</sup>	60
CN	Primary Structures	None	None	None <sup>8</sup>	None <sup>8</sup>	45 <sup>4,5,6</sup>	60
	Accessory Structures	None	None	None <sup>8</sup>	None <sup>8</sup>	45 <sup>4,5,6</sup>	60

\* Newly created or subdivided lots after November 10, 1987.

\*\* Existing lots containing an existing home or dwelling after November 10, 1987.

ZONING FEE: \$25.00 (effective November 14, 1990).

<sup>1</sup> with public water and public sewage.

<sup>2</sup> With public water or public sewage but not both.

<sup>3</sup> With individual water and sewage facilities.

<sup>4</sup> The height limit for primary structures may be increased up to forty-five (45) feet and up to three (3) stories provided there are two (2) side yards for each permitted use, each of which is ten (10) feet or more, plus one foot or more of side yard for each additional two (2) feet of building height over thirty-five (35) feet.

<sup>5</sup> A public or semipublic building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

<sup>6</sup> Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennas, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

<sup>7</sup> Square feet per dwelling unit.

<sup>8</sup> Except where a permitted use abuts a residential district where the requirement will be fifteen (15) feet for side yards and thirty-five (35) feet for rear yards.

## **Article IV - Sign Regulations**

### IV-1 Statement of Purpose

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the Town, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of outdoor advertising.

### IV-2 Advertising Outdoors Regulated

No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain, or fasten any sign, pennant, flags, outdoor advertising sign, billboard, or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

### IV-3 Signs and Flags Permitted by Right in the Various Districts

IV-3.1. Memorial tablets or signs.

IV-3.2. Signs required to be maintained by law or governmental order', rule, or regulation, with a total surface area not exceeding ten "(10) square feet on any lot or parcel.

IV-3.2. (RESERVED)

IV-3.4. Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties.

IV-3.5. Flags or emblems of civic, governmental, philanthropic, educational, or religious organizations, and corporate designed flags.

IV-3.6. Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, freight entrances, no trespassing and posted signs, or the like not exceeding a total area of eight (8) square feet per sign.

IV-3.7. Signs placed by a public utility showing the location of underground facilities.

IV-3.8. Church bulletin board and identification signs with a total surface area not exceeding thirty (30) square feet per sign.

IV-3.9. Home occupation signs with a total surface area not exceeding four (4) square feet per sign.

IV-3.10. Signs advertising the sale or rent of the specific premises where the sign is located.

IV-3.11. Signs or a combination of letters may be attached to a building or structure, on the premises, for the purpose of advertising and displaying the name, address, and/or a business slogan, of the specific business.

IV-3.12. Four signs not exceeding six square feet advertising only the price of a product

provided the sign is attached to a permanent structure on the specific premises where the business is located.

IV-3.13. Temporary signs with special permission from the Zoning Administrator.

IV-3.14. In any district, except Residential District (R), one (1) of the following business signs options shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of this Article.

- A. One (1) sign which shall not exceed ninety-six (96) square feet.
- B. One (1) sign which shall not exceed thirty-two (32) square feet.
- C. Two (2) signs which shall not exceed sixteen (16) square feet.

All signs shall be of balanced proportions and symmetrical in shape. All signs and the surrounding area shall be maintained in a neat and orderly manner.

#### IV-4 Sign Permits

Except for signs permitted in Section IV-3 of this ordinance it shall be unlawful to erect, locate, establish, display or paint on a structure any size or type of outdoor sign or billboard anywhere within the jurisdiction of the Town of Wachapreague, Virginia without -first obtaining a Sign Permit from the Zoning Administrator. No such permit shall-be issued unless a fee of ten dollars is paid therefore, and unless the proposed sign conforms to the requirements of this ordinance.

IV-4.1. Before any permit is granted for the erection of a sign, plans and specifications shall be filed with the Accomack County Building Department of Environmental Affairs showing the dimensions, type of materials and the details of construction including anchorage. The applicant shall also comply with all the other requirements of the Accomack County Building code.

