

HILLSBORO

ZONING ORDINANCE

February 22, 2012
Amended 10 Dec 2012
Amended 20 Dec 2016

AMENDMENTS

This section contains information of a general or explanatory nature which may be helpful, but in no way distracts from or changes the latest approved Hillsboro Zoning Ordinance.

10 December 2012 the following sections were amended

- Section 1-9
- Section 1-9.1
- Appendix D Zoning Map

13 December 2016 the following sections were amended or added:

- Section 1-4
- Section 1-9
- Section 2-1
- Section 2-2
- Section 3-5
- Section 3-21
- Section 3-31
- Section 4-1
- Section 5-3
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ARTICLE I. AUTHORITY

Section 1-1: Title

This ordinance shall be known and may be cited as the Town of Hillsboro Zoning Ordinance.

Section 1-2: Purpose and Intent

This ordinance, as adopted and amended, is for the general purpose of promoting the health, safety, and general welfare of the public; recognizing and providing for the needs of business; and implementing the intent, goals, policies and action strategies of the Hillsboro Comprehensive Plan. To these ends, it is the intent of this ordinance to:

- (a) Retain Hillsboro's small-town, harmonious, rural character in a picturesque setting;
- (b) Regulate new construction of primary residences to assure compatibility with existing structures and the Town's historic character;
- (c) Control commercial uses to preserve the Town's limited water supply system, maintain the Town's historic and residential character and improve pedestrian and motorized safety;
- (d) Provide guidance for renovation/restoration to maintain compatibility with existing structures and the Town's historic character
- (e) Restrict commercial uses inconsistent with the Town's historic and residential character.
- (f) Protect and maintain view sheds from within Hillsboro and on the approaches to Hillsboro;
- (g) Provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
- (h) Reduce or prevent congestion in the public streets;
- (i) Facilitate the provision of adequate transportation, water, flood protection, and other public requirements;
- (j) Protect against destruction of or encroachment upon historic areas;
- (k) Protect against 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, and loss of life, health, or property from fire, flood, panic or other dangers;
- (l) Provide for the preservation of existing open space, including wetlands, forestall lands and other lands of significance for the protection of the natural environment;
- (m) Protect surface water and groundwater, as defined in section 62.1-44.85(8), Va. Code; and
- (n) Accommodate economic development that is consistent with the Comprehensive Plan.

Section 1-3: Authority

- (a) This ordinance is adopted pursuant to the authority contained in Article 7, Chapter 22 of Title 15.2 of the 1950 Code of Virginia, as amended.

- (b) Whenever any provision of this ordinance refers to or cites a section of the 1950 Code of Virginia, as amended, and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1-4: Jurisdiction [Amended 20 December 2016]

- (a) This ordinance shall be effective within the corporate boundaries of the Town of Hillsboro, Loudoun County, Virginia.
- (b) Whenever property shall be added to the town by adjustment of town boundaries, such property automatically shall be zoned A-C Agricultural-Conservancy, without any further action, effective upon the date the boundary adjustment shall have been finally approved by a court of competent jurisdiction. Whenever such property was designated as major or minor floodplain on the adopted zoning maps of Loudoun County such property shall remain subject to the restrictions of Section 4-1500 et seq., Flood Overlay District, as then prevailing until remapped by the Town pursuant to this ordinance.

Section 1-5: Effective Date

The provisions of this ordinance were originally adopted and became effective at 12:01 am on February 22, 2012.

Section 1-6: Exclusive Nature

- (a) Whenever a question arises as to whether a use or structure is permitted, any determination by the zoning administrator shall adopt a construction that is consistent with the purpose and intent of this ordinance and that gives every provision of the ordinance a reasonable and consistent application.
- (b) Subject to the foregoing considerations, this ordinance shall be deemed exclusive in nature, and only those uses specified, as reasonably determined by the administrator/Planning Commission, shall be permitted in the various zoning districts. If a use is not permitted in a zoning district, it may only be permitted after appropriate amendment to the text of this ordinance, a variance is granted IAW section [7-2](#).

Section 1-7: Conformity

No person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all applicable provisions of this ordinance, subject to the provisions of Article [XIII](#) of this ordinance (Non-conforming Situations).

Section 1-8: Interpretation When More than One Standard Applies

Whenever more than one regulation or standard applies to any use, structure, activity or undertaking subject to any provision of this ordinance, the most restrictive or stringent shall govern.

Section 1-9: Fees [Amended 10 December 2012] [Amended 20 December 2016]

- (a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be established by ordinance of the town and set out in the Town of Hillsboro Schedule of Taxes, Rates and Fees
- (b) Fees shall be tendered with submission of a signed application or notice of appeal.
- (c) In addition to the fixed fee for an application or appeal set pursuant to subsection (a) above;
 - (1) If land owners must receive notice of and/or a public hearing must be advertised, the cost of such notices and/or advertisements shall be paid by the applicant and;
 - (2) If the Town Council or Planning Commission deems it necessary for an expert review, the fee charged for such a review shall be paid by the applicant..

Section 1-9.1 Other Fees [Added 10 December 12]

In the absence of a fee schedule the Town Council may impose a reasonable charge for any administrative relief not covered in Section 1.9

Section 1-10: Severability

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. If any section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this ordinance.

Section 1-11: Computation of Time

The time within which an act is to be done after any event shall be computed by excluding the day on which the event occurred, unless otherwise specifically provided. If the last day is a Saturday, Sunday or legal holiday, the act shall be required to be done on the next day that is not a Saturday, Sunday or legal holiday.

Section 1-12: Miscellaneous

Except when the context clearly indicates otherwise:

- (a) Words using the masculine gender in this ordinance include the feminine and neuter.
- (b) Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

ARTICLE II. BASIC DEFINITIONS

Section 2-1: Definitions of Basic Terms [Amended 20 December 2016]

The words and phrases defined in this section shall have the meaning indicated when used in this ordinance, unless otherwise specifically provided, or unless clearly required by the context.

Bed And Breakfast. An owner or resident occupied dwelling unit containing guest rooms where lodging, with or without meals, is provided for compensation.

Building. A structure designed to be used as a place of occupancy, storage or shelter.

Building, Accessory. A building that is located on the same lot as a principal building and is used incidentally to a principal building or that houses an accessory use.

Building, Principal. The primary building on a lot or a building that houses a principal use.

Building Height. The vertical distance measured from the average elevation of the finished grade adjoining the building at the exterior walls or surfaces fronting the public street(s) to the highest point of the building for flat roofs, to the highest deck line for mansard roofs and to the mid-point of the highest ridge line for gambrel, hip and gable roofs. Where the finished ground level slopes away from the exterior walls, the average finished grade shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

Building Line (or Set Back Building Line). Line beyond which the foundation wall and/or any enclosed porch, or vestibule shall not project.

Country store. A retail use featuring agricultural and/or finished products, including but not limited to nursery stock, Christmas trees, fresh produce, honey, cider, hot and cold deli, pizza, snacks, wine, beer, lottery tickets, cigarettes, fishing, clothes, or crafted items.

Cross-Section. Shape and dimensions of a channel and valley of the floodplain perpendicular to the line of flow.

Developer. A person who is responsible for any undertaking that requires a zoning permit, special use permit or sign permit.

Development. A use or activity which is to be done pursuant to a zoning permit, special use permit or sign permit.

Development (in a Floodplain). Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dwelling. A building or portion thereof arranged or designed to provide living facilities for one or more families.

Dwelling, Single Family Detached. A building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

Dwelling, Caretaker's. A secondary dwelling unit or apartment contained within, or detached from, a principal non-residential structure which is (i) used as a residence by a caretaker or watchman, or (ii) inhabited to provide added security to the premises. The caretaker's dwelling shall be accessory to the principal structure.

Dwelling Unit. One or more rooms containing sleeping, kitchen and bathroom facilities for and used or held for use as a permanent residence by one family.

Easement, Utility. The right of a person, government agency, or public utility company to use public or private land owned by another for the specific purpose of providing utility services or locating utility service facilities thereon.

Facilities Standards Manual (FSM): The Facilities Standards Manual of Loudoun County.

Façade The front of a building, normally facing the street.

Family. (a) One or more persons living together as a single housekeeping unit or (b) any group identified in Section 15.2-2291 of the Va. Code.

Frontage: That side of a lot abutting on a street; the front lot line.

Group Home: A residential facility in which more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401 of the State Code. A residential facility shall be deemed to be any group home or other residential facility for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority pursuant to the State Code.

Gross Floor Area. The total floor area of a building measured by adding the outside dimensions of the building at each floor level intended for occupancy or storage.

Height (Other than Building Height). The vertical distance on the side of the structure facing an adjacent street measured from the lowest exposed point of the structure being measured to the highest point of the structure. Except as provided elsewhere in this ordinance, elements attached to or incorporated into a structure, including, but not limited to columns, finials, pillars, and pilasters, shall be deemed a part of the structure and shall be considered in measuring height. . (Also see *Building Height*)

Home Occupation. An occupation, profession, activity or use that is clearly a customary, incidental and secondary use conducted entirely within a dwelling or within buildings

accessory to a dwelling, or both, and does not change the exterior of the property or affect the residential character of the neighborhood.

Lot. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Lot, Corner. A lot abutting on and at the intersection of two or more streets.

Lot, Interior. Any lot other than a corner lot; including a through lot.

Lot, Through. A lot having its front and rear yards each abutting on a street.

Lot Area. The total horizontal area included within the rear, side, and front lot lines or proposed street lines. No alley, public way, public land, or area proposed for future street purposes either public or private shall be included in the calculation of lot area.

Lot Coverage. The percentage of a lot area occupied or covered by the ground area of principal and accessory buildings or other roofed areas on such lot.

Lot Depth. The horizontal distance between the front and rear lot lines measured from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot Line. A line dividing one lot from another lot or from a street or alley.

Lot Line, Front. The lot line abutting a street on an interior lot, or the shortest lot line abutting a street on a corner lot.

Lot Line, Rear. The lot line generally opposite or parallel to the front lot line, except in a through lot. If a rear lot line is less than ten feet long or the lot is pointed at the rear, the rear lot line is assumed to be a line at least ten feet long, lying wholly within the lot, parallel to the front lot line, or if the front lot line is curved, parallel to the chord of the arc of the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot Width. The horizontal distance between side lot lines measured at the front property line and at the required front setback.

Nonconforming Lot. A lot existing at the effective date of this ordinance that does not meet the minimum area requirements of the district in which the lot is located.

Nonconforming Project. Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming Situation. A situation that occurs when, on the effective date of this ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located.

Nonconforming Use. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

Parcel. See Lot.

Percentage of Lot Coverage. The permissible percentage of "lot area" which may be covered by buildings, including covered porches and accessory buildings.

Professional Office. A building or portion of a building where services are performed involving predominately professional persons such as doctors, dentists, lawyers, architects, artists, real estate brokers, insurance agents, accountants, engineers, or urban planners.

Reconstruction. The demolishing and rebuilding of a building or major portion (25% or more of the surface area) of a building on the Historically Significant Buildings List.

Ridge line. The intersection of two roof surfaces forming the highest horizontal line of the roof.

Street. A public or private thoroughfare used or intended to be used, for passage or travel by motor vehicles.

Street, Center Line of. A line established as a center line of a street by any state, county, town or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map or, if there be no center line established or if there exists conflict among several maps, the center line of a street shall be a line lying midway between the street or right-of-way lines thereof. When the street lines are indeterminate and pavement or a well defined traveled way exists, the center line is assumed to be a line midway between the edges of such pavement or traveled way.

Structure. Anything constructed or erected for use or occupancy .

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Use. The activity or function that actually takes place or is intended to take place on a lot.

Use, Accessory. A use which is customarily incidental and subordinate to, and on the same lot as, the principal use.

Use, Principal. The primary use and chief purpose of a lot or structure.

Utilities/Facilities, Public: Public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; scenic and historic sites; schools and other public buildings and structures. Any water or sewer system serving more than two (2) lots, and any building or structure owned by a public utility as defined in Section 56-232 of the Virginia State Code, all building and facilities owned by a public service corporation as defined in Section 56-1 of the Virginia State Code.

Utility: Facilities for the provision of infrastructure services that support legally established uses and that need to be located in or near the area where the service is provided. Utilities include communal water supply systems, re-cycling drop-off collection centers, public; water treatment and pumping stations; water pumping stations; water storage tanks; communal sewer systems; sewage treatment plant and pumping station; utility substation, transmission; utility substation, distribution; utility transmission lines. Services may be publicly or privately provided. Accessory uses may include control, monitoring, data, or transmission equipment.

Wayside stand: Any land or structure used for the sale of agricultural or horticultural produce

Yard. An area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures permitted by this ordinance.

Yard, Front. A yard, extending across the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the principal building. The depth of the rear yard shall be measured at right angles to the rear line of the lot.

Yard, Side. A yard extending from the front yard to the rear yard measured from and perpendicular to the side lot line.

Zoning Permit. A permit issued by the zoning administrator which authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

Section 2-2: Definitions, Flood Hazard Overlay District. [Added 20 December 2016]

- (a) The words and phrases defined in this section are intended to assist administration of the Flood Hazard Overlay District regulations found in Part 3 of Article XII and shall have the following meanings when used in connection with those regulations.
 - (1) *Base Flood.* The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

- (2) *Base flood elevation.* The water surface elevations of the base flood. The water surface elevation of the base flood is calculated based on the datum specified on Loudoun County's Flood Insurance Rate Map.
- (3) *Basement.* That portion of a building having its floor below ground level on all sides.
- (4) *Conditional Letter of Map Revision (CLOMR).* A formal review and written comment from FEMA on a proposed project that would, upon construction, cause an increase in base flood elevation. Upon completion of the construction of such project, a Letter of Map Revision (LOMR) issued by FEMA, determining that the increase was warranted, shall be required.
- (5) *Cross section.* Shape and dimensions of a channel and valley of the floodplain perpendicular to the line of flow.
- (6) *Development.* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (7) *Elevated building.* A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
- (8) *Flood or Flooding.*
 - (a) A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - (i) the overflow of inland waters; or,
 - (ii) the unusual and rapid accumulation or runoff of surface waters from any source.
 - (iii) mudflows which are proximately caused by flooding as defined in paragraph (a)(ii) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood, or by some similarly unusual and unforeseeable

event which results in flooding as defined in paragraph (a)(ii) of this definition.

- (9) *Flood Insurance Rate Map (FIRM)*. The official map of Loudoun County on which the Federal Emergency Management Agency (FEMA) has delineated areas in the floodplain subject to inundation of the base flood and the risk premium zones based on the technical data in the Flood Insurance Study. The FIRM that has been made available digitally is called the Digital Flood Insurance Rate Map (DFIRM).
- (10) *Flood Insurance Study (FIS)*. A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- (11) *Floodplain*. Any land area susceptible to being inundated by water from the base flood and having a drainage area greater than one hundred (100) acres. For purposes of regulation under this Ordinance, a distinction is made between the Major Floodplain and Minor Floodplain. Major Floodplain shall correspond to Zones AE and A as shown on the FIRM, as may be subsequently revised or amended by FEMA, and is considered to be the Special Flood Hazard Area by FEMA. All watersheds draining greater than 640 acres shall be considered Major Floodplain. Minor Floodplain shall correspond to watersheds of 640 acres or less that are not designated as Zone AE or A.
- (12) *Floodplain alteration*. A development action which will change the cross section of the floodplain and will increase either the erosive velocity or height of floodwaters either on-site or off-site. Alterations include, but are not limited to, land disturbing activities.
- (13) *Floodproofing*. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (14) *Floodway*. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without any cumulative increase the base flood elevation. Floodways are included within, and regulated as, FHOD (Major Floodplain). Floodways are not shown on the FIRM but are included within the Special Flood Hazard Area designated on the FIRM, which is regulated as FHOD (Major Floodplain).
- (15) *Freeboard*. A factor of safety expressed in feet above a flood level for purposes of floodplain management. "Freeboard" compensates for the many unknown factors that contribute to flood heights greater than the height calculated for Base Flood, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

- (16) *Historic structure.* Any structure that is:
- (i) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (iii) Individually listed on the Virginia Landmarks Register; or,
 - (iv) Individually listed on the Loudoun County Register of Heritage Resources.
 - (v) Individually listed within the historic district that is listed in the inventory required by section 12-1(c)
- (17) *Lowest floor.* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Code of Federal Regulations 44CFR §60.3.
- (18) *Manufactured Home.* A structure constructed and subject to federal regulation, which is transportable in one or more sections; 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 utilities. The term "manufactured home" also includes recreational vehicles placed on a site for greater than 180 consecutive days whether connected to utilities or not.
- (19) *New construction.* Structures for which the start of construction commenced on or after December 20, 2016. All such structures shall comply with the applicable Loudoun County and Town regulations in effect at the time of construction. Any improvement(s) to a structure shall comply with the Loudoun County and Town regulations in effect at the time of construction of the improvement(s).
- (20) *Recreational Vehicle.* A vehicle which is
- (i) built on a single chassis;
 - (ii) 400 square feet or less when measured at the largest horizontal projection;

(iii) designed to be self-propelled or permanently towable by a light duty truck; and

(iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

- (21) *Road, Crossing of the Floodplain or Road Crossing.* Any public road, private road or driveway traversing a floodplain generally perpendicular to the flow of the drainage way.
- (22) *Special Flood Hazard Area (SFHA).* The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year. This area corresponds to where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V as shown on the FIRM.
- (23) *Start of construction.* Means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (24) *Stormwater Management Improvements.* Surface or subsurface drainage improvements, storm sewers, detention and retention ponds and other such improvements as required by the Loudoun County Facilities Standards Manual (FSM).
- (25) *Stream Corridor.* Includes the stream and extends in cross section from the channel's bankfull level towards the upland (perpendicular to the direction of streamflow) to a point on the landscape where channel-related surface and/or soil moisture no longer influence the plant community.
- (26) *Stream Restoration.* Converting an unstable, altered, or degraded stream corridor, including adjacent riparian area and flood-prone areas, to its

natural stable condition considering recent and future watershed conditions.

- (27) *Structure.* An assembly of materials forming a construction for occupancy or use including, among others, buildings, stadiums, gospel and circus tents, platforms, stagings, observation towers, telecommunications towers, radio and TV broadcasting towers, water tanks, trestles, piers, open sheds, coal bins, shelters, walls, power line towers, pipelines, railroad tracks, manufactured homes, and gas or liquid storage tanks that are principally above ground.
- (28) *Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- (29) *Substantial improvement.* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred flood related damages on two (2) occasions in which the cost of the repair on the average equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event or substantial damage regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (b) Any altering, repair or rehabilitation of a historic structure, provided that the altering, repair or rehabilitation will not preclude the structure's continued designation as a historic structure. Historic structures undergoing altering, repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all requirements of this ordinance that do not preclude the structure's continued designation as a historic structure. Documentation that a specific requirement of this ordinance will cause removal of the structure from the National Register of Historic Places or the Virginia Landmarks Register must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from the requirements of this ordinance will be the minimum necessary to preserve the historic character and design of the structure.
- (30) *Utility Lines in the Floodplain.* Storm sewers, sanitary sewers, water lines and similar lines running generally parallel ~~and~~ or perpendicular to the

flow of the drainageway; and other public utility lines traversing a floodplain generally perpendicular to the flow of the drainageway.

- (31) *Violation.* The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without a FEMA approved Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance shall be presumed to be in violation until such time as that documentation is provided.
- (32) *Watercourse.* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial damage resulting from flooding may occur.

- (b) Except where superseded by the definitions of this section, the provisions of section 2-1 shall be generally applicable in Part 3 of Article XII.

ARTICLE III. OFFICERS AND DUTIES

Part 1. Planning Commission

Section 3-1: Appointment and Terms of Planning Commissioners

- (a) There shall be a Town of Hillsboro Planning Commission consisting of no less than five or more than seven members appointed in accordance with the provisions of section 15.2-2212 of the Code of Virginia, 1950, as amended.
- (b) Planning Commissioners shall be appointed by the Town Council for four-year staggered terms, but members may continue to serve until their successors have been appointed. Appointments shall be made so that all terms expire on the 31st day of August and commence on September 1, unless appointments are made for the unexpired portion of a term.
- (c) Planning Commissioners may be removed by the Town Council at any time for malfeasance in office. Notwithstanding the foregoing provision, a member of the Planning Commission may be removed from office by the Town Council without limitation in the event that the Planning Commission member is absent from any three consecutive meetings of the Planning Commission, or is absent from any four meetings of the Planning Commission within any 12-month period. In either such event, a successor shall be appointed by the Town Council for the unexpired portion of the term of the member who has been removed.

Section 3-2: Meetings of the Planning Commission

- (a) The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough to take action in conformity with section [6-5](#) (Applications to be Processed Exeditiously). The Planning Commission shall meet at least once annually.
- (b) Special meetings of the Planning Commission may be called by the chairman or by two members upon written request to the chairman. The chairman shall provide notice of the time, place and purpose of the meeting to all members, at least five days in advance of a special meeting, via First Class Mail or e-mail. Written notice of a special meeting is not required if the time of the special meeting was fixed at a regular meeting or if all members are present at the special meeting or file a written waiver of notice.
- (c) The Planning Commission shall adopt rules for the transaction of business and shall keep minutes of all commission proceedings.

Section 3-3: Quorum and Voting

A majority of the commissioners shall comprise a quorum of the Planning Commission and no action of the Planning Commission shall be valid unless authorized by a majority vote of those present and voting.

Section 3-4: Planning Commission Officers

- (a) The Planning Commission shall, at its first meeting in September of each year, elect one of its members to serve as chairman and preside over the Planning Commission's meetings and one member to serve as vice-chairman. Election of officers shall require a majority vote of those present and voting. The chairman and vice-chairman shall serve one-year terms. Vacancies in these offices may be filled for the unexpired terms by majority vote of those present and voting.
- (b) The chairman and vice-chairman may take part in all deliberations and vote on all issues.
- (c) The Planning Commission may create and fill such other offices as it deems necessary.

Section 3-5: Powers and Duties of the Planning Commission

- (a) The Planning Commission shall:
 - (1) Prepare and recommend to the Town Council a comprehensive plan that will maintain and preserve the rural character and existing historic structures of the Town and its immediate surroundings;
 - (2) Prepare and recommend to the Town Council amendments to the subdivision regulations;
 - (3) Prepare and recommend to the Town Council policies, ordinances, administrative procedures, and other methods for achieving plans in a coordinated and efficient manner;
 - (4) Initiate or make recommendations to the Town Council concerning proposed special use permit applications and zoning map and text changes, as required by section [5-24](#);
 - (5) Make recommendations and an annual report to the Town Council concerning the operation of the Planning Commission and the status of planning within the town;
 - (6) Exercise general supervision of, and make regulations for, the administration of its affairs;
 - (7) Prescribe rules pertaining to its investigations and hearings;
 - (8) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Town Council;

- (9) Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;
- (10) Prepare, publish and distribute reports, ordinances and other material relating to its activities;
- (11) Prepare and submit an annual report to the Town Council on the administration of this ordinance, setting forth such statistical data and information as may be of interest and value in advancing and furthering the purpose of this ordinance.
- (12) Establish advisory committees from time to time to help carry out its planning responsibilities in a particular subject area.
- (13) Assist and advise the Town Council in matters involving historically significant sites and buildings
- (14) Maintain a Historically Significant Buildings List
- (15) Formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- (16) Cooperate with the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private, in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites or areas within the town.
- (17) Act on applications for certificates of appropriateness, in accordance with the provisions of [Article XII](#)
- (18) Propose additions to or changes in historic district boundaries or creation of new historic districts.
- (19) Recommend to the Town Council approval, approval with modification, or disapproval of all zoning permits, certificates of appropriateness, and variances.
- (20) Maintain the zoning map in current status, including appropriate symbols showing the existence of proffered conditions.
- (21) Maintain permanent and current records required by this ordinance, including but not limited to zoning permits, occupancy certificates, and all official actions on administrative appeals, variances, special exceptions, conditional uses, amendments, changes of zoning district boundaries, reclassification of property and conditional zoning index.
- (22) Maintain a true copy of this ordinance in current status and file the same in the office of the Clerk of the Circuit Court of Loudoun County, Virginia.

Sections 3-6 through 3-10: Reserved

Part 2. Board of Zoning Appeals

Section 3-11: Appointment and Terms of Board of Zoning Appeals

- (a) A board of zoning appeals (hereinafter referred to as the board) consisting of five members shall be appointed by the Circuit Court of Loudoun County. The secretary of the board shall notify the circuit court at least 30 days prior to the expiration of any term of office and promptly when vacancies occur. The secretary shall submit names from the mayor and Town Council for the court's consideration. The board shall serve without compensation. One of the five appointed members may be an active member of the Planning Commission.
- (c) The term of office of each member of the board shall be for five years, except that original appointments shall be made so that the term of one member shall expire each year. Board vacancies shall be filled for the unexpired term only.
- (d) Any member may be removed for malfeasance, misfeasance or non-feasance in office, or for other just cause by the appointing authority upon written charges and after a hearing, held at least 15 days after notice is given.

Section 3-12: Meetings of the Board

- (a) The board of zoning appeals shall meet at least once annually and shall meet frequently enough so that it can take action in conformity with section [7-6](#) (Requests to be heard expeditiously).
- (b) The board shall conduct its meetings in accordance with the procedures set forth in Article [VII](#).
- (c) All board meetings shall be open to the public and, whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting.

Section 3-13: Quorum and Voting

- (a) A quorum for the board of zoning appeals shall consist of three members. A quorum is necessary for the board to take official action.
- (b) In addition to the requirements of subsection (a), a concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which it is

required to pass under the ordinance or to effect any variance from the ordinance.

- (c) A roll call vote shall be taken upon the request of any member.

Section 3-14: Board of Zoning Appeals Officers

- (a) The board of zoning appeals shall elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The election shall be held at the first meeting in January of each year. The chairman and vice-chairman shall serve one-year terms. Vacancies in these offices may be filled for the unexpired terms only.
- (b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.
- (c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.
- (d) The board shall appoint a secretary to prepare minutes of meetings, keep all records and conduct official correspondence. When authorized by the Town Council, a court stenographer shall be employed to record such proceedings as the Town Council may direct.

Section 3-15: Powers and Duties of the Board of Zoning Appeals

- (a) The board shall hear and decide:
 - (1) Appeals from any order, requirement, decision, determination or interpretation made by the zoning administrator or other administrative officer in the administration or enforcement of this ordinance.
 - (2) Appeals for applications for variances, as provided in [section 7-2](#).
 - (3) Applications for interpretation of the zoning map, including disputed district boundaries, as provided in [section 7-3](#).
- (b) The board shall adopt such rules and regulations as it may deem appropriate for the proper conduct of its business, and to carry into effect the provisions of this ordinance, subject to provisions of this ordinance and the general laws of the Commonwealth of Virginia.
- (b) No provision of this ordinance shall be construed as granting the board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the Town Council.

Sections 3-16 through 3-20 reserved.

Part 3. Zoning Administrator

Section 3-21: Appointment and Duties of Zoning Administrator[Amended 20 December 2016]

- (a) This ordinance shall be administered and enforced by the zoning administrator who shall be appointed by the Town Council.
- (b) The administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the following:
 - (1) Interpret the provisions of this ordinance, including the authority in specific cases, to make findings of fact and, with concurrence of the attorney for the governing body, conclusions of law regarding determinations of rights accruing under section 15.2-2307, Code of Virginia, 1950, as amended.
 - (2) Conduct inspections of buildings, structures, and uses of land to determine compliance with this ordinance, and, in the case of any violation, to notify in writing the person or persons responsible specifying the nature of the violation and ordering appropriate corrective action. Any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that he may have a right to appeal the same within 30 days in accordance with the provisions of section 15.2-2311, Code of Virginia, 1950, as amended, and that the decision shall be final and unappealable if not appealed within thirty days. In no event shall a written order, requirement, decision of determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance or the zoning administrator or other administrative officer or through fraud. The sixty-day limitation period shall not apply in any case where, with the concurrence of the attorney for the Town Council, modification is required to correct clerical or other nondiscretionary errors.
 - (3) Bring legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding.
 - (4) Administer and enforce proffered conditions attached to a rezoning or amendment to a zoning map.

- (c) The administrator shall have the authority to approve zoning permits applications that comply with the provisions of this ordinance and do not require a Certificate of Appropriateness. However, only the Town Council can disapprove a Zoning permit application, and any application that the zoning Administrator recommends be denied and all applications that require Certificate of Appropriateness approval shall be forwarded to the Town Council for action. Any zoning permit approved by the Zoning Administrator shall be forwarded to the Town Council prior to the next regularly scheduled Town Council meeting.

Sections 3-22 through 3-30 reserved.

Part 4. Town Council

Section 3-31: The Town Council [Amended 20 December 2016]

- (a) The Town Council shall consider special use permit applications in accordance with [Article V](#) of this ordinance.
- (b) The Town Council shall consider changes in the text of this ordinance or in the zoning district map in accordance with [Article V](#) of this ordinance.
- (c) The Town Council shall hear all appeals from the decision of the zoning administrator/Planning Commission relating to proffered conditions in accordance with Virginia Code section 15.2-2301. except as specified in [Section 3-21 \(c\)](#).
- (d) The Town Council shall follow regular voting, and other requirements of the town code, town charter or general law when acting upon special use permit applications or considering amendments to this ordinance or the zoning district map.
- (e) The Town Council shall consider all applications for zoning permits in accordance with this ordinance.
- (f) The Town Council shall consider all Certificates of Appropriateness in accordance with this ordinance.

Sections 3-32 through 3-40 Reserved.

Part 5. Historic Review Committee

Section 3-41: Establishment

- (a) The Historic Review Committee (HRC) is a adhoc committee without standing members or established voting procedures.
- (b) From time to time the Town Council may request the assistance of individuals to standup a HRC, to advise the Town Council on matters pertaining to architecture, landscape architecture, history, architectural history, archaeology or planning.
- (c) The HRC serves without compensation.
- (d) Advice rendered by the HRC to the Town Council is non binding.

Sections 3-42 through 3-44 Reserved.

**ARTICLE IV. AMENDMENTS, APPEALS, AND INTERPRETATIONS:
HEARING PROCEDURES**

Section 4-1: Hearings Required [Amended 20 December 2016]

Public hearings for consideration of amendments, appeals and applications shall be held by the Town Council, Planning Commission and board of zoning appeals as required by Title 15.2, Chapter 22, Code of Virginia, 1950, as amended. Public hearings required by this ordinance may only be scheduled with the approval of the Town Council

Section 4-2: Notice of Hearing

- (a) Notice of hearings shall be given by publishing a notice once a week for two successive weeks in a newspaper published or having general circulation in the town, in accordance with section 15.2-2204, Code of Virginia, 1950, as amended. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the town where copies of the proposed plans, ordinances or amendments may be examined. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days nor more than twenty-one days after the second advertisement shall appear in such newspaper. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.
- (b) When a proposed zoning ordinance amendment, appeal or application involves 25 or fewer parcels, the applicant shall give written notice at least ten days before the hearing to the owner, agent or occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the Planning Commission or its agent. Notice shall be sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or records. In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association,

respectively, in lieu of each individual unit owner. The notice shall contain:

- (1) A summary of the proposed action;
- (2) A reference of the place or places where copies of the proposed plans, ordinances, or amendments may be examined; and,
- (3) The date, time and place of the public hearing.

If the hearing is continued, notice shall be remailed. The applicant shall provide a signed affidavit prior to the public hearing stating that the required written notices have been mailed. In addition, the applicant shall submit a list of the names and addresses of persons to whom the notice was mailed and a sample of the notice letter.

- (c) In cases of a change in the zoning map classification involving more than 25 parcels or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, the applicant shall give written notice at least ten days before the hearing to the owner, agent or occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street or road from the property affected, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) of chapter 22 of Title 15.2 where such lots are less than 11,500 square feet. Notice shall be sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or records. In the case of a condominium or cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner. The notice shall contain:

- (1) A summary of the proposed action;
- (2) A reference of the place or places where copies of the proposed plans, ordinances, or amendments may be examined; and,
- (3) The date, time and place of the public hearing.

The applicant shall provide an affidavit prior to the public hearing stating that the required written notices have been mailed. In addition, the applicant shall submit a list of the names and addresses of persons to whom the notice was mailed and a sample of the notice letter.

- (d) When a proposed comprehensive plan or amendment thereto, a proposed change in zoning map classification, or an application for special exception or variance, but not including renewals of previously approved special exceptions or variances, involves any parcel of land located within one-half mile of a boundary of an adjoining county or municipality, then

in addition to notice required elsewhere, written notice shall also be given at least ten days before the hearing to the chief administrative officer or his designee, of such adjoining county or municipality.

- (e) The applicant in any case which requires a public hearing shall post a sign or signs furnished by the administrator on each parcel involved at least 15 days prior to the hearing indicating the action proposed and the date, time and place of the public hearing. The sign shall be placed within ten feet of whatever boundary line of the property abuts a public road and shall be clearly visible from the road with the bottom of the sign not less than two and one-half feet above the ground. If more than one road abuts the property, then a sign shall be placed in the same manner as above for each abutting road. If no public road abuts the property, then signs shall be placed in the same manner as above on at least two boundaries of the property abutting land not owned by the applicant.

Section 4-3: Maintenance and Removal of Signs

- (a) Any sign required by [section 4-2](#) shall be maintained at all times by the applicant up to the time of the hearing.
- (b) The applicant shall provide an affidavit at the hearing showing compliance with the requirements of this section and continuous maintenance of the sign or signs up to the time of the hearing. No person, except the applicant or the administrator or an authorized agent of either, shall remove or tamper with any sign furnished during the period it is required to be maintained under this section. All signs erected under this ordinance shall be removed by the applicant within 15 days following the public hearing for which it was erected.

ARTICLE V. LEGISLATIVE ACTIONS

Part 1. Comprehensive Plan, Official Map, Capital Improvement Program

Section 5-1: Comprehensive plan to be prepared and adopted; scope and purpose.

- (a) The Planning Commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and the Town Council shall adopt a comprehensive plan for the territory under its jurisdiction.
- (b) In the preparation of a comprehensive plan, the Planning Commission shall consider the rights of property owners, make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.
- (b) The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.
- (c) The comprehensive plan shall include a transportation element that designates a system of transportation infrastructure needs and recommendations that shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation element.
- (d) The plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the town's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:
 - (1) The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural;

mineral resources; conservation; recreation; public service; flood plain and drainage; and other areas;

- (2) The designation of a system of community service facilities such as parks, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;
- (3) The designation of historical areas and areas for urban renewal or other treatment;
- (4) The designation of areas for the implementation of reasonable ground water protection measures;
- (5) An official map, a capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;
- (6) The location of existing or proposed recycling centers.

Section 5-2: Surveys and studies to be made in preparation of plan; implementation of plan.

- (a) In the preparation of a comprehensive plan, the Planning Commission shall survey and study such matters as the following:
 - (1) Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, ground water, surface water, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, transportation facilities, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.
 - (2) If the town chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of Mines, Minerals and Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

- (3) Probable future economic and population growth of the territory and requirements therefor.
- (b) The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:
 - (1) An official map;
 - (2) A capital improvements program;
 - (3) A subdivision ordinance;
 - (4) A zoning ordinance and zoning district maps; and
 - (5) A mineral resource map.

Section 5-3: Notice and hearing on plan; recommendation by the Planning Commission to the Town Council. [Amended 20 December 2016]

Prior to the recommendation of a comprehensive plan or any part thereof, the local Planning Commission, when required by law, shall give notice in accordance with Virginia Code section 15.2-2204 and hold a public hearing on the plan. After the public hearing, the Planning Commission may approve, amend and approve, or disapprove the plan. Upon approval, the Planning Commission shall by resolution recommend the plan, or part thereof, to the Town Council.

Section 5-4: Adoption or disapproval of plan by Town Council.

After certification of the plan or part thereof, the Town Council, after a public hearing with notice as required by Virginia Code section 15.2-2204, shall proceed to a consideration of the plan or part thereof and shall approve and adopt, amend and adopt, or disapprove the plan. In acting on the plan or part thereof, or any amendments to the plan, the governing body shall act within ninety days of the Planning Commission's recommending resolution.

Section 5-5: Return of plan to Planning Commission; resubmission.

- (a) If the Town Council disapproves the plan, then it shall be returned to the Planning Commission for its reconsideration, with a written statement of the reasons for its disapproval.
- (b) The commission shall have sixty days in which to reconsider the plan and resubmit it, with any changes, to the Town Council.

Section 5-6: Adoption of parts of plan.

As the work of preparing the comprehensive plan progresses, the Planning Commission may, from time to time, recommend, and the Town Council approve and adopt, parts

thereof. Any such part shall cover one or more major sections or divisions of the town or one or more functional matters.

Section 5-7: Amendments.

After the adoption of a comprehensive plan, all amendments to it shall be recommended, and approved and adopted, respectively, as required by Virginia Code section 15.2-2204. If the Town Council desires an amendment it may direct the Planning Commission to prepare an amendment and submit it to public hearing within sixty days after formal written request by the Town Council. In acting on any amendments to the plan, the Town Council shall act within ninety days of the Planning Commission's recommending resolution.

Section 5-8: Plan to be reviewed at least once every five years.

At least once every five years the comprehensive plan shall be reviewed by the Planning Commission to determine whether it is advisable to amend the plan.

Section 5-9: Public facilities study.

In addition to reviewing the comprehensive plan, the Planning Commission may make a study of the public facilities, including existing facilities, which would be needed if the comprehensive plan is fully implemented. The study may include estimations of the annual prospective operating costs for such facilities and any revenues, including tax revenues, that may be generated by such facilities. For purposes of the study, public facilities may include but need not be limited to water and sewer lines and treatment plants, schools, public safety facilities, streets and highways. The Planning Commission may forward the study to the Town Council or any other local, regional, state or federal agency that the Planning Commission believes might benefit from its findings.

Section 5-10: Inclusion of adjacent unincorporated territory in town plan.

The town plan may include the planning of adjacent unincorporated territory to the extent to which, in the Planning Commission's judgment, it is related to the planning of the incorporated territory of the town. However, the plan shall not be considered as a comprehensive plan for such unincorporated territory unless recommended by the county commission and approved and adopted by the governing body of the county.

Section 5-11: Legal status of plan.

- (a) Whenever the Planning Commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the Town Council, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof, no street or connection to an existing street, park or other

public area, public building or public structure, public utility facility or public service corporation facility other than railroad facility, 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 commission as being substantially in accord with the adopted comprehensive plan or part thereof in accordance with the provisions of [section 6-3](#).

Section 5-12: Maps to be prepared in localities; what map shall show.