IV-4.2. Any person, firm, or corporation who was operating a business in Residential District (R) prior to the effective date of this ordinance who may desire to erect any additional signs shall apply for a Special Use Permit.

#### IV-5 Setback Requirements

Signs shall be located 15 feet or more from any highway or street right of way and this shall be known as the "setback line". There shall be excepted from this setback business signs advertising the sale or rent of the premises, which may be erected up to the property line.

#### IV-6 Height Regulations

Signs shall not exceed a height of 20 feet above ground level or the street to which it is oriented, whichever is higher, without a Special Use Permit from the Board of Zoning Appeals.

#### IV-7 General Regulations

IV-7.1. Except for authorized traffic signs, no sign shall be erected at the intersection of any

streets in such a manner as to create a traffic hazard by obstructing vision between heights of two and one-half (2 1/2) and eight (8) feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

IV-7.2. No sign will be erected which imitates or resembles any official traffic sign, signal or device or uses the words "Stop" or "Danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any highway.

IV-7.4. No sign will be erected which advertises any activities which are illegal under State or Federal law or regulations in effect at the location of such sign or at the location of such activities.

IV-7.5. No sign will be erected which is inconsistent with State law or the provisions of this ordinance.

IV-7.6. No sign will be erected which involves noise, motion or rotation of any part of the structure or displays intermittent or flashing lights, without a Special Use Permit from the governing body.

IV-7.7. No sign will be erected which is mobile. Except for signs attached to buildings or permanent structures and those permitted in Sections IV-3.10 and IV-3.12 all other signs of whatever type or size permitted in this ordinance shall be permanently anchored in concrete or permanently attached to piling or posts firmly embedded in the ground. All wheels and other portable structural equipment shall be removed from the structure.

IV-7.8 Flag and Pennant Regulations. It shall be unlawful to display, post, erect, place or maintain any type of pennants or flags anywhere in the various Districts except as permitted in Section IV-3.5.

IV-7.9 Nonconforming Signs. Any sign lawfully in existence at the time of the effective date of this ordinance may be maintained although it does not conform with the provisions of this ordinance. Such nonconforming signs shall comply in all respects with the requirements of Article VI relating to nonconforming uses.

If such nonconforming sign is destroyed, demolished, or removed due to any reason, it shall not be replaced without complying with all provisions of Article IV.

## Article V - Off-Street Parking

### V-1 Statement of Intent

The schedule below shall control the provision of parking spaces in the various Town zoning districts. The purpose of off-street parking provisions is to insure adequate access to any part of the Town by fire and emergency medical services, and to promote the economic well-being of the Town by creating a pleasant shopping climate.

### V-2 Schedule of Off-Street Parking

<b>Districts</b>	<b>Off-Street Parking Requirements</b>
<b>R</b>	Two (2) parking spaces per dwelling unit.
<b>CW</b>	One (1) parking space for each one hundred (100) square feet of gross floor area or fraction thereof.
<b>CN</b>	One (1) parking space for each one hundred (100) square feet of gross floor area or fraction thereof.

### V-3 Special Exceptions

The following uses are controlled separately from the above district-wide off-street parking regulations.

V-3.1. For churches, high schools, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one (1) parking space for every five (5) fixed seats provided in said building.

V-3.2. For hospitals, at least one (1) parking space for each two (2) bed capacity, including infants' cribs and children's beds.

V-3.3. For medical and dental offices, at least ten (10) parking spaces. Three (3) additional parking spaces shall be furnished for each doctor or dentist in such offices in excess of three doctors or dentists.

V-3.4. For fraternal lodges, hunting clubs, golf courses, yacht clubs, country clubs, and marinas, at least twenty-five (25) parking spaces shall be provided. Additional parking may be required by the Zoning Administrator.

V-3.5 Post Offices. Parking spaces for post offices, one (1) for each fifty (5) box holders but not less than 10 spaces.