- (a) The commission may make, or cause to be made, a map showing the location of any:
 - (1) Legally established public street, alley, walkway, waterway, and public area of the locality; and
 - (2) Future or proposed public street, alley, walkway, waterway and public area.
- (b) No future or proposed street or street line, waterway, nor public area, shall be shown on an official map unless and until the centerline of the street, the course of the waterway, or the metes and bounds of the public area, have been fixed or determined in relation to known, fixed and permanent monuments by a physical survey or aerial photographic survey thereof. In addition to the centerline of each street, the map shall indicate the width of the right-of-way thereof.
- (c) After adoption by the Town Council of an official map, the council may acquire in any way permitted by law property which is or may be needed for the construction of any public street, alley, walkway, waterway or other public area shown on the map. When an application for a building permit is made to the town for an area shown on the official map as a future or proposed right-of-way, the town shall have sixty days to either grant or deny the building permit. If the permit is denied for the sole purpose of acquiring the property, the town has 120 days from the date of denial to acquire the property, either through negotiation or by filing condemnation proceedings. If the town has not acted within the 120 day period, the building permit shall be issued to the applicant provided all other requirements of law have been met.

Section 5-13: Adoption; filing in office of clerk of court.

- (a) After the official map has been prepared and recommended by the Planning Commission it shall be certified by the commission to the Town Council. The Town Council may then approve and adopt the map by a

majority vote of its membership and publish it as the official map of the town.

- (b) No official map shall be adopted by the Town Council or have any effect until approved by ordinance duly passed by the Town Council after a public hearing, preceded by public notice as required by Virginia Code section 15.2-2204.
- (c) Within thirty days after adoption of the official map the Town Council shall cause it to be filed in the office of the clerk of the circuit court.

Section 5-14: Additions and modifications.

- (a) The Town Council may by ordinance make, from time to time, other additions to or modifications of the official map by placing thereon the location of any proposed street, street widening, street vacation, waterway or public area in accordance with the procedures applicable to the locality.
- (b) Prior to making any such additions or modifications to the official map, the Town Council shall refer the additions or modifications to the Planning Commission for its consideration. The commission shall take action on the proposed additions or modifications within sixty days and report its recommendations to the Town Council.
- (c) Upon receipt of the report of the commission, the Town Council shall hold a public hearing on the proposed addition or modification to the official map and shall give notice of the hearing in accordance with Virginia Code section 15.2-2204. All such reports of the commission, when delivered to the Town Council, shall be available for public inspection.
- (d) Any ordinance embodying additions to or modifications of the official map shall be adopted by at least the vote required for original adoption of the official map. After the public hearing and the final passage of such ordinance, the additions or modifications shall become a part of the official map of the locality. All changes, additions or modifications of the official map shall be filed with the clerk of the court as provided in Virginia Code section 15.2-2234.

Section 5-15: Periodic review and readoption.

The official map and any additions thereto or modifications thereof shall be reviewed within five years from the date of adoption or readoption of the map by the Town Council. The procedure by the Planning Commission and the Town Council in connection with the review shall conform to that prescribed as to original adoption of the map. Neither the official map nor any additions thereto or modifications thereof shall be

of any force or effect for more than five years after adoption or readoption of the map unless readopted by the Town Council.

Section 5-16: Consultation with Commonwealth Transportation Board; copies of map and ordinance to be sent to Commonwealth Transportation Board.

During the preparation of an official map the Planning Commission shall consult with the Commonwealth Transportation Board or its local representative as to any streets under the jurisdiction of the Board, and prior to recommendation of the map to the Town Council it shall submit the map to the Board for comment. Any recommendations of the Board, not incorporated in the official map, shall be forwarded to the Town Council when the map is recommended by the Planning Commission. When the Town Council has adopted an official map in accordance with the terms of this chapter a certified copy of the map and ordinance adopting it shall be sent to the Board.

Section 5-17: Planning Commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.

- (a) The Planning Commission may, and at the direction of the Town Council shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the Town Council. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the Town Council, interested citizens and organizations and shall hold such public hearings as it deems necessary.
- (b) The town may use value engineering for any capital project. For purposes of this section, "value engineering" has the same meaning as that in Virginia Code section 2.2-1133.

Sections 5-18 through 5-20. Reserved.

Part 2. Zoning Text and Zoning Map Amendments

Section 5-21: Amendments in General

Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this ordinance whenever required by the public necessity, convenience, general welfare or good zoning practice.

Section 5-22: Initiation of Amendments

- (a) Amendments to zoning district boundaries or classification of property shown on the zoning map may be initiated by property owners of the land proposed to be rezoned, by filing with the council a zoning map amendment petition. The petition shall be addressed to the council and shall be on a standard form provided by the zoning administrator and accompanied by a reasonable fee to be determined in accordance with a fee schedule separately adopted by the council.
- (b) Amendments to the text of the ordinance or in the zoning boundaries or classification of properties shown on the zoning map may be initiated by the council or the Planning Commission in accordance with the provisions of section 15.2-2285, Code of Virginia, 1950, as amended.

Section 5-23: Planning Commission Hearing and Notice Required

- (a) No article amending any provision of this ordinance may be adopted until a public hearing has been held on such article.
- (b) Upon receipt of a properly filed amendment request or petition, the administrator shall schedule a public hearing by the Planning Commission on the amendment and provide public notice as required by section 15.2-2204, Code of Virginia, 1950, as amended, and Article [VI](#) of this ordinance.

Section 5-24: Planning Commission Consideration of Proposed Amendments [Amended 20 December 2016]

Following the public hearing, if required by law, the Planning Commission shall forward the proposed amendment to the Town Council, together with its recommendation. Failure of the commission to report to the council within 90 days or such shorter period as may be set by council, after the first meeting of the commission following the date the proposed amendment has been referred to the commission shall be deemed approval by the commission of such amendment. The Planning Commission need not confine its recommendation to the proposed amendment as contained in the petition, but may reduce or enlarge the extent of land that it recommends be rezoned or may recommend that land be rezoned to a different zoning classification than that requested in the petition.

However, the commission shall hold another hearing on the application, if required by section 15.2-2204, Code of Virginia, 1950, as amended, and Article [VI](#) before recommending an increase in the extent of land rezoned or a rezoning to a more intensive use classification than set forth in the petition.

Section 5-25: Town Council Hearing and Notice Required

- (a) Before approving and adopting any zoning ordinance, variance to, or amendment thereof, the council shall hold at least one public hearing and provide public notice as required by Article [IV](#), after which it may make appropriate changes or corrections in the ordinance or proposed amendment; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by Article [IV](#).
- (b) The council may approve or deny an amendment as submitted, rezone to a classification other than that requested by the applicant (provided all notification requirements have been met), or may rezone only a portion of the area proposed for rezoning in the original application.

Section 5-26: Limitation on Filing New Petition After Original Denied

No new petition concerning any or all of the same property shall be filed within 12 months of the date of denial by the council.

Section 5-27: Withdrawal of Petitions

Any petition filed pursuant to section [5-22](#) above may be withdrawn upon written request of the applicant any time prior to the submission of any public hearing notice for advertisement; provided, that if the request for withdrawal is made after publication of the notice of hearing such withdrawal shall only be with the consent of either the commission or the council, whichever body has advertised the hearing, and no new petition concerning any or all of the same property shall be filed within 12 months of the date of action by the respective body approving such withdrawal unless such body in its action approving the withdrawal specifies that the time limitation shall not apply and permits the petition to be withdrawn "without prejudice."

Section 5-28: Proffered Conditions

- (a) The conditional zoning provisions contained in section 15.2-2303 and section 15.2-2299 through 15.2-2302, Code of Virginia, 1950, as amended, are incorporated as part of this ordinance as if set out fully herein. Proposed conditions shall be proffered in writing, in advance of the public hearing before the Town Council by the owner of the property which is the subject of the proposed zoning map amendment.

- (b) There shall be no amendment or variation of conditions created pursuant to this section until after a public hearing before the Town Council advertised pursuant to Article [IV](#).

Sections 5-29 through 5-30: Reserved

Part 3. Special Use Permits

Section 5-31: Special Use Permits

An application for a special use permit shall be submitted to the administrator on a form provided by the administrator. The application shall include all information required to allow the commission and Town Council to fully consider the request.

Section 5-32: Special Use Permits; Recommendation by Planning Commission [Amended 13 December 2016]

The application, when complete, shall be forwarded to the commission for its review and recommendation. The commission, if required by law, shall hold a public hearing in conformity with section 15.2-2204, Code of Virginia, 1950, as amended, and Article [IV](#), and submit its recommendation to the Town Council within 30 days of the public hearing.

Section 5-33: Special Use Permits; Council Action

The Town Council shall hold a public hearing in conformity with section 15.2-2204, Code of Virginia, 1950, as amended, and Article [IV](#), and shall approve the special use permit within 60 days if it concludes that:

- (a) The requested use is permitted by special use permit in the zoning district where proposed.
- (b) The special use will comply with all requirements of this ordinance.
- (c) The special use, if completed, will:
 - (1) not materially endanger the public health or safety; and
 - (2) not substantially injure the value of adjoining or abutting property; and
 - (3) be in harmony with the area in which it is to be located; and
 - (4) be in general conformity with the Hillsboro Comprehensive Plan or other plans adopted by the Town Council .

Section 5-34: Special Use Permits; Conditions of Approval

- (a) The Town Council may, when approving a special use permit, impose reasonable conditions to insure that the special use in its proposed location will:
 - (1) not endanger the public health or safety;
 - (2) not injure the value of adjoining or abutting property;
 - (3) be in harmony with the area in which it is located; and,

- (4) be in conformity with the Hillsboro Comprehensive Plan or other plans adopted by the Town Council .
- (b) Conditions may apply, *inter alia*, to the method and hours of operation of the proposed use and may include provisions for fencing, planting or landscaping and other reasonable requirements necessary to protect public health and safety. In addition, the Town Council may limit a special use permit to a specified duration.
- (c) All conditions imposed by the Town Council shall be listed on the special use permit.
- (d) All additional conditions or requirements authorized by this section shall be enforceable in the same manner and to the same extent as any other applicable requirements of this ordinance.

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ARTICLE VI. ADMINISTRATION GENERALLY

Section 6-1: Zoning Permits [Amended 20 December 2016]

- (a) A zoning permit shall be required before any use may be substantially changed; substantial clearing, grading, or excavation may be commenced; and buildings or other substantial structures may be constructed, erected, moved or substantially altered. For purposes of this section substantial activities are those that require a Loudon County building permit, grading permit or installations of erosion and sedimentation controls approved by Loudoun County shall be deemed substantial.
- (b) Before any building may be razed, the property owner shall confirm that the building is not on the inventory required by [section 12-1\(c\)](#).
- (c) Zoning permits shall be issued only when a review of the application submitted, including any plans required, indicates that the development will comply with the provisions of this ordinance. Such plans and applications as finally approved shall be incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and applications.
- (d) A zoning permit shall be issued in the name of the applicant, shall identify the property involved and the proposed use, shall incorporate by reference any plans submitted and shall contain any special conditions or requirements lawfully imposed.
- (e) A completed application for a zoning permit shall be submitted to the Planning Commission or the Zoning Administrator.
- (f) The Town Council shall issue all zoning permits. except as provided by [Section 3-21 \(c\)](#).
- (g) The Town Council shall issue the zoning permit unless finding, after review of the application, that:
 - (1) The application is incomplete; or,
 - (2) The development will not comply with one or more requirements of this ordinance if completed as proposed in the application.
- (h) If required by the Town Council , the permit recipient shall provide a performance bond or other security satisfactory to the Town Council to ensure that all requirements of this ordinance relating to completion and acceptance of any improvements to be maintained by any public body will

be fulfilled and all final inspections completed within six months after issuance of the zoning permit.

- (i) A zoning permit shall expire automatically within one year of the date of issuance if the use authorized or work required has not commenced. If, after work is begun, such work is suspended for a period of one year, the zoning permit shall automatically expire. The Planning Commission may extend a permit without charge for additional periods not to exceed six months on application by the permit holder, if:
 - (1) The permit has not yet expired;
 - (2) The permit recipient has proceeded with due diligence and in good faith; and,
 - (3) Conditions have not substantially changed.
- (j) Unless the Town Council determines that there are features shown on the comprehensive plan or part thereof, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than railroad facility, 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 Town Council shall, hold a public hearing, after notice as required by section 15.2-2204, Code of Virginia, 1950, as amended.
- (k) Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities shall not require approval unless involving a change in location or extent of a street or public area.
- (l) Any public area, facility or use as set forth in subsection (j) which is identified within, but not the entire subject of, a subdivision or site plan application or both may be deemed a feature already shown on the adopted comprehensive plan, and, therefore, excepted from the requirement for submission to and approval by the Town Council; provided that the Town Council has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through the acceptance of a proffer made pursuant to [section 5-28](#).
- (m) Approval and funding of a public telecommunications facility by the Virginia Public Telecommunications Board pursuant to Article 12 (section

2.2-2426 et seq.) of Chapter 24 of Title 2.2, Code of Virginia, 1950, as amended, shall be deemed to satisfy the requirements of this section with the exception of television and radio towers and structures not necessary to house electronic apparatus, provided the provisions of section 15.2-2232E, Code of Virginia, 1950, as amended, have been met. The exemption provided in this paragraph shall not apply to facilities existing or approved by the Telecommunications Board prior to July 1, 1990.

Section 6-2: Certificate of Appropriateness Required in Certain Instances.

Within any historic district established under [Article XII](#) of this ordinance, (i) every principal residence proposed to be constructed on a lot, (ii)-shall require a certificate of appropriateness in addition to any other permit or approval required by this ordinance. After the effective date of this ordinance, no building or structure, within the historic district that is listed in the inventory required by section [12-1\(c\)](#) may be demolished, reconstructed, or relocated except in conformity with the provisions of a certificate of appropriateness issued in accordance with the provisions of [Article XII](#).

Section 6-3: Reserved

Section 6-4: Plans To Accompany Application For Zoning Permits

- (a) A site plan, or plat, prepared and approved in accordance with the provisions of this ordinance, shall be required to assist the Planning Commission in the review of applications for zoning permits, to assure compliance with all applicable requirements of this ordinance.
- (b) The following developments and uses shall require submission of a site plan:
 - (1) All permitted uses in the A-C and R districts, except the following:
 - (i) Single family detached dwellings and their related accessory uses when submitted on a plat prepared in accordance with subsection (e).
 - (ii) Agriculture or horticulture, but not including buildings associated with such uses unless smaller than 500 square feet.
 - (2) All permitted uses in the C districts.
 - (3) Special uses permitted in accordance with [Article V](#) of this ordinance if the construction of permanent buildings or structures that will be open to use by members of the public are proposed
 - (4) Any development in which any required off-street parking space is to be used by more than one establishment.
- (c) Site plans or any portion thereof requiring engineering, architecture, landscape architecture, or land surveying shall be certified by an engineer, architect, or land surveyor authorized by the State to practice as such.

Site plans shall be prepared to a scale that clearly depicts in reasonable detail the construction proposed, presumptively one inch equals twenty feet (1" = 20') or larger. Sheet size that eliminates or reduces the number of multiple sheets and match lines is encouraged. The sheet(s) shall be no greater than 24 inches by 36 inches for plats intended for recordation.

- (d) All site plans shall be submitted to the zoning administrator in clearly legible blue or black lined copies and shall contain the following information:
- (1) Name of development, the developer and designer.
 - (2) Scale, north arrow, vicinity map insert, date and number of sheets.
 - (3) Names of adjoining property owners.
 - (4) Location and description of existing easements, buildings, watercourses, utilities, drainage structures and other pertinent features.
 - (5) Topography with contour interval of two feet.
 - (6) Location, name and present width of existing adjoining streets/sidewalks or other public ways.
 - (7) Building setback lines.
 - (8) Location and dimensions of proposed building(s) and/or modifications to existing buildings. The number of floors, floor area and proposed use(s) for the building. If the building contains multi-family units, the number and size of the dwelling units shall be shown.
 - (9) Location of proposed on-site and off-site improvements including streets, sidewalks, curb and gutters, drainage structures, sanitary sewers, water lines, street lighting, fencing, landscaping, etc.
 - (10) Location of off-street parking spaces indicating type of surfacing, width of spaces and a note indicating the number required by town ordinance.
 - (11) Proposed on-site and off-site improvements including street, sidewalks, septic system, water lines and drainage structures, which shall include plan and profile drawings for existing and proposed streets and be accompanied by certification from the Virginia Department of Highways and Transportation that the street and drainage plans meet current requirements. Proposed changes to septic systems must be accompanied by certification from the Loudoun County Department of Health.
 - (12) A detailed cost estimate of all on-site and off-site improvements with a corresponding statement signed by the developer acknowledging complete responsibility for the installations of the improvements per the approved plans under the conditions specified by the Town Council prior to approval of the zoning permit.

- (e) All developments and uses not requiring a site plan pursuant to [Article VI](#) of this ordinance shall require the submission of a plat prepared by a certified land surveyor, except that plats submitted for additions to an existing single family dwelling or accessory structure related to an existing single family dwelling may be prepared by other than a certified land surveyor or registered engineer. Each such plat shall indicate the following information:
 - (1) The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
 - (2) The location, dimensions and height of any building, structure, or addition, whether existing or proposed.
 - (3) The distance from all property lines to the proposed building, structure, or addition, shown to the nearest foot.
 - (4) The proposed elevation of the first floor level and of the lowest floor level of any proposed new building. Such elevations shall not be required for additions unless the proposed elevation of the lowest floor level of such addition is below the lowest floor elevation of the structure to which it is added.
 - (5) The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
 - (6) The location and configuration of any existing or proposed off-street parking spaces(s), the number of spaces proposed to be provided, and information as to the proposed surfacing of such areas.
 - (7) The signature and certification number, if applicable, of the person preparing the plat.
 - (8) Such other information with regard to the lot, existing and proposed buildings, and existing and proposed uses thereof, and such other information with regard to contiguous lots as may be prescribed by resolution of the Planning Commission as being necessary to the proper enforcement of the provisions of this ordinance.

- (f) The Planning Commission may waive or modify one or more requirements of subparagraphs (c), (d) or (e) above when they determine that such submission is unnecessary for adequate review of the application.

Section 6-5: Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications within the time prescribed by law and as

expeditiously as practicable, consistent with the need to ensure that all development conforms to the requirements of this ordinance.

ARTICLE VII. APPEALS, VARIANCES, MAP INTERPRETATIONS

Section 7-1: Appeals

- (a) An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this ordinance. The appellant shall file with the administrator and the board a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the administrator and the board when delivered to the town office, with payment of any required fee, and the date and time of filing shall be entered on the notice by the town.
- (b) An appeal shall be taken within 30 days after the date of the decision or order appealed from.
- (c) Whenever an appeal is filed, the administrator shall transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (d) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the 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 such case, proceedings shall not be stayed except by order of the board or a court of record, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.
- (e) The board of zoning appeals may reverse or affirm (wholly or partly) or may modify the order, requirement, decision or determination appealed from.

Section 7-2: Variances

- (a) An application for a variance shall be submitted to the board by filing a copy of the application with the administrator. A copy of such application shall be transmitted to the planning commission, which may send a recommendation to the board or appear as a party at the hearing.
- (b) A variance may be granted by the board if it concludes that the literal enforcement of the ordinance would result in unnecessary hardship for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. No variance shall be authorized by the board unless it finds that:

- (1) A property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation 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 this ordinance; and
 - (2) The strict application of the ordinance would produce undue hardship to the applicant; and
 - (3) The hardship relates to the applicant's land, rather than personal circumstances; and
 - (4) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (5) The hardship is not the result of the applicant's own actions; and
 - (6) That the authorization 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; and
 - (7) The board finds that the condition or situation of the property concerned 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.
- (c) In granting a variance the board may impose such reasonable conditions regarding the location, character and other features of the proposed structure or 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.
- (d) The nature of the variance and any conditions attached to it shall be entered on the zoning permit (or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for

further information). All such conditions shall be enforceable in the same manner as any other applicable requirement of this ordinance.

Section 7-3: Interpretations of Zoning Map

- (a) The board of zoning appeals is authorized to hear and decide applications for interpretations of the Zoning District Map where there is any uncertainty as to the location of a district boundary. Other disputed questions of district boundary lines and similar questions may be determined by the board as provided in [section 7-1](#), if such questions arise in the context of an appeal from a decision of the administrator.
- (b) An application for a map interpretation shall be submitted to the board by filing a copy of the application with the administrator. The application shall contain sufficient information to enable the board to make the necessary interpretation. After notice to the owners of the property affected by the question, and after public hearing with notice as required by section 15.2-2204 Code of Virginia, 1950, as amended, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question.
- (c) Where a dispute exists as to the boundaries of districts as shown on the Zoning District Map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following to the centerlines of alleys, streets, highways or streams shall be construed to follow such center lines;
 - (2) Boundaries indicated as approximately following lot lines, town limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries;
 - (3) Boundaries indicated as following rivers, creeks and streams or other body of water shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and, in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline;
 - (4) Where a district boundary divides a lot or where distances are not specifically indicated on the Zoning District Map, the boundary shall be determined by measurement, using the scale of the Zoning District Map;
 - (5) Where any street or alley is hereafter officially vacated or abandoned, the regulation applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- (d) In exercising its authority, the board shall interpret the map in such way as to carry out the intent and purpose of this ordinance for the particular

section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

Section 7-4: Board Action on Appeals

- (a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reason or findings of fact that support the motion.
- (b) A motion to grant a variance shall make findings as required by this ordinance and shall state with specificity the facts pertaining to the application on which it is founded.
- (c) A motion to deny a variance may be made on the basis that any one or more of the criteria set forth in [section 7-2](#) is not satisfied or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it.

Section 7-5: Board of Zoning Appeals Hearing Required, Notice [Amended 20 December 2016]

- (a) No appeal, shall be decided until a public hearing has been held on such request.
- (b) The Town Council shall schedule a public hearing by the board of zoning appeals upon receipt of a properly filed application for appeal, variance or interpretation. Notice of the public hearing shall be given as required by section 15.2-2204, Code of Virginia, 1950, as amended. Due notice shall be given to the parties in interest.

Section 7-6: Requests to be Heard Expeditiously

The board shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as practicable, but not later than 90 days after a complete application is filed, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with [section 7-5](#), and obtain necessary information to make sound decisions.

Section 7-7: Appeal of Decision of Board of Zoning Appeals

- (a) 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 town, may present to the circuit court of Loudoun

County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.

- (b) 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 petitioner's attorney, which shall not be less than ten 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.
- (c) 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 other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) 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.
- (e) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, the decision of the board of zoning appeals shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.
- (f) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

- (g) 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 appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

Section 7-8: Proffer Appeals to be Heard by Council

As provided in section [3-31](#)(c) of this ordinance, appeals from a decision of the zoning administrator regarding interpretations of proffered conditions shall be decided by the Town Council in accordance with the requirements of section 15.2-2301, Code of Virginia, 1950, as amended.

ARTICLE VIII. ENFORCEMENT AND PENALTIES

Section 8-1: General Provisions

Any building erected or improvements constructed contrary to any provision of this ordinance or any use of any building or land which is conducted, operated or maintained contrary to any provision of this ordinance or plan approved under the provisions of this ordinance shall be unlawful.

Section 8-2: (Reserved)

Section 8-3: Persons Liable

The owner, tenant, or occupant of any building or land or part thereof or other person who participates in, assists, directs, creates, or maintains a violation of this ordinance shall be subject to the penalties and remedies contained in this ordinance.

Section 8-4: Procedures Upon Discovery of Violations

- (a) If the administrator finds that a provision of this ordinance is being violated, he shall send a written notice to the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.
- (b) The notice may state what action the administrator intends to take if the violation is not corrected and shall advise the violator that the administrator's decision may be appealed to the board of zoning appeals in accordance with [section 7-1](#).
- (c) The administrator may seek enforcement by invoking any of the penalties or remedies authorized in [section 8-5](#) without prior written notice notwithstanding the provisions of subsections (a) and (b), above.
- (d) Nothing in this section shall preclude the administrator from informally seeking resolution of any violation by voluntary compliance by a responsible party.

Section 8-5: Penalties and Remedies for Violations

- (a) Criminal penalties

The violation of any provision of this ordinance or failure to comply with any of its requirements, including violations of any conditions enacted with grants of variances, special use permits or proffers, that results in

physical harm or injury, shall constitute a misdemeanor, punishable by a fine of not less than \$10.00 and not more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100 nor more than \$1,500.

(b) Infractions and Civil Penalties

- (1) Except for any violation resulting in injury to any person or persons, the violation of any of the provisions of this ordinance shall subject the offender to a civil penalty of \$200 for the first violation and \$500 for each subsequent violation.
- (2) The designation of a particular violation of this ordinance as an infraction shall be in lieu of criminal sanctions and, except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, but shall not preclude other remedies available under this ordinance.
- (3) The administrator shall cause a summons to be served upon the violator in any manner authorized by law for service of process after serving notice of violation in accordance with [section 8-4](#) and if such violation has not ceased within the time specified in such notice.
- (4) The summons shall contain the following information:
 - (i) The name and address of the person charged.
 - (ii) The nature of the infraction and the ordinance provision(s) being violated.
 - (iii) The location, date and time that the infraction occurred or was observed.
 - (iv) The amount of the civil penalty assessed for the infraction.
 - (v) The manner, location and time in which the civil penalty may be paid to the town.
 - (vi) The right of the recipient of the summons to elect to stand trial for the infraction and the date of the trial.
- (5) The summons shall provide that any person summoned for an infraction may elect to pay the civil penalty by making an appearance in person or in writing by mail to the town treasurer prior to the date fixed for trial. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty

established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

- (6) If a person charged with an infraction does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for an infraction authorized by this ordinance, it shall be the burden of the Town of Hillsboro to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.
 - (7) Each day that any violation continues shall be considered a separate offense for purposes of the penalties and remedies specified in this section. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set facts shall not result in civil penalties which exceed a total of \$5,000.
- (c) This ordinance may also be enforced by any appropriate equitable or legal action.

Section 8-6: Permit Revocation

- (a) A zoning, sign or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans approved, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.
- (b) All notice and hearing requirements of [Article IV](#) applicable to granting a special use permit shall be complied with before the special use permit may be revoked. The notice shall inform the permit recipient of the alleged grounds for the revocation.
 - (1) The burden of presenting evidence sufficient to authorize the revocation of the permit shall be upon the party advocating revocation.
 - (2) A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.
- (c) Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. The

administrator shall provide a written statement of the decision and the reasons therefor to the permittee if the permit is revoked.

- (d) No person may continue to use land or buildings in the manner authorized by any zoning, sign, or special use permit after the permit has been revoked in accordance with this section.

ARTICLE IX. SIGNS

Section 9-1: Purpose and Intent

The purpose of this article is to regulate the size, location, height and construction of all signs; to protect the public health, safety, convenience and general welfare; to facilitate the creation of a convenient, attractive, and harmonious community; to protect property values, and to further the goals, objectives and policies of the Comprehensive Plan. This article is intended to promote signs that are:

- (a) Compatible with the historic character and architecture of Hillsboro, including the landscape/streetscape;
- (b) Legible and appropriate to the activity to which they pertain;
- (c) Not a dangerous distraction to motorists;
- (d) Placed so they do not intrude into pedestrian walkways, and
- (e) Constructed and maintained in a structurally sound and attractive condition.

Section 9-2: Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section all have the meaning indicated when used in this ordinance.

- (a) *Sign.* Any device that is sufficiently visible to persons not located on the lot where such device is located and which is designed to attract the attention of such persons and communicate information to them.
- (b) *Freestanding Sign.* A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support of a sign.
- (c) *Off-Premises Sign.* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a locations other than the premises where the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious, or other noncommercial message shall also be

an off-premises sign unless it is excluded from regulations under [subsection 9-6](#) (k).

- (d) *On-Premises Sign.* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.
- (e) *Temporary Sign.* A sign that (i) is used in conjunction with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (ii) is intended to remain on the location where it is erected or placed only until the occurrence of some event. If a sign display area is permanent but the message displayed is subject to periodic changes, such a sign shall not be regarded as temporary.

Section 9-3: Compliance Required

- (a) No sign shall be constructed, erected, moved, enlarged, or substantially altered unless in accordance with the provisions of this ordinance, except as provided in [section 9-6](#) (Signs Excluded from Regulations), or [section 9-7](#) (Temporary Signs), or as provided in subsection (b) below.
- (b) Wherever the building size, location or orientation results in a circumstance which is not adequately addressed in this article, a modification to the standards provided herein may be permitted in accordance with the provisions of this subsection. The applicant for any such modification must demonstrate to the satisfaction of the Town Council that compliance with the purpose and intent of the sign regulations provided in [section 9-1](#) will not be compromised.

Section 9-4: Permit Required for Signs

- (a) An application for a zoning permit to erect a sign shall be submitted to the Planning Commission, which sends a recommendation to the Town Council.
- (b) Except for signs exempted from regulation, every sign shall be constructed, erected, moved, enlarged, illuminated, or substantially altered only in accordance with a sign permit issued by the Town Council.
- (c) Sign permit applications and sign permits shall be governed by the same provisions of this ordinance applicable to zoning permits.

Section 9-5: Comprehensive Signage Applications

- (a) Any person required to obtain a permit for signage pursuant to [section 9-4](#) may present a comprehensive signage application (this may be a unified sign proposal covering more than one sign) for review and approval on a periodic basis not greater than two years in duration, or such longer period as the sign(s) shall remain in place, in accordance with the provisions of this section.
- (b) Comprehensive signage applications may include temporary signs authorized by [section 9-7](#), as well as other permitted signs, and shall describe with reasonable specificity the events, occasions, purposes and duration such signs will be erected. Such application shall meet the requirements of this Article and shall provide such further information or samples as to permit review by the Planning Commission or Town Council, as required.
- (c) After approval, the applicant may erect, replace, relocate signs in conformity with the approved application.
- (d) The Planning Commission or Town Council may recommend approval of an alternative sign plan that does not strictly adhere to the area, number, height and location criteria in the Historic District if it determines that the design is more consistent with the architectural character of the building to which it relates and to other surrounding properties.

Section 9-6: Signs Excluded from Regulation

The following signs are excluded from regulation under this chapter, except for those regulations contained in sections [9-8](#), [9-12](#), [9-14](#) or [9-15](#) and provided further that they are:

- (a) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs and signs suspended between utility poles.
- (b) Danger, aviation, railroad, bridge, Red Cross, and other signs as set forth in section 33.1-355 (5), (6), (7), (8), (15) and (17), Code of Virginia, 1950 (as amended).
- (c) Official signs of a noncommercial nature erected by public utilities.

- (d) Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- (e) Decorative flags which do not contain a commercial promotion or advertise a specific business.
- (f) Signs directing and guiding traffic on private property that do not exceed four square feet each, bear no advertising, and are not visible from any public street.
- (g) Signs visible from a public street that do not exceed four square feet each and bear no advertising, that direct and guide traffic on private property that are associated with a special event on the property and that are removed at the end of such event, provided that no more than four such events utilizing such signage may be held in any 365 calendar days.
- (h) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
- (i) Signs proclaiming religious, political, or other noncommercial messages, including signs erected in connection with elections or political campaigns. The total area of all signs permitted by this subsection shall not exceed 30 square feet and no single sign shall exceed six square feet.
- (j) Portable blackboards, provided that there are no more than two per street frontage of 100 linear feet or longer per business parcel, with an aggregate of 8 square feet or less per sign, exclusive of a frame, provided that they are secured to prevent a becoming a hazard during windy conditions, and further provided that they do not remain outside the main building after business hours.
- (k) Displays, including lighting, erected in connection with the observance of holidays.

Section 9-7: Temporary Signs

- (a) The following temporary signs are permitted. Such signs shall conform to the requirements set forth below as well as other applicable requirements of this ordinance except those contained in [section 9-11](#) (Sign Area Computations) and shall not exceed the number permitted in [section 9-10](#) (Permitted Signs).
 - (1) Signs offering for sale, lease or rent the real estate (including buildings) on which the sign is placed. Such signs shall be

removed immediately after sale, lease or rental. A single sign for each street frontage may be erected for any lot.

- (2) Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, shall not cover more than 50 percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall not be posted more than 30 days.
 - (3) Signs indicating that a special event such as a grand opening, fair, carnival, festival or similar event is to take place on the lot where the sign is located. Such signs may be erected no sooner than two weeks before the event and shall be removed within three days after the event.
 - (4) Except as provided in [section 9-5](#), temporary signs not covered in the foregoing categories, provided such signs meet the following restrictions:
 - (i) Not more than one such sign shall be located on any lot.
 - (ii) Such sign shall not be displayed for longer than three consecutive days or more than 10 days per year.
- (b) Other temporary signs not listed in subsection (a) shall be regarded and treated in all respects as permanent signs.

Section 9-8: Prohibited Signs

Notwithstanding any other provision of this article, including [Section 9-6](#), the following signs are prohibited:

- (a) Off-premises signs including billboards.
- (b) Flashing, rotating, or revolving signs.
- (c) Roof signs.
- (d) Illuminated signs which outline any building or part thereof with neon or other lights, or which reflect or cast glare, directly or indirectly on any adjacent property or public roadway.
- (e) Any sign erected on a tree, or painted or drawn on a rock or other natural feature.

- (f) Any sign suspended between poles which is either a pennant which blows in the wind or a spinner which spins in the wind, except as authorized by [section 9-6](#).
- (g) Any sign which contains, includes or is illuminated by any flashing, intermittent, or moving light including those giving public service information such as time, date, temperature, weather or similar information.
- (h) Portable signs that are not permanently affixed to a building, structure or the ground, including signs displayed on a stationary vehicle. This prohibition shall not apply to authorized temporary signs or to portable blackboards authorized by [section 9-6](#).
- (i) Internally illuminated signs ((except as specified in [section 9-9 \(e\)](#)).

Section 9-9: Permitted Signs

Signs described or otherwise provided for below shall be permitted and shall be subject to all regulations set forth in each case as well as all other regulations in this ordinance. No other signs shall be permitted, except as provided in sections [9-6](#) and [9-7](#).

- (a) Residential signs identifying the owner, address, and name of the residence, in any combination shall be allowed, two per residential lot. No such sign shall exceed four square feet unless approved by special use permit pursuant to sections [5-31](#) through [5-34](#) or Comprehensive Signage Application in section [9-5](#).
- (b) Home occupation signs which display the name and/or address of the occupant of the premises and the nature of the home occupation. One sign shall be allowed for each parcel of property, not to exceed four square feet unless approved by special use permit pursuant to sections [5-31](#) through [5-34](#) or Comprehensive Sign Application in [section 9-5](#).
- (d) Signs advertising a business, office or other permitted commercial use. Except as exempted by [section 9-6](#) or otherwise approved pursuant to [section 9-5](#), property used for commercial purposes shall be entitled to a maximum of two signs per principal structure regardless of the number of businesses on the premises. Such signs shall be on-premises signs and shall consist of the following sign types, provided that other than awning signage no more than two of a sign type shall be allowed per public street frontage:
 - (1) Freestanding Sign
 - (2) Wall Sign
 - (3) Projecting Sign

- (4) Awning Sign
- (e) Neon signs advertising a business as open and neon Virginia Lottery signs. These signs may only be illuminated during business hours.

Section 9-10: General Standards

- (a) Freestanding signs shall be set back at least 10 feet from the public right-of-way, or 5 feet for non-conforming structures in existence prior to the effective date of the ordinance. Except as authorized by [section 9-6](#), any sign set back five feet or less from public right of way shall be affixed to the principal structure on the premises.
- (b) Signs whose text changes periodically but otherwise remain the same are regarded as permanent signs.
- (c) Unless otherwise specified in [sections 9-6](#) and [9-7](#) of this ordinance, no permanent or temporary sign may exceed 4 square feet, except for signs identifying commercial structures, including Bed and Breakfast establishments, which shall not exceed 16 square feet.
- (d) Signs may be externally lighted by white light only and only if it fully shields the light source and is designed and directed so as to eliminate glare onto adjacent properties and roadways. Lighting fixtures and poles shall be of consistent architectural styled and shall complement the predominant use of the property.
- (e) Freestanding signs shall not exceed a height of seven feet from the ground level to the top of the sign and shall not exceed a height of nine feet to the top of the sign support. No more than one freestanding sign per building shall be allowed.
- (f) The bottom of a projecting sign shall be a minimum of seven feet, six inches and a maximum of 12 feet above the finished grade of the sidewalk or ground level. No more than one projecting sign per business shall be allowed.
- (g) Temporary signs shall not be included in calculating the total amount of permitted sign area.
- (h) Signs and their locations shall not obstruct or interfere with traffic, sight distances, signals and public signs.

Section 9-11: Sign Area Computation

The surface area of any sign permitted under this ordinance is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding supports unless such supports are used to attract attention, except as noted below:

- (a) The surface area of any open sign made up of individual letters or figures shall include the space between such letters or figures.
- (b) Whenever one sign contains lettering or other advertising information on both sides, one side only shall be used in computing the surface area of the sign.
- (c) Paddle signs attached to a freestanding or projecting sign are permitted. The surface area of such signs is computed to be the total square footage of all the signs, including the area of open space between each sign.

Section 9-12: Nonconforming Signs

- (a) Any sign lawfully in existence on the date of enactment of this ordinance may be maintained even though it does not conform to the provisions of this ordinance.
- (b) No nonconforming sign may be enlarged or altered in such a manner as to expand the nonconformity, nor may illumination be added to any nonconforming sign.
- (c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
- (d) A nonconforming sign destroyed by any cause may not be repaired, reconstructed or replaced except in conformity with this article. For the purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.
- (e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

Section 9-13: Removal of Unsafe Signs

- (a) Whenever, in the opinion of the administrator, a sign becomes structurally unsafe or endangers the safety of a structure or the public, the administrator shall order such sign to be made safe or comply with ordinance, as the case may be, or be removed. The order shall be sent by

registered mail and shall be complied with within five days from the date of mailing. Failure to comply with the order shall constitute grounds for the administrator to have the sign removed, and the cost of removal shall be added to any fine imposed for violation under this ordinance.

- (b) Whenever, in the opinion of the administrator, an unsafe sign poses an imminent threat of serious injury to person or property, and it is impracticable to give notice as required by subparagraph (a), the administrator may cause the sign immediately to be made safe or removed, and the cost thereof shall be charged to the owner as provided in subparagraph (a).

Section 9-14: Removal of Obsolete Signs

Any sign which is obsolete, because of discontinuance of the advertised activity or any other reason which would cause the sign to be obsolete, shall be removed within seven (7) days.