V-3.6 Restaurants. One (1) parking space per table or booth plus six (6) for employees.

V-3.7 Lodging. To include hotels, motels, bed and breakfasts, and other for hire lodging. One (1) parking spaces for each guest room and one additional parking space for each on duty employee.

## **Article VI - Nonconforming Uses**

### VI-1 Continuation

VI-1.1. If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for the purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

IV-1.2. If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

VI-1.3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

VI-1.4. Temporary seasonal nonconforming uses that have been in continuous operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded.

### VI-2 Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### VI-4 Expansion or Enlargement

VI-4.1. A nonconforming structure to be extended or enlarged shall conform with the provision of this ordinance.

VI-4.2. A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

### VI-5 Nonconforming Lots

Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used provided a showing of unnecessary and undue hardship would result if a variance is not granted from the Board of Zoning Appeals.

### VI-6 Restoration and Replacement

VI-6.1. If a nonconforming or conforming structure or mobile home on a nonconforming or conforming lot is damaged or destroyed by fire, flood, wind or other natural disaster, the Zoning

Administrator shall approve the replacement without the owner or lessee being required to file for a variance and/or a special use permit.

## **Article VII - Administration and Enforcement**

### VII-1 Zoning Permits

No use of any real property within the corporate limits of the Town of Wachapreague shall take place nor shall any construction or excavation or grading therefore commence prior to the issuance of a zoning permit therefore by the Zoning Administrator. The zoning permit shall state that the proposed construction, use, or other activity is in accord with all provisions of this Zoning Ordinance. The Zoning Administrator may promulgate rules determining what information shall accompany each application for a permit hereunder.

### VII-2 Commission Permits

No street, park or other public area, or public structure, or public utility, public building or public service corporation, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof. In connection with any such determination the Commission may, and at the direction of the Council shall, hold a public hearing, after notice as required by 715.1 - 431 of the Code of Virginia.

### VII-3 Zoning Administrator

This ordinance shall be administered by the Zoning Administrator who shall be appointed by the Town Council and assisted by such other persons at the Town Council may direct. The Zoning Administrator shall have all necessary authority to administer and enforce the provisions of this ordinance.

Along with his deputies and inspectors, the Zoning Administrator is hereby empowered to enter and go upon any private or public property in the Town for the purpose of inspecting for compliance with this ordinance and of administration and enforcement hereof, provided that any and all such entries shall be in accordance with the general requirements of due process and nothing herein shall authorize or purport to authorize any unlawful search or seizure.

Where provided by ordinance, the zoning administrator is authorized to grant a variance from any building setback requirement contained in the zoning ordinance if the administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by granting of the variance.

Prior to the granting of a variance, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within twenty-one days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision.

**Revision Effective 05/06/03**

VII-4 Violations and Penalties

Any person who violates any provision of this Ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100) or imprisonment in the County Jail for not more than thirty (30) days, or both, for each of tense. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Any violation of this Ordinance is hereby declared to be a public nuisance per se and shall be enjoined to cease.

VII -5 Permit Fees, etc. All fees for the administration of this Ordinance, including, but not limited to, fees for permit applications, variances, appeals, reviews, inspections, certificates, rezonings and amendments, shall be established, amended, supplemented, changed or repeals from time to time by the Wachapreague Town Council in its sole discretion. The publication cost of any required notices shall be the responsibility of the applicant in addition to the permit fees established hereunder.

## **Article VIII - Special Use Permits**

### VIII-I Statement of Intent

It is recognized in this ordinance that certain uses are not necessarily incompatible with the uses traditionally associated with standard zoning districts, if the proper mitigating conditions are enacted along with the proposed use. Therefore, such uses have been designated as special exceptions, and have been included in Article III. Such uses are allowed in the associated districts upon the issuance of a Special Use Permit by the Wachapreague Town Council.

### VIII-2 Procedure

An application for a special use permit may be submitted by the property owner, contract owner, or optionee of the property affected. Procedures for application and review shall be as follows:

A. The applicant shall submit an application to the Zoning Administrator. Such application shall be accompanied by evidence that the specific criteria set forth in the ordinance for the special use requested will be met. Accompanying maps showing the siting of the proposed use may be required.

B. The Zoning Administrator shall review the application, visit the sit, request additional information or review by other agencies, and formulate a recommendation to the Town Planning Commission.

C. The Zoning Administrator will transmit the collected information and his recommendation to the Planning Commission. The Planning Commission shall hold a public hearing in accordance with Section 15.1-431 of the Code of Virginia, as amended, within thirty days of receipt of the Zoning Administrator's report. The Zoning Administrator's report, a summary of the Planning Commission public hearing, and a recommendation from the Planning Commission, shall be transmitted to the Town Council within two (2) weeks after the public hearing.

D. The Town Council shall hold a public hearing in accordance with Section 15.1-431 of the Code of Virginia, in order to receive public comment and to decide upon the Special Use Permit application. Such public hearing shall be scheduled to coincide with the regularly scheduled Town Council meeting that most closely follows the Council's receipt of the Special Use Permit application, if the requirement for proper notice for a public hearing makes such regularly scheduled Town Council meeting impractical, the public hearing shall be scheduled for the Town Council meeting one meeting hence from the meeting most closely following receipt of the application by the Town Council.

E. The Secretary of the Planning Commission will be responsible for notifying property owners contiguous to and across the street from the subject property of the request for a Special Use Permit.

### VIII-3 Conditions and Bonds

The Town Council may impose conditions, limitations, or other special requirements as it deems necessary to protect the public health, safety, and general welfare, such as, but not limited to, the following:

- A. Abatement or restriction of noise, smoke, dust, vibration, odors, wastes, or other elements that may affect surrounding properties.
- B. Establishment of setback, side, front, and rear are requirements necessary for orderly expansion and for preventing traffic congestion.
- C. Provisions for adequate parking and ingress and egress to public streets and roads necessary preventing traffic congestion.
- D. Provision for adjoining property with a buffer or shield from view of the proposed use and/or structure.
- E. Establishment of a time limit for expiration after which the permit shall no longer be valid or shall require renewal.
- F. The Town Council may require a bond, in a reasonable amount determined by the Council, to be payable to the Zoning Administrator to insure compliance with the terms and conditions of any special use permit.
- G. After due consideration, the Town Council shall make a decision and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

#### VIII-4 Review Standards

The Zoning Administrator, Planning Commission, and Town Council shall consider the following in reviewing a special use application:

- A. The proposed use and/or structure appears on the official schedule of district regulations or elsewhere in this ordinance.
- B. The proposed use and/or structure complies with the regulations governing individual special uses.
- C. The proposed use and/or structure is consistent with the Town Plan.
- D. The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.
- E. The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof.

#### VIII-5 Effect of Approval

The issuance of a special use permit shall authorize the applicant to construct only such structure or conduct only such uses as are specifically made part of the special use permit. No deviations, expansion, or other changes whatsoever shall be made from the term of the special use permit without the express written consent of the Town Council.

## **Article IX - Provisions for Appeal**

### IX-1 Board of Zoning Appeals

IX-1.1. A board consisting of five (5) members shall be appointed by the circuit court of Accomack County. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

IX-1.2. The term of office shall be for five (5) years, except that of the first five (5) members appointed, of whom one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. One of the five appointed members shall be an active member of the planning commission.

IX-1.3. 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 a legal interest.

IX-1.4. The board shall choose annually its own chairman, vice-chairman, and secretary. The vice-chairman shall act in the absence of the chairman.