Section 9-15: Abandoned Signs

- (a) Any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located upon order by the zoning administrator.
- (b) For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years.
- (c) If, following such two-year period, the zoning administrator has made a reasonable attempt to notify the property owner and such sign has not been removed, the zoning administrator may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property.
- (d) Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

ARTICLE X. REGULATIONS APPLICABLE TO ALL DISTRICTS

Part I. General Standards

Section 10-1: Public Uses and Facilities.

- (a) Public facilities, structures, and uses, as those terms are used herein, shall include but not be limited to streets, connections to existing streets, parks or other public areas public buildings or public structures, public utility facilities, or public service corporation facilities, whether publicly or privately owned, but shall not include railroad facilities, high power electrical transmission lines in excess of one hundred and fifty (150) kilovolts which are subject to review and approval by the Virginia State Corporation Commission, or a public telecommunications facility (not including television and radio towers and structures not necessary to house electronic apparatus) that has received approval and funding by the Virginia Public Broadcasting Board pursuant to section 2.2-2426, VA Code Ann. For purposes of this section, the foregoing facilities, structures, and uses shall be referred to as public facilities. The term “public facility” or “public use” shall not, however, include the business office of any of the foregoing unless owned and operated by a governmental body.
- (b) Public facilities may be located within any zoning district in the town, subject to [section 6-1](#) and section 15.2-2232, VA Code and shall be deemed permitted uses when so approved except where otherwise specifically provided.

Section 10-2: Features Exempt from Height Limitations

- (a) The height limitations set forth in [Article XI](#) shall not apply to the following features; provided that such structures or features shall be created only to a height necessary to accomplish the purpose intended, and further provided that any such structure or feature over 50 feet in height, as measured from the ground, shall require approval by the Town Council, after recommendation by the Planning Commission.
 - (1) Chimneys, church spires, elevator shafts, barns and other bona fide agricultural buildings, radio/television and telecommunications antenna or similar structural features not intended as places of occupancy or storage,
 - (2) Flagpoles or similar devices,
 - (3) Heating and air conditioning equipment, solar collectors, windmills and similar equipment, fixtures, and devices.
- (b) The features listed in subsection (a) are exempt from the height limitations set forth in [Article XI](#) if they conform to the following requirements:

- (1) Not more than 25 percent of the total roof area may be covered by such features.

Section 10-3: (Reserved)

Section 10-4: Lot access requirements

No principal structure shall be erected upon any lot which does not have frontage on a public street or highway. Accessory structures may be located on lots that do not meet minimum lot frontage requirements if they serve a principal structure on an adjoining lot under common ownership.

Section 10-5: Home occupations

(a) Home occupations include but are not limited to;

- (1) Bed and breakfast
- (2) Professional offices, including real estate, medical, dental and financial offices
- (3) Art or handiwork gallery
- (4) Selling antiques
- (5) Refinish/make furniture

(b) Home occupations may be conducted in a dwelling or accessory building to a dwelling, or both, provided:

- (1) Employees other than residents of the dwelling shall be permitted to be engaged in such employment and business clients may be received on the premises provided that the other requirements of this section are met.
- (2) The use of a dwelling and accessory buildings for home occupations shall be subordinate to their use for residential purposes by its occupants, and not more than-seventy-five percent (75%) of the cumulative floor area may be used in conducting the home occupation.
- (3) Persons conducting a home occupation shall obtain a business license and pay the business license tax as described in the Town's Business, Professional and Occupational License Tax Ordinance.

Section 10-6 through 10-8 Reserved:

Section 10-9: Landscaping

Except for Virginia Department of Transportation (“VDOT”) sight distance requirements, landscaping is exempt from this ordinance. Landscaping includes but is not limited to fences, ground covering, trees, shrubs, flowers, flower beds, walkways, in-grade steps, retaining walls, garden lighting, fountains, ponds, ornamental urns, and statuary

Sections 10-10 Farm Animals.

Keeping of farm animals shall be permitted in accordance with the standards set forth section [11-47](#) a, c, &d.

Part II. Manufacturing/Processing Performance Standards

Section 10-11: Smoke

No manufacturing or processing use in any district shall emit any smoke, that is visible to the naked eye, from a vent, stack, chimney, or combustion process.

Section 10-12: Noise

- (a) No manufacturing or processing use in any district shall generate noise that tends to have an annoying or disruptive effect upon uses located on adjacent lots. The table below establishes the maximum permissible noise levels for manufacturing and processing uses in any district.

- (a) Table of Maximum Permitted Sound Levels, dB(A), measured at the property line.

Residential		Commercial
7 a.m.-7 p.m.	7 p.m.-7 a.m.	55
50	45	

- (c) Noise resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

Section 10-13: Vibration

- (a) No manufacturing or processing use shall generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at the property line.
- (b) Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

Section 10-14: Odors

- (a) The "odor threshold", for purposes of this section, is defined as the minimum concentration in air of gas, vapor, or particulate matter than can be detected by the olfactory systems of a panel of healthy observers
- (b) No manufacturing, processing, or trash receptacles use shall generate any odor that reaches the odor threshold measured at the property line.

Section 10-15: Disposal of Liquid Wastes

No manufacturing or processing use shall discharge into the town roadway or drain system.

Section 10-16: Water Consumption

Water consumption by any use shall be governed by the Hillsboro Water and Water Service Ordinance.

Section 10-17: Electrical Disturbance or Interference

No manufacturing or processing use shall:

- (a) Create any electrical disturbance that adversely affects any operation or equipment other than that owned by the maker on any such disturbance, or
- (b) Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the maker of such disturbance is adversely affected.

Sections 10-18 through 10-20 Reserved.

Part III. Permitted Extensions into Required Yards

Section 10-21. General Provisions.

While there are no specific provisions in this ordinance pertaining to the use or erection of structures, fences, walls, trellises, arbors and the like, the Planning Commission and the Town Council highly recommend that the Historic District Design Guidelines be followed

Section 10-22. Permitted Extensions into Required Yards. [Amended 20 December 2016]

- (a) No structure may be erected over a public right-of-way or easement, except as expressly permitted by the Town. Notwithstanding anything to the contrary in this ordinance, no zoning permit shall be approved for any structure which does not comply with Virginia Department of Transportation (VDOT) sight distance requirements.
- (b) No structure may be erected within 5 feet of an adjoining property line without an approved variance as set forth in [Section 7-2](#)

Section 10-23: Temporary Commercial Events.

- (a) For purposes of this section, a special event shall be defined as a temporary commercial activity or promotion at a specific location outside of the principal structures when planned or promoted to attract members of the general public. Any temporary special event reasonably expected to attract more than one hundred people at any one time or more than six hundred people during any day of the event shall require advance approval by the Town Council in accordance with the provisions of this section.
- (b) The location and nature of use of areas proposed for the site of temporary special events shall be depicted on a concept plan or plat submitted as part of the special use permit required by [Section 6-4](#). The number of temporary special events requiring approval by the Town Council may be limited as a condition of approval and shall be subject to further reasonable conditions addressing any or all of the following without limitation:

- (1) Hours of operation;
- (2) Noise limits;
- (3) Location of facilities, including parking and sanitation;
- (4) Lighting;
- (5) Trash removal;
- (6) Security and crowd control;
- (7) Emergency access
- (8) Traffic management and directional signage;

- (9) Crowd management if expected attendance is exceeded.
- (c) The Town Council shall approve a temporary zoning permit application for a special event if it meets all of the following standards and criteria:
- (1) The proposed temporary event shall be located, operated, and maintained in a manner consistent with the provisions of this Ordinance.
 - (2) The particular location requested can reasonably accommodate the proposed temporary event, given the proposed use's nature, size, and duration.
 - (3) The operation of the requested event at the location proposed and within the time period specified shall not create significant adverse impacts, including but not limited to environmental, visual, glare, traffic, noise, or odor impacts, on adjacent properties, or improvements on adjacent properties, or in the surrounding area.
 - (4) The proposed event shall not create an unreasonable risk of:
 - (A) Significant damage to public or private property, beyond normal wear and tear;
 - (B) Injury to persons;
 - (C) Public or private disturbances or nuisances;
 - (D) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel; or
 - (E) Additional police, fire, trash removal, maintenance, or other public services demands, unless substantially mitigated by the applicant or operator.
 - (5) The time and location requested for the proposed special event shall not be already permitted or reserved for other activities.
 - (6) Permanent alterations to the site are prohibited, unless the Town Council specifically approves the alteration so that the permit applicant can comply with this subsection.
 - (7) Permanent signs are prohibited. Temporary signs shall be permitted as approved by the Town Council. All temporary signs that are associated with the temporary event use shall be removed when the special event ends.
 - (8) Temporary special events shall not violate any applicable conditions of approval that apply to the principal use on the site.
 - (9) The applicant or operator has received or complies with any other required permits, such as health department permits, or other federal, state, or county regulations.
- (d) The Town Council may impose conditions reasonably necessary to assure compliance with the standards in this Section to ensure that operation and maintenance of the special event mitigate potential adverse impacts on existing uses on adjoining properties and in the surrounding area, and to protect the public health, safety and general welfare. Conditions may

address, but are not limited to, provisions for adequate parking, storage, and lighting; provisions for security, traffic safety, fire and life safety; conditions limiting hours of operation; provision for adequate sewage disposal; and any other health and safety concerns the Town Council may deem necessary to comply with the standards in subsection (c) above. In addition, the Town Council may require the posting of a bond to ensure timely removal of structures and materials and restoration of the area.

Sections 10-24 through 10-30 Reserved.

ARTICLE XI. ZONING DISTRICTS

Part 1. Residential District R-1.

Section 11-1: Purpose.

This district is intended to accommodate single family detached residential uses within the town, with reasonable ancillary commercial uses that support the “live, work, play” concept consistent with the existing pattern of the town.

Section 11-2: Permitted uses.

The following uses are permitted in this district:

- (a) Single family attached or detached dwelling
- (b) Home occupations

Section 11-3: (Reserved)

Section 11-4: Conditionally permitted uses.

The following uses are permitted in this district subject to securing a special use permit as provided in [Article V](#):

- (a) Library
- (b) Public and private schools
- (c) Special uses of older structures including café or coffee shop, and other appropriate commercial uses as specifically approved by the Town Council
- (d) Utility facility

Section 11-5: Lot requirements.

- (a) Minimum lot size: 3 acres
- (b) Minimum lot width: 275 feet
- (c) Yard depth requirements.
 - (1) Minimum front yard: ten feet

- (2) Minimum side yard: five feet
- (3) Minimum rear yard: twenty-five feet

Minimum yard depth requirements may be modified by approval of a special use permit.

Section 11-6: Maximum building height.

- (a) Principal building, the higher of the height of the existing principal building or 35 feet; or higher with a special use permit.
- (b) The higher of the height of the existing accessory building or 15 feet, or up to 25 feet with a special use permit

Section 11-7: Accessory uses and structures. [Added 20 December 2016]

The following accessory uses and structures are permitted in this district:

- (a) Home occupations, secondary to a permitted residential use.
- (b) Accessory uses and structures customarily appurtenant to a permitted or approved special exception use. Except where otherwise permitted by other provisions of this ordinance or entirely exempt from review, accessory structures shall only be located in the side or rear yards.
- (c) Accessory buildings may not be erected within 5 feet of an adjoining property line without an approved variance as set forth in [Section 7-2](#).

Sections 11-8 through 11-20 Reserved. [Amended 20 December 2016]

Part 2. Commercial District C-1.

Section 11-21: Purpose.

This district is designed to create allow appropriate commercial uses that offer goods and services consistent with and supportive of the primary residential uses within the town. Commercial uses in this district will be located in new buildings or buildings which were formerly residential but which may be more desirable for commercial activities because of higher traffic volumes or other market factors. The town intends that existing residential buildings be converted to commercial use rather than have new buildings constructed, whenever possible.

Section 11-22: Permitted uses. [Amended 20 December 2016]

The following uses and structures are permitted in the C-1 district:

- (a) Bed and breakfast.
- (b) Dwellings, provided that if a lot is used for dwelling purposes exclusively, such dwelling shall be of a type permitted and in accordance with the regulations in the residential district adjoining the C-1 district in which such lot is located, or if there is more than one adjoining residential district of a type permitted in the least restrictive district.
- (c) Dwellings in business buildings or over stores or offices (dwelling in combination); provided that not more than one dwelling unit shall be permitted on any lot, except as approved by special use permit, and each dwelling unit shall meet the minimum square footage requirements of the Uniform Statewide Building Code.
- (d) Library
- (e) Municipal building
- (f) Art gallery
- (g) Place of worship
- (h) Professional offices, including real estate, medical, dental and financial offices
- (i) Public park
- (j) Retail stores and shops such as country stores, bookstores, antique shops, cafes or coffee shops, pubs or restaurants, gift shops, jewelry stores, florist shops, printing shops, and clothing stores.

- (k) Rooming and boarding house
- (l) Social, fraternal clubs and lodges

Section 11-23: Accessory uses and structures. [Amended 20 December 2016]

The following accessory uses and structures are permitted in this district:

- (a) Home occupations, secondary to a permitted residential use.
- (b) Accessory uses and structures customarily appurtenant to a permitted or approved special exception use. Except where otherwise permitted by other provisions of this ordinance or entirely exempt from review, accessory structures shall only be located in the side or rear yards.
- (c) Accessory buildings may not be erected within 5 feet of an adjoining property line without an approved variance as set forth in [Section 7-2](#).

Section 11-24: Conditionally permitted uses.

The following uses are permitted in this district subject to securing a special use permit as provided in [Article V](#):

- (a) Caretaker's dwelling
- (b) Utility facility

Section 11-25: Lot requirements.

- (a) Minimum lot size: 3 acres
- (b) Minimum lot width: 100 feet
- (c) Yard depth requirements.
 - (1) Minimum front yard: ten feet
 - (2) Minimum side yard: five feet
 - (3) Minimum rear yard: twenty-five feet

Minimum yard depth requirements may be modified by approval of a special use permit.

Section 11-26: Maximum building height.

- (a) Principal building, the higher of the height of the existing principal building or 35 feet; or higher with a special use permit
- (b) The higher of the height of the existing accessory building or 15 feet, or up to 25 feet with a special use permit

Section 11-27: Offstreet parking.

Offstreet parking associated with conditionally permitted uses approved pursuant to section 11-24 shall be provided and located as specified in the special use permit.

Sections 11-28 through 11-30 Reserved.

Part 3. Agricultural-Conservancy District

Section 11-40: Purpose

This district is designed to accommodate low-intensity horticultural and agricultural uses within the town and to maximize and preserve areas of open space. The district provides for residential development ancillary to agricultural uses and certain low-intensity non-residential uses that would maintain the majority of open space in these areas, while accommodating uses that would complement and enhance the historic character of the town. It is intended that uses in this district will be designed in a manner that:

- (a) Conserves open land around the town's periphery, including those areas containing historic resources or sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
- (b) Promotes rural horticultural and agricultural uses;
- (c) Protects productive agricultural soils for continued or future agricultural use and conserves blocks of land large enough to allow for efficient farm operations;
- (d) Reduces erosion and sedimentation by the retention of existing vegetation;
- (e) Provides for the maintenance of open land within the town which can help to provide opportunities for recreation, protect scenic and historic views, minimize the visual impact of new development from existing roads, and preserve the historic rural setting surrounding the town;
- (f) Accommodates certain low-intensity public or institutional uses; and
- (g) Promotes a hard edge marking the transition from the historic village limits to the surrounding countryside.

Section 11-41: Permitted Uses [Amended 20 December 2016]

The following uses are permitted in this district:

- (a) Horticulture, including the growing of fruits, vegetables, flowers, or ornamental plants; vineyards. Agriculture, including crop farms, horse farms, but excluding livestock farms, sod farms, hog and poultry farms, commercial stockyards and feed lots, and commercial greenhouses. Farm animals shall be kept in accordance with the provisions of [section 11-47](#).

- (b) Single-family detached farmhouse with no more than one tenant house located on a parcel of at least twenty (20) acres with an active, permitted agricultural, horticultural or vineyard use.
- (c) Winery, without special events but including indoor retail sales.
- (d) Brewery or Cidery without special events but including indoor retail sales

Section 11-42: Accessory Uses and Structures

The following accessory uses and structures are permitted in this district:

- (a) Home Occupations
- (b) Accessory uses and structures customarily appurtenant to a permitted or approved special exception use, including barns and bona fide farm buildings, private and farm garages, and greenhouses without on-site sales. The keeping of farm animals as accessory to permitted agricultural uses shall comply with the requirements of [section 11-47](#). Except for wayside stands or where otherwise permitted by other provisions of this ordinance or entirely exempt from review, accessory structures shall only be located in the side or rear yards.
- (c) Wayside stands, subject to the following limitations:
 - (1) The stand shall be operated only during crop-growing season; except as may be otherwise approved by special use permit.
 - (2) Any structure shall not exceed 400 square feet in gross floor area unless approved by a special use permit and shall be compatible in architectural style and building materials with the historic character of Hillsboro. Temporary structures such as tents shall be removed at the end of the sales season.
 - (3) The stand shall be located no closer than thirty (30) feet from any property line.
 - (4) The stand shall be located to ensure adequate off-street parking and safe access to the adjacent street as determined by the Administrator.
- (d) The use of biosolids for land application is permitted as an accessory use, provided that the use is accessory to a primary agricultural use, and provided that provisions of all federal, state and local laws and regulations, are complied with. In addition, the property owner and/or the

person applying the biosolids to the property shall not apply any biosolid within two hundred (200) feet from any occupied residence which is located on adjacent property.

For the purposes of this provision, the term “biosolids” shall mean: a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing, or distribution in accordance with all applicable federal, state and local laws and regulations.

Section 11-43: Special Exception Uses [Amended 20 December 2016]

The following uses are permitted in this district subject to securing a special use permit as provided in [Article V](#):

- (a) Animal hospital
- (b) Bed and breakfast
- (c) Cemetery
- (d) Country store
- (e) Public parks and public recreational facilities, unlighted.
- (f) Public Uses, such as governmental or public utility buildings or uses, including public schools.
- (g) Nature Preserve, such as wildlife sanctuary or conservation area, but not a petting zoo or game hunting preserve.
- (h) Caretaker’s dwelling.
- (i) Winery, with special events in accordance with the provisions of [section 10-23](#).
- (j) Brewery or Cidery, with special events in accordance with the provisions of [section 10-23](#).

Section 11-44: Height Requirements

:

- (a) Principal residential building, the higher of the height of the existing principal building or 35 feet; or higher with a special use permit

- (b) Barn, greenhouse or other agricultural or horticultural building, 25 feet or as approved with a special use permit.
- (c) Accessory structures (other than structures allowed by subsection (b)): 25 feet or higher with a special use permit.

Section 11-45: Lot, Bulk and Open Space Requirements

- (a) Minimum Lot Size:
 - (1) Horticulture or agriculture: 10 acres;
 - (2) Public Uses: as specified in the special use permit;
 - (3) All other uses: (3) acres.
- (b) Minimum Lot Width: 200 feet (interior); 225 feet (corner)
- (c) Minimum Yard Depth Requirements, except where otherwise approved by a special use permit:
 - (1) Front: 40 feet
 - (2) Side: 40 feet
 - (3) Rear: 40 feet
 - (4) Exceptions:
 - (i) Barns or structures used for the housing or shelter of animals shall not be located within 100 feet of any side or rear lot line.
 - (ii) Accessory buildings or uses may be located within five feet of any side or rear lot line, except as provided in subsection (i) above.
 - (iii) Public uses shall meet the minimum yard requirements approved in the special use permit.
- (e) Maximum Lot Coverage: Agricultural, horticultural and winery uses: 30%; all other uses: 10%, except as otherwise specified in this ordinance.
- (f) Minimum Open Space: 70%, except for agricultural, horticultural, winery, and recreational uses conducted outside of structures.