### IX-2 Powers of the Board of Zoning Appeals

The Board of Zoning Appeals shall have the following powers and duties:

IX-2.1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer or Zoning Administrator in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

IX-2.2. To authorize upon appeal in specific cases such variances from terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

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 the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

- a. that the strict application of the ordinance would produce undue hardship;

- b. that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. that the authorizing of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

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

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

IX-2.3 Interpretation. The Board of Zoning Appeals shall have the authority to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15-1.431 of the Code of Virginia, the board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change substantially the location of district boundaries as established by ordinance.

### IX-3 Applications for Variances

Applications for variances may be made by any property owner, tenant, governmental official, department, board or bureau. Such applications shall be made to the Zoning Administrator in accordance with rules and regulations adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board who shall place the matter on the docket to be acted upon by the Board. No such variances shall be authorized except after notice and hearing as required by Section 15.1-431 of the Code of Virginia. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board or appear as a party at the hearing. The Secretary of the Planning Commission will be responsible for notifying property owners contiguous to and across the street from the subject property of the request for a variance.

### IX-4 Appeal to the Board of Zoning Appeals

An appeal to the board may be taken by any person aggrieved or by any office, department, board or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life

or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown. No such appeal shall be heard until after notice and hearing as required by Section 15.1-431 of the Code of Virginia.

IX-4.1. Appeals shall be mailed to the board of zoning appeals c/o the zoning administrator, and a copy of the appeal mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

#### IX-5 Rules and Regulations

IX-5.1. The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

IX-5.2. The meeting of the board shall be held at the call of its chairman or at such times as a quorum of the board may determine.

IX-5.3. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

IX-5.4. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examination and other official actions, all of which shall be immediately filed in the Town Hall and shall be a public record.

IX-5.5. All meetings of the board shall be open to the public.

IX-5.6. A favorable vote of three (3) 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 required to pass.

#### IX-6 Public Hearing

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of an administrative officer, or may decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or may effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the Town Hall and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

#### IX-7 Decision of the Board of Zoning Appeals

IX-7.1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the county or municipality, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the Town Hall.

IX-7.2. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

IX-7.3. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

IX-7.4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

IX-7.5. Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision from which appealed.

## **Article X - Amendments**

### X-1 General Provisions

The regulations, restrictions and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by the governing body, provided:

X-1.1. The Planning Commission shall hold at least one (1) public hearing on such proposed amendment after notice as required by law, and may make appropriate changes in the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials. Such public hearing may be held jointly with the governing body at its public hearing.

X-1.2. Before approving and adopting any amendment, the governing body shall hold at least one (1) public hearing thereon, pursuant to public notice as required by law after which the governing body may make appropriate changes or corrections in the proposed amendments; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by law. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the zoning ordinance

X-1.3. The Secretary of the Planning Commission will be responsible for notifying the public of any impending amendment or supplement to the Zoning Ordinance.

### X-2 Effect of Repealed Amendments, or Recodification of any Part of this Ordinance on Prior Proceedings, Acts or Offenses

The repeal, amendment or recodification of any part of this ordinance shall not affect any act, or offense done or committed, or any penalty incurred, or any right established, accrued or accruing on or before the effective date of such repeal, amendment or recodification, nor enlarge any such right or privilege, except as specifically provided by such repeal, amendment or recodification. Neither shall the repeal, amendment or recodification on any part of this ordinance affect any proceeding, prosecution, suit or action which may be pending, said prior laws being continued in full force and affect for those purposes.

## **Article XI - Zoning Guidelines**

### XI-1 Statement of Intent

In the process of considering the rezoning of land it is the intent that in order to meet the test of reasonableness and the test of like - land treated alike, the following factors shall be considered before zoning to a particular category:

- A. Character of the area.
- B. Land use and activities.
- C. Suitability, for proposed use.
- D. Ability of public facilities.
- E. Compliance with the Town of Wachapreague Town Plan.

### XI-2.1 Supplemental Considerations and Regulations

Rapid development of employment residential and commercial facilities in the Town of Wachapreague and the resulting impact on existing public facilities, highways and other necessary public facilities and services and natural resources could exceed the ability of the Town to provide for such facilities. Therefore, under authority of Article 5.2 of this ordinance and Section 15.1-491 of the Code of Virginia, as amended, the Wachapreague Town Council may impose conditions, including reasonable employment limitations, to ease the" effect of rezoning land on the general public and on the natural resources of the Town."

### XI-2.2 Conditions

In addition to the regulations herein provided for the respective zoning districts, the Town Council may adopt as a part of an amendment to the zoning map reasonable conditions provided that said conditions shall have been proffered in writing in advance to the public hearing on said amendment to the zoning map by the applicant for rezoning and provided that said conditions are accepted by the governing as a condition to said amendment of the zoning map. Such accepted conditions shall be recorded in the records of the circuit court and run with the land until changed as a result of another rezoning approval or amended with the approval of the landowners and governing body.

### XI-3 Conditional Zoning Procedure

A. Upon the receipt of by the Zoning Administrator of a rezoning petition, it shall be reviewed by the Zoning Administrator in accordance with the guidelines found in Section XI-1. The Zoning Administrator shall prepare a report for presentation to the Planning Commission. The report from the Zoning Administrator shall contain a recommendation on the reasonableness of the requested rezoning, with specific reasons provided for the recommendation.

B. The Planning Commission, within thirty (30) days of receiving the Zoning Administrator's report, shall consider the Zoning Administrator's recommendations and discuss same with the applicant. The applicant shall be advised of the possibility of proffered conditions in a rezoning

decision, which conditions are not meant to change the character of a fundamentally unsound rezoning, but are meant to be responsive to Town growth pressures not specifically foreseen in the existing district regulations.

C. The Planning Commission shall forward the report of the Zoning Administrator, along with a report summarizing the content of the Planning Commission public hearing, to the Town Council.

D. After the Town Council has received the reports from the Zoning Administrator and the Planning Commission, the applicant for the rezoning under consideration may proffer a set of conditions for consideration along with the rezoning. Such a proffer shall be addressed to the Mayor of the Town of Wachapreague.

E. The Town Council shall hold a public hearing on the requested rezoning in accordance with 15.1-431 of the Code of Virginia, as amended. The rezoning request and the proffered condition shall be considered at this time.

F. In the event that a request for rezoning is approved and the proffered conditions accepted, these same conditions shall be recorded in the Clerk of Circuit Court office as a lien on such property involved in the rezoning petition and shall run with the land until removed by the Town Council as a result of an amendment to the original application or as a result of a subsequent rezoning petition.

## **Article XII - Site Plan Requirements**

### **XII-1 Statement of Intent**

The purpose of these requirements is to promote the orderly development of certain activities in the County and to insure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the site plan shall be used to review a project's compatibility with its environment; to review the ability of a project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians; to review the quantity, quality, utility, and type of a project's required community facilities; and to review the location and adequacy of a project's provision for drainage and utilities.

### **XII-2 Development or Land Use Requiring a Site Development Plan**

A site development plan is required and shall be submitted for the following:

- A. Any development in which automobile parking space is to be used by more than one establishment.
- B. Any use or development in all zoning districts except single-family detached dwelling units where a plat is submitted pursuant to the Subdivision Ordinance of the Town of Wachapreague.
- C. When a change is-proposed in a previously approved site development plan.
- D. When an existing residential use is proposed for change to a business, industrial, or multifamily residential use.
- E. All public and/or semi-public buildings.
- F. All other uses involving a structure required to be reviewed by the County under Section 15.1-456 of the Code of Virginia, as amended.

### **XI I-3 When Required**

The provisions of this Article shall apply to any use as specified in the rules and regulations of each zoning district.

### **XII-4 Waiver of Requirements**

Any requirement of this Article may be waived by the governing body where the waiver is not adverse to the purpose of this article and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this Article, or that the requirement is unreasonable.