Section 11-46: Off-Street Parking – All Uses

Offstreet parking associated with all uses shall be provided as required by any special use permit or site plan approval and shall be located when feasible in the side or rear yard.

**Section 11-47: Special provisions regarding the keeping of farm animals.
[Amended 20 December 2016]**

The grazing and keeping of farm animals pursuant to sections [10-10](#), [11-41](#), [11-42](#), and [11-43](#) in accordance with the following:

- (a) The types and numbers of animals kept shall not exceed the following, to be tabulated cumulatively:

<u>Type of Animal</u>	<u>Number of Animals</u>
Cattle	4 per acre
Chickens (hens/roosters)	30 per acre
Goats	10 per acre
Horses	4 per acre
Sheep	8 per acre

Other animals, at the rate specified, may be allowed with a special use permit approved as provided in Article V.

- (b) Animals shall be housed no closer than thirty feet from the nearest occupied dwelling on adjacent property; and no closer than 5 feet from adjacent property line. Animals shall be reasonably secured so as to preclude them from entering abutting properties without the consent of such owners
- (c) Animal waste shall be properly disposed of and no offsite run-off of animal waste is permitted.
- (d) The grazing and keeping of pigs is prohibited.

ARTICLE XII. OVERLAY DISTRICTS

Part 1. Formation and Protection of Historic Districts

Section 12-1: Designation of Historic Districts

The Historic Hillsboro District may be enlarged or altered and new historic districts, including individual historic landmarks, may be established by the Town Council pursuant to section 15.2-2306 of the 1950 Code of Virginia, as amended, and to [Article V](#) of this ordinance. One or more property owners within the affected area, the Town Council, , or the Planning Commission may propose amendments to an existing district or creation of a new one.

(a) Criteria for Designation of Historic Districts

Any proposed districts or amendments to districts shall meet one or more of the following criteria:

- (1) possess an identifiable character representative of the town's architectural, archaeological, and/or cultural heritage; or
 - (2) be closely associated with one or more persons, events, activities, or institutions that have made a significant contribution to local, regional, or national history; or
 - (3) contain buildings, structures or archaeological resources whose exterior design or features exemplify the distinctive characteristics of an historic type, period or method of construction, or which represent the work of an acknowledged master; or
 - (4) have yielded, or are likely to yield, information important to local, regional or national history or prehistory; or
 - (5) owing to its unique location or singular physical characteristic, represent an established and familiar visual feature of the neighborhood, community or town; or
 - (6) encompass parcels of land or portions thereof adjacent to a street which is a significant historic route of tourist access to the town.
- (b) Boundaries of Historic Districts. The boundaries of historic districts shall be drawn to include those lands which are adjacent to the landmarks, buildings or structures for which the historic district was established and any other lands which the Town Council deems important to ensure preservation of the essential historic character of the district.
- (c) Inventory of Buildings and Structures. Following the creation of each historic district, the Planning Commission shall establish and maintain an inventory of the historic buildings and structures within the district. The Architectural Survey of the Older and Historic Structures of the Town of Hillsboro completed in 1977 by John G. Lewis (Appendix C), to the extent descriptive primary residences existing at the effective date of this ordinance, shall govern the determination of status of a building or

structure as historic until the establishment of the Historically Significant Buildings List required by [section 3-5 \(a\) \(14\)](#) at which time it will determine the status of buildings and structures.

Section 12-2: Maintenance of Structures on the Historically Significant Buildings List

The purpose of this section is to prevent the demolition by neglect through permanent damage by weather or vandalism of any building on the Historically Significant Buildings List.

- (a) The owner of any building or structure on the Historically Significant Buildings List, shall maintain the building or structure in good repair; that is, structurally sound and protected against decay and deterioration in compliance with this section and the provisions of the Uniform Statewide Building Code, to the extent that, in the opinion of the Administrator or Planning Commission, such decay or deterioration may result in irreparable deterioration the structure, including, but not limited to:
 - (1) The deterioration of exterior walls or other vertical supports; or
 - (2) The deterioration of roofs or other horizontal members; or
 - (3) The deterioration of exterior chimneys; or
 - (4) The deterioration or crumbling of exterior plaster or mortar; or
 - (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows and doors; or
 - (6) The rotting, holes and other forms of decay; or
 - (7) The lack of maintenance of surrounding structures, such as fences, walls, gates, steps, signs, or other accessory structures that threatens the structural integrity of the building or structure; or
 - (8) The deterioration of any feature so as to create or permit the creation of any public hazardous condition.
- (b) The Administrator shall have concurrent jurisdiction with the County Building Official to enforce the requirements of this section.
- (c) Upon a finding by the Administrator or the Planning Commission that a building on the Historically Significant Buildings List is not protected against decay and deterioration the Administrator shall inform the owners of the property in writing, by certified mail, return receipt requested, of the specific deficiencies requiring remediation and shall order such owners to repair or secure such building or structure.
- (d) If the owners or lien holder of the property cited and notified under subsection (c) have not completed the prescribed repairs or other approved remedial measures or come to agreement with the Administrator on a remediation plan within 60 days of the date of the notification prescribed

in subsection (c), then the Administrator shall place the matter on the next available agenda of the Planning Commission for approval or modification of the remediation plan. Upon approval of a remediation plan by the Planning Commission, the Administrator shall order the owners or lien holder of the property in writing, by certified mail, return receipt requested, to complete the prescribed repairs within 90 days of approval of such measures by the Planning Commission

- (e) If such repairs have not been completed within the specified 90-day period, the property owner shall be notified of a zoning ordinance violation, and enforcement shall be pursued by the Administrator in accordance with [Article VIII](#).
- (f) In addition to the remedies set forth in [Article VIII](#) and, the Town Council may cause the remedial measures to be implemented through its own agents. The Administrator shall provide the property owners with reasonable notice of the town's intent to accomplish the repairs, including at a minimum:
 - (1) A written notice to the owners and any lien holders, sent by certified mail, return receipt requested, to the last know address of the property owner; and
 - (2) Notice published once a week for two successive weeks in a newspaper having general circulation in the town.

No such action shall be taken by the town to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication.

- (g) In the event the town removes, repairs, or secures any building, wall, or other structure after complying with the notice provisions of this section, the cost thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected. Every charge authorized by this section with which the owner of such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1 of the 1950 Code of Virginia, as amended. The town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Sections 12-3 through 12-10. Reserved.

Part 2. Historic District.

Section 12-11: Purpose and Intent

The purpose of the historic district regulations is to protect the "Historic Hillsboro District", which was established to preserve the unique rural, historical, architectural and cultural heritage of Hillsboro.

Section 12-12: Boundaries of Historic Hillsboro District

- (a) The Historic Hillsboro District shall include the original town boundaries as shown on the map of Hillsboro. The district is created as an overlay zoning district to be superimposed on the other districts contained in this ordinance or amendments thereto.
- (b) Whenever a portion of a lot or parcel lies within the district as described by subsection (a) above, the entire lot or parcel shall be subject to the provisions of this ordinance.

Section 12-13: Certificate of Appropriateness Required to Erect a Primary Residence or Reconstruct, Move, or Raze a Structure and certain alterations.

In order to promote the general welfare through the preservation and protection of historic places and areas of historic interest, except as provided herein, no building or structure within a designated historic district listed in the inventory required by section 12-1(c) may be demolished in whole or in part, until an application for a certificate of appropriateness shall have been approved by the Planning Commission, or, on appeal, by the Town Council whenever a certificate of appropriateness is required by section 6-2.

Section 12-14: Application for Certificate of Appropriateness

- (a) Optional Pre-application Review Procedure
 - (1) Prior to the preparation of working drawings and specifications or calling for proposals or bids from contractors, prospective property developers, owners or agents may prepare preliminary scale drawings and outline specifications, for review and informal discussion with the Planning Commission . The purpose of this review shall be to acquaint the developer, owner or agent with standards of appropriateness of design that are required of the proposed development.
 - (2) The optional pre-application review shall not require formal application but shall require notice to be given to the zoning administrator and subsequent notification of the chairman at least

ten days before the date of the meeting at which the preliminary drawings are to be discussed.

- (b) Procedure for Obtaining a Certificate of Appropriateness
- (1) Application for a certificate of appropriateness shall be made by the owner of the building, structure, or land to the Planning Commission . Such application shall indicate the proposed use of the building, structure, or land and shall be accompanied by one-quarter inch minimum scale plans and specifications (herein "plans") as may be required by the Planning Commission. The plans shall include, but not be limited to, the part or parts of the building, structure or land that are, or will be, subject to view from a public street, public way, or other public place. The plans shall show the proposed exterior architectural and features of such building, structure or land, which shall include, but shall not necessarily be limited to, the general design, arrangement, texture, and materials proposed to be used in the project, and the type of windows, exterior appurtenances and accessory structures which will be subject to public view from a public street, public way or other public place.
 - (2) The application shall be placed on the agenda for consideration at the next regularly scheduled Planning Commission meeting.
 - (3) If a public hearing is required pursuant to section [12-14\(b\)\(3\)](#), the Town Council shall hold said hearing within 60 days (or such shorter time as council may direct) after notification by the Planning Commission of the filing of an application for a permit to erect a primary residence or reconstruct, raze, demolish or move any building in whole or in part. At least seven days notice of the time and place of the hearing shall be given by the administrator as follows:
 - (i) in writing to the applicant;
 - (ii) in writing to adjacent property owners; and
 - (iii) by publication in the form of an advertisement in a newspaper of general circulation within the town.
 - (4) The Planning Commission shall either recommend approval of a certificate of appropriateness, with or without conditions, or with such modifications of the plans as the Planning Commission deems necessary to achieve the intent of this ordinance, or the Planning Commission shall recommend disapproval the certificate after consideration of the criteria set forth in section [12-16](#). The Planning Commission shall state its reasons for disapproval in writing and submit to the Town Council for action. Failure of the

- Planning Commission to approve or disapprove a certificate within 30 days from the date of the Planning Commission meeting at which an application was first considered shall be deemed approval of the application as submitted.
- (5) If the Town Council approves the certificate of appropriateness, it shall process the application for a zoning or sign permit for the project
 - (6) The time for decision on a certificate of appropriateness may be extended by mutual agreement between the applicant and town.
 - (7) If the Town Council disapproves the erection, moving or razing of a building or structure, the council shall state its reasons in writing and may make recommendations to the applicant about the appropriateness of design, arrangement, materials, and location of the building or structure involved. In the case of disapproval with recommendations, the applicant may file an amended application for a certificate of appropriateness with the committee within 90 days.
 - (8) No application which has been denied shall be heard by the Town Council for one year except in cases where the applicant amends the application within 90 days as provided in section [12-14\(b\)\(7\)](#).

Section 12-15: Demolition, Razing and Moving of Building or Structures

- (a) Applications involving any building or structure in the inventory required by section [12-1\(c\)](#) which is to be demolished, razed or moved under the provisions of this ordinance shall be subject to the provisions of section 15.2-2306 of the 1950 Code of Virginia, as amended.
- (b) The Town Council may consult with civic groups, public agencies and interested citizens, recommend the acquisition of the property by public or private bodies or agencies, and explore the possibility of moving one or more structures or other features to preserve the buildings or structures concerned in accordance with the purposes of this ordinance during the demolition delay period set forth in the applicable provisions of section 15.2-2306 of the Code of Virginia, as amended.

Section 12-16: Matters to be Considered in Acting on the Appropriateness of the Erection, Moving, or Demolition of a Building or Structure

In reviewing certificate of appropriateness applications, the Planning Commission and Town Council shall base their decision on whether the proposals therein are compatible with the existing building or structure, if any, and with the surrounding historic district. Interior arrangement or features not subject to any public view shall not be considered. The following shall be considered by the Planning Commission and Town Council in

acting on the appropriateness of the proposed erection, moving, or demolition of buildings or structures:

- (a) Exterior architectural features, including texture, materials, roofing materials and exterior wall treatments.
- (b) Design, arrangement and relative size.
- (c) The relation of the factors in a and c above to similar features of buildings and structures in the immediate surroundings.
- (d) The extent to which the building or structure would be harmonious with or obviously incongruous to the historic aspect of the surroundings.
- (e) In the case of a building to be razed or moved, a primary consideration shall be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the town.
- (f) The extent to which the building or structure will promote the general welfare of the town and all citizens by the preservation and protection of historic places and areas.
- (g) The extent to which said preservation and protection will promote the general welfare by maintaining and increasing real estate values, and making the town a more attractive and desirable place in which to live.
- (h) The extent to which the proposal adheres to the Historic District Design Guidelines for the Town of Hillsboro adopted by the Town Council and incorporated herein by reference.

Section 12-17: Alterations to Existing Structures

Because of the unique historical nature of Hillsboro, the Town Council and Planning Commission strongly recommends ((although does not require) following the Hillsboro Historic District Design Guidelines before any alterations are made. A certificate of appropriateness is required for the following visible alterations to the front façade of any building or structure in the inventory required by section [12-1\(c\)](#).

- (a) Eliminating an existing Dormer. Adding a Dormer that did not previously exist.
- (b) Eliminating an existing Door space. Adding a Door space that did not previously exist.
- (c) Eliminating an existing Window space. Adding a Window space that did not previously exist.

- (d) Eliminating an existing Porch or Portico. Adding a Porch or Portico that did not previously exist.
- (e) Eliminating an existing Stairway. Adding a Stairway that did not previously exist.
- (f) Eliminating any portion of the vertical square footage. Adding to/increasing the vertical square footage.
- (g) Changing the outline of the roof.

Section 12-18: Matters to be Considered in Acting on the Appropriateness of Alterations to Existing Structures

In reviewing certificate of appropriateness applications, the Planning Commission and Town Council shall base their decision on whether the proposals therein are compatible with the existing building or structure, if any, and with the surrounding historic district. Interior arrangement or alterations not visible on the front façade shall not be considered. The following shall be considered by the Planning Commission and Town Council in acting on the appropriateness of the proposed alteration:

- (a) General features, including texture and materials.
- (b) Design, arrangement and relative size.
- (c) The relation of the factors in a and c above to similar features of buildings and structures in the immediate surroundings.
- (d) The extent to which the alteration would be harmonious with or obviously incongruous to the historic aspect of the surroundings.
- (g) The extent to which the alteration promote the general welfare by maintaining and increasing real estate values, and making the town a more attractive and desirable place in which to live.
- (h) The extent to which the proposal adheres to the Historic District Design Guidelines for the Town of Hillsboro adopted by the Town Council and incorporated herein by reference.

Section 12-19: Time Limit

A certificate of appropriateness shall be valid for one (1) year from the date of issuance. If the demolition, erection, reconstruction, alteration, relocation or restoration for which the certificate was issued is not commenced within one year and thereafter diligently pursued, a new certificate shall be obtained prior thereto.

Section 12-20: Exclusions

- (a) Maintenance, repair, and alterations Excluded. While there are no specific provisions in this ordinance pertaining to maintenance, repair, or alterations, the Planning Commission and the Town Council highly recommend that the Historic District Design Guidelines be followed
- (b) Nothing in this article shall be construed to prevent the construction, moving, or demolition of any such elements which the Town Council shall certify as required by public safety; provided, however, that in appropriate cases measures required to protect the public safety may be approved for a period not to exceed 12 months.

Part 3. Flood Hazard District

Section 12-21: General Provisions [Added 20 December 2016]

- (a) The purpose of these provisions is to conserve the natural state of watercourses and watersheds and to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by (1) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies; (2) restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding; (3) requiring all those uses, activities, and developments that do occur in areas susceptible to flooding to be protected and/or flood-proofed against flooding and flood damage; and (4) preventing individuals from using land and erecting structures which are unsuited for intended purposes because of flood hazards. These provisions shall apply to all lands within the jurisdiction of the Town of Hillsboro and identified as being located within the Flood Hazard Overlay District (FHOD). Only those uses set forth in Section 12-25 and 12-26 shall be permitted or minor special exception or special exception uses within the FHOD, and land so encumbered may be used in a manner permitted in the underlying zoning district only if and to the extent such use is also permitted in the FHOD.
- (b) The degree of flood protection sought by this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that property outside the FHOD or land uses permitted within the FHOD will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Hillsboro or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 12-22: Authority.

- (a) Authority for these provisions include, but not be limited to:
- (1) Flood Damage Reduction Act, Va. Code Sections 10.1-600 et seq.
 - (2) Va. Code Sections 15.2-2200 through 15.2-2329 (Planning, Subdivision of Land and Zoning).

- (3) Soil Conservation Districts Law, Va. Code Sections 10.1-500 et seq.
- (4) Erosion and Sediment Control Law, Va. Code Section 62.1-44.15:51 et seq.
- (5) Potomac River Basin Compact, Va. Code Section 28.2-1001.
- (6) National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., as amended by the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004.
- (7) Code of Federal Regulations, Title 44, Section 59.1-70.9

Section 12-24: Administration

- (a) Designation of Floodplain Administrator. The Zoning Administrator, or his/her designee, shall administer and implement these regulations and is referred to herein as the Floodplain Administrator. In the absence of a Zoning Administrator, the Hillsboro Mayor or his designee shall see to discharge of the duties of the Floodplain Administrator.
- (b) Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator shall:
 - (1) Review all applications for development located within the FHOD.
 - (2) Interpret FHOD boundaries in accordance with Section 12-24 (c) and provide available base flood elevation and flood hazard information.
 - (3) Review applications for development to determine whether proposed activities will be reasonably safe from flooding and meet the requirements of this ordinance.
 - (4) Review applications for reconstruction, rehabilitation, addition or other improvement of a structure to determine whether such proposed activities constitute substantial improvements.
 - (5) Review applications for development to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or altering of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any altering of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

- (6) Verify that applicants proposing to alter a watercourse have notified affected adjacent towns, cities, county or state government, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (Virginia Department of Environmental Quality, United States Army Corps of Engineers) and have submitted copies of such notifications to FEMA.
- (7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with this ordinance or to determine if non-compliance has occurred or violations have been committed.
- (8) Review submitted FEMA Elevation Certificate applications and require incomplete or deficient applications to be corrected.
- (9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including Floodplain Studies and Floodplain Alterations approved in accordance with the FSM, within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (10) Maintain and permanently retain records that are necessary for the administration of the FHOD, including:
 - (i) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - (ii) Documentation supporting approval or denial of development permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variations pursuant to Section 12-31, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (12) Advise the Town Council regarding the intent of these regulations and, for each application for a variation pursuant to Section 12-31, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:

- (i) Make determinations as to whether buildings and structures that are located in FHOD (Major Floodplain only) and that are damaged by any cause have been substantially damaged.
 - (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct such damaged structures; and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (14) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to development permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in FHOD; and provide property owners with information necessary to file claims for Increased Cost of Compliance coverage under the National Flood Insurance Program (NFIP) flood insurance policies.
- (15) Notify FEMA when the corporate boundaries of the Town of Hillsboro have been modified and:
 - (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to this ordinance has either been assumed or relinquished through annexation or otherwise; and
 - (ii) For any new area for which the authority to regulate pursuant to this ordinance has been assumed, prepare necessary amendments to the Zoning Map and appropriate requirements, and submit such amendments to the Town Council for adoption. A copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (16) Upon the request of FEMA, complete and submit information regarding the number of buildings in the FHOD (Major Floodplain only), number of approved permits for development in the FHOD (Major Floodplain only), number of approved variations pursuant to Section 12-31. Any variations that are approved shall be noted in the annual or biennial report submitted to FEMA's Federal Insurance Administrator.