### **XII-5 Site Plan Specifications**

Every site plan shall be prepared in accordance with the following specifications:

- A. The scale shall not be less than fifty (50) feet to one (1) inch.
- B. All site plans shall not exceed twenty-four inch (24") by thirty-six inch (36") sheets.
- C. If the site plan is prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
- D. Horizontal dimensions shall be in feet and decimals of feet to the closest one hundredth (1/100) of a foot.

## XII-6 Site Plan Contents

XII-6.1. The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying shall be prepared by qualified persons. Final site plans shall be certified by an architect, engineer, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall include, but not be limited to, the following:

- A. The proposed title of the project and the names of the engineer, architect, landscape architect, surveyor, and/or developer; the name of the developer; and a signature panel for the Zoning Administrator's approval.
- B. The northpoint, scale, data, and vicinity map.
- C. Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties.
- D. The present use of all contiguous or abutting property.
- E. The boundaries of the property involved by bearings and distances.
- F. All existing property lines, existing streets, buildings, watercourses, waterways, or lakes and other existing physical features in or adjoining the project. Those physical features, such as watercourses, waterways, or lakes on adjoining properties, need only be shown in approximate scale and proportion.
- G. Topography of the project area with contour intervals of two (2) feet or less.
- H. The location and sizes of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures, all overhead utilities and their supporting poles in or affecting the project, including existing and proposed facilities and easements for these facilities.
- I. The location, dimensions, and character of construction of proposed streets, alleys, driveways, and the location, type, and size of ingress and egress to the site.
- J. When proposed streets intersect with or adjoin existing streets, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred fifty (150) feet or the length of connections, whichever is the greater distance.
- K. The location of all existing and proposed off-street parking and parking bays, loading spaces, and walkways, indicating types of surfacing, size, angle of stalls, width of aisles,

and a specific schedule showing the number of parking spaces.

L. The location of all trees on the site with a diameter of eight (8) inches or greater at the DBH (Diameter, Breast High). The site plan shall show heavily wooded areas and trees to be removed which shall be designated by symbols coincident with the areas of the trees; and an indication of which trees are to be retained and which are to be removed.

M. The location, height, type, and material of all existing and proposed fences, walls, screen planting, and landscaping details of all buildings and grounds, and the location, height, and character of all outdoor lighting systems.

N. The location of all proposed general use for each building; and the number, size, and type of dwelling units where applicable.

O. Provisions for the adequate disposition of surface water in accordance with design criteria and construction standards of the county indicating location, sizes, types, and grades of ditches, catch basins, and pipes and connection to existing drainage system.

P. Provisions and schedule for the adequate control of erosion and sedimentation, in accordance with the Accomack County Erosion and Sediment Control Ordinance.

Q. Proposed finished grading by contour supplemented where necessary by spot evaluation.

R. One hundred year floodplain limit studies as required by the administrator.

S. The location, character, size, height, and orientation of proposed signs.

T. The location and dimensions of proposed recreation, open space, and required amenities and improvements, including details of disposition.

U. Any necessary notes required by the administrator to explain the purpose of specific items on the plan.

V. The administrator may request additional information other than what has previously been stated when deemed necessary to protect the health, safety and general welfare of the citizens of the County.

## XII-7 Improvements and Standards

XI I-7.1. The following improvements and minimum standards, as applicable, shall be required and provided for in a site development plan.

XII-7.2. All street and highway construction standards and geometric design standards shall be in accord with those specified by the Virginia Department of Highways and Transportation.

XII-7.3. The pavement of vehicular travel lanes, driveways, or alleys designed to permit vehicular travel on the site and to-and-from adjacent property and parking areas shall be not less than twenty (20) feet in width for two-way traffic and ten (10) feet for one-way traffic.

XI I-7.4. Cul-de-sacs shall be designed and constructed in accordance with the street standards specified by the Virginia Department of Highways and Transportation, and may not be construed

or employed as a parking area.

XII-7.5. Minimum utility easement width shall be twenty (20) feet unless specifically reduced as specified by the administrator. Where multiple structures or pipes are installed, the edge of the easement shall be five (5) feet clear of the outside pipes. Where easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of five (5) feet from any building.

XII-7.6. Sidewalks and pedestrian walkways shall be designed to enable patrons and tenants to walk safely and conveniently from one (1) building to another within the site and adjacent sites.

XI I-7.7. All required screening shall be sufficiently dense or opaque to screen development effectively from the adjacent properties.

XI I-7.8. In order to preserve the character and natural environment and to provide visual and noise buffering, the administrator may refuse to approve any site plan which proposes unnecessary destruction of trees and other natural features. The governing body may require assurance that the developer has made reasonable effort in light of the proposed development to preserve, replenish, and protect trees of eight (8) inch diameter or larger at the DBH, ornamental trees of any size; trees within required setbacks or along boundaries unless necessary to remove for access, grading, circulation, utilities, or drainage; streams 'in their natural condition.

## XII-8 Procedures

XII-8.1 Authority for Review and Approval. Site plans may be approved administratively by the administrator after first distributing the plan to the various county and state department for written comments.

XI I-8.2 Pre-application Conference. All applicants are encouraged to request a pre-application review conference. The purpose of the conference is to discuss the basic site plan, off-street parking, signs, and other Town ordinance requirements, utilities, and drainage and to consider preliminary features of the proposed development as they relate to this article.

### XII-8.3 Review and Approval of Final Site Plan.

A. Sufficient copies, as required by the administrator, of the final plan shall be submitted to the administrator. The administrator shall have up to thirty (30) days to circulate the plan to the Planning Commission for written comments, and to notify the applicant of the action taken which may be approved, approved subject to conditions, or disapproved.

B. An applicant may appeal the decision of the administrator within thirty (30) days in writing to the Board of Zoning Appeals in accordance with Article IX.

## XII-9 Site Plan Termination or Extension

XII-9.1. An approved site plan shall expire and become null and void if no building permit has been obtained for the site in twelve (12) months after the final approval.

XII-9.2. The governing body may grant an extension of one (1) year.

## XII-10 Amendments to Approved Site Plan

XII-10.1. If it becomes necessary for an approved site plan to be changed, the administrator shall, at the applicant's request, either administratively approve an amendment to the site plan or, if the change is major, require that a new site plan be drawn and submitted for review and action in accordance with this Article.

## XII-11 Site Plan Prerequisite to Issuance of Permits

XII-11.1. No building permit shall be issued to construct, erect, or alter any building or structure or any permit or authorization granted to improve or develop land subject to the provisions of this Article, unless a site development plan has been submitted and approved.

## XII-12 Compliance with Approved Site Plan

XII-12.1. Inspections shall be made during the installation of off-site and on-site improvements by the administrator or his designated representative in their areas of responsibility to insure compliance with the approved site plan.

XII-12.2. The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site development plan and shall make one (1) set of approved plans available at the site at all times that work is being performed.

### **Article XIII - Notice to Property Owners**

XIII-1. Whenever service of notice to surrounding, abutting or contiguous property owners is required for any action relative to the provisions of this ordinance, such service and proof of service shall be the responsibility of the applicant for said action.

### **Zoning Fees**

1. The fee for a zoning clearance for each building application shall be \$25.00 per application.
2. The fee for a Special Exception (Special Use Permit) application shall be \$150.00.
3. The fee for a Variance application shall be \$150.
4. Where a Special Use Permit and a Variance are applied for, processed, presented and deliberated by the Board of Zoning Appeals at the same time for the same requested use, a combined fee of \$250.00 shall be required.
5. The fee to Appeal the decision of the Zoning Administrator shall be \$150.00.
6. The fee for a proposed rezoning change shall be \$500.00.
7. The fee for a proposed amendment to the Zoning Ordinance shall be \$250.00.
8. The fee for vacating any subdivision plat or any part thereof shall be \$150.00.

(These fees were set at the July 12,2001 Town Council meeting.)