- (17) Serve as a referral agent on all legislative land development applications.
- (c) Delineation of the FHOD. The original basis for the delineation of the FHOD shall be the floodplain as shown on the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for the County of Loudoun, Virginia, Panel 80D prepared by FEMA, Federal Insurance Administration, dated July 5, 2001. Floodplain or flood hazard studies by the United States Geological Survey or other Federal agency, such as the Corps of Engineers or the USDA Soil Conservation Service. Detailed site-specific engineering studies conducted by engineering firms or government agencies and approved by the Town of Hillsboro. The boundaries of the floodplain and FHOD may change based on information submitted in accordance with this Chapter, and/or subsequent revisions or amendments to the FIS and FIRM approved by FEMA.
- (1) The boundaries of the Flood Hazard Overlay District are established as described in the text of section 12-24(c), which shall include, at a minimum, the flood areas delineated on the FIRM Map, which is declared to be a part of this ordinance, and which shall be kept on file at the Town of Hillsboro offices. The FIRM Map and other approved studies referred to in section 12-24(c), should be consulted prior to undertaking any regulated activity, and shall collectively comprise the floodplain overlay district map.
- (2) The limits of the 100-year floodplain shall be depicted upon a plat for any property for which a site plan is required by section 6-4 of this Ordinance or for which a subdivision plat is required by the Hillsboro Subdivision & Site Plan Ordinance. Such plat shall be recorded among the land records with the notation that any use of the property lying within the 100-year floodplain shall be consistent with the requirements of the Floodplain Overlay District.
- (d) District Boundary Changes. The delineation of any of the Floodplain Overlay District may be revised by the Town of Hillsboro where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.
- (e) Boundary Disputes. Should a dispute concerning any flood hazard district boundary arise, resolution of such dispute shall be made by the Town Council, based upon advice of the Planning Commission. Any party

aggrieved by this decision may request an interpretation by the Board of Zoning Appeals as specified in Article VII of this Ordinance.

Section 12-25: Permitted Uses

The following uses shall be permitted within the FHOD provided such uses conform with this ordinance. Uses allowed in the underlying district shall be prohibited to the extent such uses are not permitted, or except as approved as special exception uses in the FHOD. Where any uses, structures or improvements will result in development within the FHOD, an application for a Floodplain Alteration must be submitted in accordance with Section 12-28(b) and the FSM.

- (a) Permitted uses in FHOD (Major Floodplain). Such uses shall not cause any increases in base flood elevation of the FHOD (Major Floodplain) unless otherwise provided below.
 - (1) Agriculture, horticulture, forestry, and fisheries, not requiring the erection of structures, except that incidental structures shall be permitted in accordance with this Section. An increase in base flood elevation may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (2) Passive and Active Recreation Open Space Uses, except swimming pools, provided that the area of impervious surfaces does not exceed three percent (3%) of the area of FHOD (Major Floodplain) located within the subject property. An increase in base flood elevation on site may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (3) Stormwater management improvements as follows:
 - (i) Rooftop disconnection. Associated soil amendments shall be located outside of areas of existing tree cover and shall not require the clearing of existing tree cover.
 - (ii) Sheet flow to conservation area.
 - (iii) Sheet flow to vegetated filter and associated soil amendments located outside of areas of existing tree cover and not requiring the clearing of existing tree cover.
 - (iv) Grass channel and associated soil amendments.

- (v) Soil amendments located outside of areas of existing tree cover and not requiring the clearing of existing tree cover.
 - (vi) Other stormwater management improvements provided that such improvements shall only serve permitted or approved special exception uses in the FHOD, and shall only serve those portions of such uses that are located within the FHOD.
- (4) Utility lines in the floodplain and road crossings. An increase in base flood elevation on site may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use. Road crossings shall be designed and constructed in accordance with the standards and regulations of the Virginia Department of Transportation (VDOT) and/or the FSM, whichever shall apply.
 - (5) Public roads shown on the Comprehensive Plan. An increase in base flood elevation may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (6) Public roads, private roads, and driveways.
 - (7) Repair, reconstruction or improvement of existing residences, so long as the footprint of the existing residence is not increased within the FHOD and provided that such repair, reconstruction or improvement, whether located within or outside of the FHOD, is not a substantial improvement. If such repair, reconstruction or improvement is a substantial improvement then conformance with Section 12-29 shall be required.
 - (8) Parking areas accessory to permitted or approved special exception uses in the FHOD. All such parking areas shall be equipped with best management practices in accordance with Chapter 5 of the FSM.
 - (9) Incidental structures, not exceeding 840 square feet of floor area, associated with permitted or approved special exception uses in the FHOD. Such structures include storage sheds, maintenance sheds, backstops, bath houses and locker rooms. Provided, however, bulk storage of gasoline, chemicals, fuels or similar substances are prohibited in the FHOD; and further provided that any new construction shall comply with applicable FEMA standards.
 - (10) Temporary storage of material or equipment necessary in the construction of permitted or special exception uses in the FHOD.

- (11) Alterations of the floodplain associated with any permitted or approved special exception uses in the FHOD. Such alterations shall not relocate or alter the natural active channel except for road crossings permitted under Section 12-25(a)(4) or Section 12-25(a)(13), to protect existing habitable structures subject to periodic flooding, or for stream restoration permitted under Section 12-25(a)(16). Applications for alterations of the floodplain shall be in accordance with Section 12-28(b). To the extent that the boundaries of the floodplain change as a result of an approved Floodplain Alteration, any areas no longer within the floodplain may be used for any use in the underlying zoning district, subject to the provisions of the applicable zoning district regulations and conditions of any approved special exception.
- (12) Restoration and rehabilitation of historic structures.
- (13) Road crossings that result in an increase in the base flood elevation off-site provided that:
 - (i) A CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (ii) The road crossing shall be a feature shown on the Comprehensive Plan or included in a Capital Improvements Program project.
 - (iii) The road crossing shall be designed and constructed in accordance with the standards and regulations of the Virginia Department of Transportation and/or the FSM, whichever shall apply.
 - (iv) The resulting increase in the base flood elevation shall not affect existing buildings and structures.
 - (v) Affected off-site property owners may at any time mitigate impacts on their land as a result of an increase in the base flood elevation by:
 - a. Submitting a Floodplain Alteration to reclaim that portion of their land subject to the increase in base flood elevation as a result of the road crossing, provided there is no increase in the base flood elevation; and/or
 - b. Requesting a modification of the building setback or parking setback requirements on specific lots or parcels of land affected by the increase in the base flood elevation by special exception approved by

the Town Council, in accordance with Sections 11-42, 11-43, 13-8, and 12-27 of the Zoning Ordinance.

- (14) Public water utility drinking water supply reservoirs, including, without limitation, reclaimed quarries.
 - (15) Maintenance of the design conditions of an approved Floodplain Alteration.
 - (16) Stream Restoration designed in accordance with the FSM and approved by the County or Town as applicable. An increase in base flood elevation may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (17) Wetland Mitigation. An increase in base flood elevation may be permitted provided a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application for such use.
 - (18) Flood mitigation practices carried out in order to minimize and reduce flood risk in accordance with the Code of Federal Regulations, Title 44, Section 78.1, et seq.
- (b) Permitted uses in floodplains in FHOD (Minor Floodplain), with or without an increase in base flood elevation:
- (1) Uses allowed under Section 12-25(a), except that increases in the base flood elevation in the FHOD (Minor Floodplain) shall be permitted.
 - (2) Alteration of the floodplain whether or not associated with a permitted or approved special exception use. To the extent that the boundaries of the floodplain change as a result of the alteration, any areas no longer within the floodplain may be used for any use in the underlying zoning district, subject to the provisions of the applicable zoning district regulations and conditions of any approved special exception.
 - (3) Stormwater management improvements whether or not associated with permitted or approved special exception uses in the FHOD.
 - (4) Ponds designed by the Natural Resources Conservation Service, a Licensed Professional Engineer, or a Class B Land Surveyor.
 - (5) Basketball or tennis courts, and swimming pools.

- (6) Parking areas less than 5,000 square feet not otherwise ~~permitted~~ prohibited. Such parking areas shall not be subject to 100-year flooding greater than one (1) foot in depth, shall be equipped with best management practices in accordance with Chapter 5 of the FSM, and shall not result in any change in existing grade.

Section 12-26: Special Exception Uses

The following uses and structures may be permitted in the floodplain (Major or Minor) by the Town Council by special exception, subject to Sections 11-42, 11-43, 13-8, and 12-27, provided that such uses shall not cause any increase in the base flood elevation of the FHOD (Major Floodplain) unless otherwise provided below and a CLOMR is obtained from FEMA prior to approval of the requisite Floodplain Alteration application

- (a) Marinas, boat rentals, docks, piers, wharves, water ski jump facilities, and incidental structures associated with such uses, such as bath houses and locker rooms.
- (b) Special Events.
- (c) Riding stables.
- (d) Structures required for the operation of a public utility not otherwise permitted by this Ordinance.
- (e) Incidental structures, greater than 840 square feet of floor area, associated with permitted or approved special exception uses in the FHOD.

Section 12-27: Standards For A Special Exception

In considering applications for a special exception, the Town Council shall be satisfied that the following standards and those of Sections 11-42, 11-43, 13-8, and 12-27 have been met

- (a) The proposed use will not increase the danger to life and property due to increased flood heights or velocities.
- (b) The proposed use will not increase the danger that materials may be swept downstream to the injury of others.
- (c) The proposed water supply and sanitation systems are designed to prevent disease, contamination, and unsanitary conditions.
- (d) The proposed use or structure shall be located and designed to limit its susceptibility to flood damage, and available alternative locations, not subject to flooding, for the proposed use shall be considered.
- (e) The proposed use is compatible with existing and planned development.

- (f) The proposed use is in harmony with the Comprehensive Plan.
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site shall not cause significant damage.

Section 12-28: Flood Hazard Overlay District Development Procedures

- (a) Floodplain Information to be Submitted with Land Development Applications. All new subdivision proposals and other proposed development on any parcel of land which includes FHOD within its boundaries, shall include with such proposals base flood elevation data in accordance with Chapter 5 of the FSM.
- (b) Floodplain Alteration. Any proposed development in the FHOD shall require approval of a Declaration of No Impact to Floodplain or Floodplain Alteration in accordance with Chapter 5 of the FSM. Any required Floodplain Alteration shall conform with the following:
 - (1) Procedures for Floodplain Alterations. Applications for Floodplain Alterations shall be in accordance with Chapters 5 and 8 of the FSM and conform with the following procedures:
 - (i) An approved CLOMR from FEMA shall be provided prior to approval of a Floodplain Alteration that proposes any increase in the base flood elevation within the FHOD (Major Floodplain).
 - (ii) Floodplain Alterations that would result in changes to the boundaries of the FHOD shall be subject to the following:
 - a. The application for such Floodplain Alteration shall be considered a request for a cartographic interpretation to interpret the exact location of the boundaries of the FHOD upon approval of the Floodplain Alteration.
 - b. Prior to approval of a Floodplain Alteration that would result in any increase in the base flood elevation off-site or other changes to the boundaries of the FHOD off-site, an instrument describing the change in the base flood elevation executed by each affected property owner shall be recorded among the land records of Loudoun County, Virginia.

- (2) Engineering and Environmental Criteria for Floodplain Alterations. All proposed alterations to the floodplain shall meet the following criteria:
- (i) Alterations to the floodplain shall not create erosive water velocity on-site or off-site (where erosive water velocity is based on analysis of the surface material and permissible velocities for specific cross sections affected by the proposed alteration,), and the mean velocity of stream flow at the downstream end of the site after alteration shall be no greater than the mean velocity of the stream flow under existing conditions.
 - (ii) Procedures for Alterations to the Floodplain. Applications for alterations to the floodplain shall be in accordance with the applicable requirements of the FSM and Erosion and Sediment Control Law, Va. Code Section 62.1-44.15:51 et seq, subject to the following procedures:
 - a. A Type II floodplain alteration application as defined in the FSM shall be submitted concurrently with rezoning, special use permit, site plan or subdivision applications. Approval of floodplain alteration applications will be required prior to or concurrently with approval of the aforementioned applications.
 - b. The applicant shall submit to the Administrator detailed studies in accordance with section 5.400 of the FSM.
 - c. The Administrator shall notify the Virginia Water Control Board, the Federal Emergency Management Agency and any adjacent property owners and adjacent jurisdictions that may be impacted prior to the approval of any alteration of a watercourse that is designated as FEMA floodplain.
 - d. Following review of the application, the Administrator shall approve or disapprove the application and notify the applicant.
 - (iii) The flood carrying capacity within the altered floodplain shall be maintained.
- (c) Zoning Permit Required. All development occurring within the FHOD (Major Floodplain), including placement of manufactured homes, if permitted, shall be undertaken only upon the approval of a zoning permit. The following provisions shall apply to all such zoning permits:

- (1) In addition to the requirements of Section 6-4, the application for such zoning permit shall include the following:
 - (i) Copies of all necessary permits from Federal, State, or local agencies from which prior or concurrent approval is required.
 - (ii) The base flood elevation.
 - (iii) The elevation of the lowest floor (including basement).
 - (iv) For a structure to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - (v) Topographic information showing existing and proposed ground elevations.

Section 12-29: Floodplain Overlay District Development Standards

- (a) General Development Standards. The following provisions shall apply to development located in the FHOD (Major Floodplain):
 - (1) Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above the base flood elevation. A minimum one (1) foot of freeboard is recommended.
 - (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured homes) shall have the lowest floor, including basement, elevated to or above the base flood elevation. Non-residential buildings may be flood-proofed in lieu of being elevated provided that all areas of the building components lower than one (1) foot above the base flood elevation are water tight with walls impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the base flood elevation to which such structures are floodproofed, shall be retained by Floodplain Administrator.
 - (3) All new construction and substantial improvements (including manufactured homes) shall be in accordance with all applicable sections of this Ordinance, the FSM, and Chapter 1410 of the

Loudoun County Codified Ordinances, and anchored to prevent flotation, collapse or lateral movement of the structure.

- (4) Newly placed manufactured homes and/or substantial improvements to manufactured homes shall meet all applicable State anchoring requirements for resisting wind forces and shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (5) All new construction and substantial improvements (including manufactured homes) shall be constructed with materials and utility equipment resistant to flood damage.
- (6) All new construction or substantial improvements (including manufactured homes) shall be constructed by methods and practices that minimize flood damage.
- (7) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (8) New and replacement public and individual water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (9) New and replacement public sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (10) Individual sewage disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (11) Prior to the approval of a Floodplain Alteration for any proposed alteration or relocation of any channel or watercourse, all required permits shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these agencies). The applicant shall provide notification of such alteration or relocation to the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA. If such alteration or relocation results in a change to the floodplain in an adjacent town, city, county, or state, notification shall also be provided by the applicant to such jurisdiction.

- (12) The flood carrying capacity within an altered or relocated portion of any channel or watercourse shall be maintained. Under no circumstances shall any development adversely affect the water carrying capacity of any channel or watercourse.
- (b) Space Below the Lowest Floor. In FHOD (Major Floodplain), fully enclosed areas, of new construction or substantially improved structures, which are below the base flood elevation shall meet the following minimum standards:
- (1) Such areas shall not be designed or used for human habitation. Such areas shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to such areas shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
 - (2) Such areas shall be constructed entirely of flood resistant materials below the base flood elevation.
 - (3) Such areas shall include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters that are either certified by a licensed professional engineer or architect or that meet the following minimum design criteria:
 - (i) Provide a minimum of two (2) openings on different sides of each enclosed area. Foundation enclosures made of flexible skirting are not considered enclosed areas for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, are considered as enclosed areas and require such openings.
 - (ii) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - (iii) If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - (iv) The bottom of all required openings to such enclosed areas shall be no higher than one (1) foot above the adjacent grade.

- (v) Openings shall only be equipped with screens, louvers, or other opening coverings or devices that permit the automatic flow of floodwaters in both directions.
- (c) Standards for Recreational Vehicles. The following provisions shall apply to recreational vehicles located within the FHOD (Major Floodplain):
 - (1) Any recreational vehicles placed on a site shall be fully licensed, on its wheels or jacking system, and attached to the site only by quick disconnect type utilities and security devices, and shall have no permanently attached additions; or
 - (2) Recreational vehicles placed on a site for 180 days or longer shall be deemed to be manufactured homes and shall meet all development standards of Section 12-29(a) and 12-29(b).
- (d) Standards for Subdivision Proposals. The following provisions shall be required for any subdivision of a parcel that includes FHOD (Major Floodplain):
 - (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (2) All subdivision proposals that have public utilities and facilities, such as sewer, gas, electrical and water systems, shall have such utilities and facilities located and constructed to minimize flood damage.
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Section 12-30: Density Calculations

For purposes of calculating the permitted floor area and number of residential units in the underlying zoning district, the land area in any portion of the FHOD shall be included as part of the land area for such calculations.

Section 12-31: Variations

- (a) Authority. Pursuant to Code of Federal Regulations 44CFR60.6, the Town Council may approve a variation of the standards of Sections 12-29 (a), (b), and (c) for any proposed development within the FHOD (Major Floodplain) in the instances as set forth below. Requests for approval of a variation of the standards of Sections 12-29 (a), (b), and (c) shall be made in accordance with the procedures for a Special Exception or Conditional Use Permit application as set forth in Sections 7-2, 12-27, and 13-8,

except that the issues for consideration shall be as set forth in Section 12-31(b). No variation shall be approved for any proposed development within the FHOD (Major Floodplain) that will cause any increase in the base flood elevation of the FHOD (Major Floodplain).

- (1) New construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation provided that such new construction or substantial improvement is protected by methods that minimize flood damages during the base flood and creates no additional threats to public safety.
 - (2) Repair or rehabilitation of historic structures provided that such repair or rehabilitation shall not preclude the structure's continued designation as a historic structure and the variation is the minimum necessary to preserve the historic character and design of the structure.
- (b) Application for a Variation of the Standards of Sections 12-29 (a), (b), and (c). Any person owning property, or having a possessory or contract interest in property and the consent of the owner, may file an application for variation of the standards of Sections 12-29 (a), (b), and (c) in regard to such property with the Floodplain Administrator. The application shall contain the following information and such additional information as required by Article VII:
- (1) The particular standards of Sections 12-29 (a), (b), and (c) that prevent the proposed construction on, or use of, the property.
 - (2) The existing zoning of the property, including any previously approved modifications, conditions, or proffers.
 - (3) The special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the standards of Sections 12-29 (a), (b), and (c)
 - (4) The particular hardship that would result if the specified standards of Sections 12-29 (a), (b), and (c) were to be applied to the property.
 - (5) The extent to which it would be necessary to vary the standards of Sections 12-29 (a), (b), and (c) in order to permit the proposed construction on, or use of, the property.
 - (6) An explanation of how the requested variation conforms to each of the applicable standards set out in Section 12-31(d).

- (c) Issues for Consideration. In considering an application for a variation of the standards of Sections 12-29 (a), (b), and (c), the following factors shall be given reasonable consideration:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.
 - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - (12) The historic nature of a structure.
 - (13) Such other factors which are relevant to the purposes of this ordinance.
- (d) Decision on Application for Variation of the Standards of Sections 12-29 (a), (b), and (c). No such variation of the standards of Sections 12-29 (a), (b), and (c) shall be approved by the Town Council unless all of the following findings are made:
- (1) The applicant has demonstrated good and sufficient cause.

- (2) Failure to grant the variation of the standards of Sections 12-29 (a), (b), and (c) would result in exceptional hardship to the applicant.
- (3) Granting of such variation of the standards of Sections 12-29 (a), (b), and (c) will not result in:
 - (i) any increase in base flood elevation of the FHOD (Major Floodplain);
 - (ii) additional threats to public safety;
 - (iii) extraordinary public expense;
 - (iv) the creation of nuisances;
 - (v) fraud or victimization of the public; or
 - (vi) conflicts with other local laws or ordinances.
- (4) The variation of the standards of Sections 12-29 (a), (b), and (c) is the minimum required to provide relief.
- (e) Notice of Approval. Upon approval of a variation of the standards of Sections 12-29 (a), (b), and (c), the Floodplain Administrator shall notify the applicant of such approval, in writing, and that development in accordance with the approved variation may increase the risks to life and property and may result in increased premium rates for flood insurance.

Section 12-32 thru 12-40: Reserved [Amended 20 December 2016]

ARTICLE XIII. NONCONFORMING SITUATIONS

Section 13-1: Application and Intent

This Article applies to existing lots, structures, or uses of land or structures which were legal prior to the effective date or amendment of this ordinance but which do not or would not conform to regulations and restrictions under the terms of this ordinance or future ordinance amendments. Except as expressly permitted by this ordinance, nonconformities shall not be enlarged, expanded or extended, or be used as the basis for adding other structures or uses prohibited elsewhere in the same district.

Section 13-2: Completion of Nonconforming Projects

All nonconforming projects for which a permit was issued legally, and actual construction was begun before the effective date or amendment of this ordinance, and upon which actual building construction is carried on diligently until completion, may be completed in accordance with the terms of their permits, so long as the permits were validly issued and remain unrevoked and unexpired. Actual construction is defined as the placing of construction materials in permanent position, fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently.

Section 13-3: Nonconforming Lots of Record

In any district, permitted structures may be constructed or enlarged on any single nonconforming lot of record, notwithstanding limitations imposed by other provisions of this ordinance or the Subdivision Ordinance. Such nonconforming lot shall have lot access as required by [Section 10-4](#). The lot may be used for a single family detached dwelling in any residential district and any permitted use within any non-residential district provided setbacks, side and rear yard requirements are met. Any lot that is less than 80 percent of the required area or width may be used for a single family detached dwelling within any residential district and any permitted use within any non-residential district; provided, however, that the required side yards shall not be reduced to less than ten percent of the lot width or five feet, whichever is greater, and all other applicable ordinance requirements are met.

Section 13-4: Prohibition Against Creation of Other Lots Below Width and Area Requirements for District

No lot, parcel or portion thereof shall be used or sold in a manner which decreases compliance with lot width and area requirements established by this ordinance, nor shall any division be made which creates lot area or width below the minimum requirements imposed by this ordinance unless a variance has been approved IAW section [7-2](#)..

Section 13-5: Highway Realignment or Condemnation

Any lot which, because of the realignment of a Federal or State highway or because of condemnation proceedings, has been reduced in size to an area less than that required by this ordinance, shall be considered a nonconforming lot of record subject to the provisions of [section 13-3](#); and any legal use or structure existing at the time of such highway realignment or condemnation proceedings which would no longer be permitted by this ordinance shall be considered a nonconforming use or structure.

Section 13-6: Nonconforming Uses of Land and/or Structures

Nonconforming situations that were otherwise legal on the effective date of this ordinance may be continued provided:

- (a) No nonconforming use (structure and/or activity) shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date or amendment of this ordinance unless the enlargement, increase or extension does not result in an increase in nonconformity.
- (b) No nonconforming use and/or structure shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use and/or structure on the effective date or amendment of this ordinance unless the move results in decreasing the degree of nonconformity or results in conformity with the requirements for the district.
- (c) No additional nonconforming structures shall be constructed in connection with any nonconforming use of land. No additional uses which would be prohibited generally in the zoning district involved shall be permitted unless a variance has been approved IAW section [7-2](#).
- (d) A use that is accessory or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.
- (e) A nonconforming use may be extended throughout any portion of a building that was manifestly arranged or designed to accommodate such use at the time of adoption or amendment of this ordinance. However, no such use shall be extended to additional buildings or to land outside the original building unless a variance has been approved IAW section [7-2](#).
- (f) If no structural alterations are made, any nonconforming use of a structure, or structure and land, may, as a special exception, be changed to another, more restricted nonconforming use provided that the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The Planning Commission may require appropriate conditions and safeguards

in accord with the provisions of this ordinance when permitting such change.

- (g) When any nonconforming use, lot, or structure and use in any combination, is replaced by a permitted use or structure, the use shall thereafter conform to the regulations for the zoning district, and no nonconforming use and/or structure shall be reestablished unless a variance has been approved IAW section [7-2](#).
- (h) A nonconforming use may continue regardless of any change in title or possession or renewal of any lease for the lot or structure. Subject to the provisions of subparagraph (i) below, nonconforming structures may be restored if damaged or destroyed; however, any expansion of the original structure must conform to the requirements of this ordinance.
- (i) If any nonconforming use (structure or activity) is discontinued for more than two years after the effective date of this ordinance it shall be deemed abandoned and any subsequent use of such land, building or structure shall conform to the regulations contained in this ordinance for the zoning district in which the land is located.

Section 13-7: Repairs and Maintenance

- (a) Maintenance, repair, and alterations are excluded. While there are no specific provisions in this ordinance pertaining to maintenance, repair, or alterations, the Planning Commission and the Town Council highly recommend that the Historic District Design Guidelines be followed. If a nonconforming structure or portion of a structure, or a structure or portion of a structure containing a non-conforming use, becomes physically unsafe or illegal due to lack of repair and maintenance, and is declared by any duly authorized official to be unsafe or illegal by reason of physical condition, it may thereafter be restored, repaired, rebuilt or used in accordance with the prior nonconformity provided that the square footage existing when it became nonconforming shall not be increased.
- (b) Nothing in this ordinance shall be deemed to prevent strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (c) If a residential or commercial building is damaged or destroyed by a natural disaster or other act of God, such building may be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair,

rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired or rebuilt within two years of the date of the natural disaster or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph.

Section 13-8: Uses Under Special Exception Provisions not Nonconforming Uses

Any use which is permissible as a special exception in the applicable zoning district under the terms of this ordinance (other than a change from one nonconforming use to another approved by the Planning Commission) shall be considered a conforming use if lawfully commenced and continued on the effective date of this ordinance.

Section 13-9: Verification of Nonconforming Uses

- (a) The lawful status of a nonconforming use shall be verified by the zoning administrator prior to any change in the use. The administrator may also verify the lawful status of a nonconforming use not proposed to change, upon request of the owner of the property on which the use is located, or upon the request of a neighboring property owner.
- (b) The administrator shall determine the following when verifying the lawful status of a nonconforming use:
 - (1) Whether the use is in fact a lawful nonconforming use as defined by this ordinance; and, if so, then
 - (2) The location and gross floor area (in square feet) of all buildings associated with the nonconforming use; and
 - (3) The location, use and size of all structures other than buildings associated with the nonconforming use; and
 - (4) The land area (in square feet) devoted to all aspects of the nonconforming use (including, but not limited to, buildings, parking, outside storage, travelways, and open spaces); and
 - (5) A description of the principal use(s) and all accessory uses that make up the lawful nonconforming use as a whole.

- (c) The zoning administrator shall classify the overall nonconforming use based on the zoning district in which the use would be a permitted use if the administrator verifies that the use of any portion is a lawful nonconforming use. The assigned classification shall be based on the zoning district that is the least intense of all districts where the use would be permitted if the use would be permitted in more than one district. The assignment of such a zoning classification shall not operate to change the zoning of the property on which the nonconforming uses is located, but shall be used only in determining the applicable criteria for change of the nonconforming use under [section 13-6](#) of this ordinance.
- (d) The decision of the administrator under subsections (a) and (b) shall be final after 30 days, unless an appeal is filed to the board of zoning appeals in accordance with [section 7-1](#) of this ordinance.
- (e) The decision of the administrator shall be based on information provided by the owner of the property on which the nonconforming use is located, information provided by other persons with knowledge of the property, and any other information available to the administrator as public record. Such information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and/or the property on which the use is located.
- (f) The administrator shall keep a record of all verified nonconforming uses. The owner or operator of a verified nonconforming use shall file a report with the administrator not less than two years after the original date of verification, on forms available from the town office, showing that the nonconforming use has not ceased for a two-year period, or been abandoned, and that the use is being operated in accordance with the decision rendered as part of the nonconforming use verification process, and any subsequent changes approved.

Appendix A
Zoning Permit Application

Permit # _____

Hillsboro Planning Commission

- | | | | |
|---|--|---|---|
| Residential | | Non-Residential | Other |
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Fence | <input type="checkbox"/> New Construction | <input type="checkbox"/> Temporary Trailer |
| <input type="checkbox"/> Addition | <input type="checkbox"/> Deck | <input type="checkbox"/> Land Grading | <input type="checkbox"/> Demolition or Relocation |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Other Accessory Structure | | |
| <input type="checkbox"/> Other _____ | | | |

Date _____ PIN _____ Zoning District _____

Project Address _____

Owner Name _____ Owner Telephone No. _____

Owner Address _____

Agent Name _____ Agent Telephone No. _____

Agent Address _____

Contractor Name _____ Town Business License No. _____

Additional Submission Items that may be required:

- | | |
|--|--|
| <input type="checkbox"/> Plat with location of the proposed change and distances to property lines | <input type="checkbox"/> New Business Utility Form |
| <input type="checkbox"/> Utility Availability/Meter Fee Approval Application | <input type="checkbox"/> Building Plans & Elevations |
| <input type="checkbox"/> Contractor & Subcontractor Listing | |

Proposed Setbacks: _____ **Structure Height** _____

Front: _____ **Rear:** _____

Sides: _____ _____

Property Owner Consent:

I have read this application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve this application. I will ensure construction of this project in strict compliance with the terms of this permit and all other applicable requirements of the Town of Hillsboro. Furthermore, I grant permission to the Town and its authorized agents to enter the property and make such investigations and tests as they deem necessary relating to this application. I understand that this permit expires six (6) months from the approval date if the authorized use or activity is not commenced.

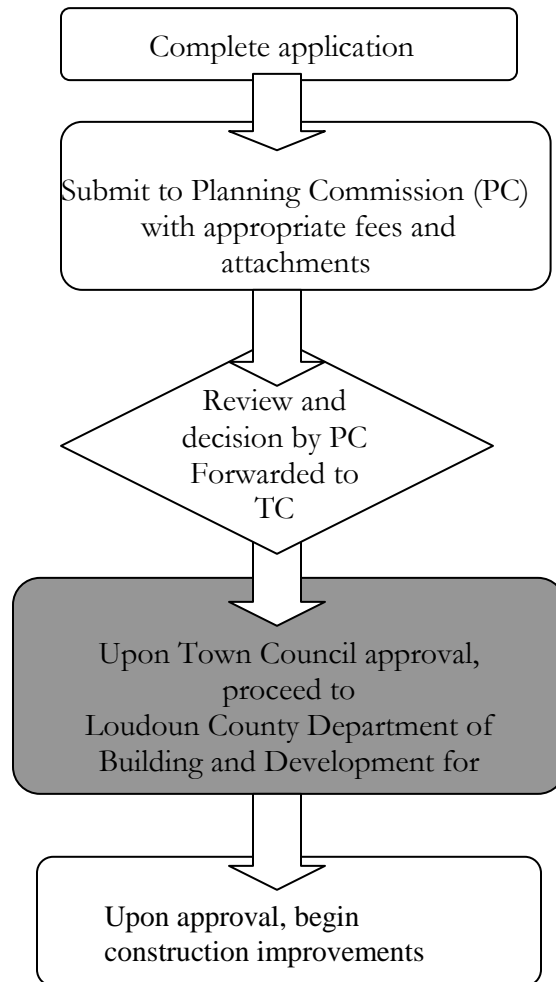
 Property Owner Signature Date

Permit #
Fees Paid: \$ _____

For Town Use Only	
Zoning Approval: _____	Date: _____
Printed Name: _____	
Conditions:	Water, Trash, Business Licenses Paid _____

Zoning Permit
Process

The following chart is a general guide to the process of **obtaining a Zoning Permit**:



***Once all improvements have been completed an Occupancy Permit must be obtained for new Commercial and Industrial and Residential facilities prior to the commencement of business or occupancy of the home.*

Appendix B

Hillsboro Certificate of Appropriateness

Town of Hillsboro

A **Certificate of Appropriateness (COA)** is required before any building structure on the Historically Significant Buildings List, within the historic district, may be, demolished, reconstructed, or relocated. A COA is required before any new primary residence is erected within the Historical District. A COA is also required before erecting, moving, or altering temporary or permanent signs within the Historical District. COAs are reviewed by the Planning Commission and a recommendation forwarded to the Town Council for action.

Application Process

1. Submit completed application to the Zoning Administrator or Chairman of the Planning Commission. The Planning Commission will schedule a meeting within 14 days of receipt of the COA.
2. If the application is to raze or move a building, a public hearing must be scheduled within 90 days of reception of the COA.
3. The Planning Commission meets and recommends to the Town Council; Approval, Disapproval, or Approval with modifications. A project representative must attend the meeting.
4. **If application approved:** The COA and other permits may be issued by the Town Council. No changes to approved plans are permitted with prior Planning Commission/Town Council approval.
5. **If application disapproved:** Applicant may resubmit within 90 days with recommended modifications or appeal to the Town Council

NOTE: Approved projects must be pursued in strict conformance with the plans approved by the Town Council. No changes are permitted without prior approval of the Planning Commission/Town Council. Failure to follow approved plans is a violation of the zoning ordinance punishable by a civil penalty of \$100 for the 1st violation and \$150 for each subsequent violation.

Applicants should review the Historic Guidelines for the Town of Hillsboro before submitting a COA application. This document provides valuable information about the criteria used by the Planning Commission in the review of applications for Certificates of Appropriateness. A copy of the document can be obtained from the Mayor, Chairman of the Planning Commission, or the Zoning Administrator, or by writing to:

Hillsboro Zoning Administrator
37098 Charles Town Pike
Hillsboro, VA 20132

MATERIALS WHICH MUST ACCOMPANY A COA APPLICATION

(Not all materials required, depending upon project type)

1. Written Description – Describe clearly and in detail the nature of the project, including exact dimensions for materials to be used (e.g., width of siding, type of window, etc.)
2. Architectural Drawings – Suggested scale $\frac{1}{4}'' = 1'$ (when requested by Planning Commission) showing:
 - a. Dimensioned outline of the building
 - b. Dimensioned elevations of new construction and adjacent existing elevations
 - c. Site Plan(s) with scale $\frac{1}{8}'' = 1'$ (for new construction and additions)
 - d. Site Section(s) with scale $\frac{1}{8}'' = 1'$ (when requested by Planning Commission)
3. Photographs – A minimum of three views of the area(s) under review.
4. Specification of Exterior Materials – To include, but not limited to:

a. Roof	g. Trim work
b. Windows and doors	h. Color scheme
c. Siding: brick, stucco, wood, etc	i. Chimneys
d. Shutters	j. Fencing and walls
e. Paving	k. Utility and mechanical equip.
f. Exterior lighting	locations and specifications
5. Signs – A detailed scale drawing showing style and size of letters, color, sample and type of material, and proposed location on the building elevation, with a photograph of elevation under review.

Note 1: All materials must be submitted in such a manner that their review does not require professional interpretation.

Note 2: All projects involving new construction, addition or major renovations must file page 3 of COA application form providing names and addresses of adjacent property owners for public notice purposes.

**TOWN OF HILLSBORO
CERTIFICATE OF APROPRIATENESS**

37098 Charles Town Pike
Hillsboro, VA 20132

COA # _____

Owner Name: _____

Business Name: _____

Authorized Agent (if applicable): _____

Mailing Address: _____

Daytime Telephone Number(s): _____

Street Address of Property: _____

Project Description (Attach copy of Zoning Application)

New Construction Reconstruction Relocation Demolition Sign

Contractor (if applicable): _____

Address: _____ Phone: _____

Summary of Work

Acknowledgement of Responsibility

I understand that all applications requiring review by the Planning Commission must be complete and be submitted 14 days before the Planning Commission meeting date. I agree to comply with the conditions of this certificate and all other applicable town regulations and to pursue this project in strict conformance with the plans approved by the Town Council. I understand that no changes are permitted without prior approval of the Town, and that failure to follow approved plans is a violation of the zoning ordinance punishable a civil penalty of \$100 for the 1st violation and \$150 for each subsequent violation.

Signature of Owner or Authorized Agent: _____ **Date:** _____

Printed name: _____

COA APPLICATION FORM (continued)

SIGNS ONLY: (Attach copy of Zoning Application)

Linear feet of building: Front _____ Square feet of Existing Signs: _____

Sign 1: Type of sign: Freestanding Wall Window Awning Projecting
Sign area _____ sq. ft. Material: _____ Location of Sign: _____

Sign 2: Type of sign: Freestanding Wall Window Awning Projecting
Sign area _____ sq. ft. Material: _____ Location of Sign: _____

ALL APPLICATIONS: Supporting Information Attached:

Attach all information necessary to completely describe the project. Use the checklist below to ensure the application is complete. *(Use N/A if item is not applicable to your project)*

_____ Written Description – Describe clearly and in detail the nature of the project, including exact dimensions for materials to be used.

_____ Architectural Drawings – to scale (suggested scale of 1/4" = 1')
_____ Dimensioned outline of the building
_____ Dimensioned elevations and adjacent elevations
_____ Site Plan(s) (suggested scale of 1/8" = 1')

_____ Photographs – Front, rear and two sides of existing structures. If new construction, provide a photo of site from street showing entrance and adjoining structures.

_____ Specifications of Exterior Materials – To include, but not limited to: Roofing, siding, windows & doors, trim work, color scheme, chimneys, shutters, utility locations, exterior lighting, fencing, walls, and paving.

_____ Signs – Detailed scaled drawing showing style and size of letters, color, sample and type of material, and proposed location on the building elevation, with a photograph of elevation under review.

Note 1: All materials must be submitted in such a manner that their review does not require professional interpretation.

Note 2: All projects involving new construction or reconstruction must file page 3 of COA application form providing names and addresses of adjacent property owners for public notice purposes.

OFFICE USE ONLY – FOR COA

Date of Application: _____ COA# _____

Planning Commission Action: Approved Approved Conditionally Denied Date: _____

Planning Commission Comments/Conditions: _____

Town Council Action: Approved Approved Conditionally Denied Date: _____

Town Council Comments/Conditions: _____

Application Approved: _____ Date: _____

Mayor

THIS CERTIFICATE EXPIRES ONE YEAR FROM THE APPROVAL DATE IF THE AUTHORIZED ACTIVITY HAS NOT BEEN COMMENCED AND DILIGENTLY PURSUED. NO DEVIATIONS FROM THE APPROVED PLANS ARE PERMITTED WITHOUT PRIOR APPROVAL OF THE PC.

COA APPLICATION FORM (continued)

THIS PAGE ONLY FOR NEW CONSTRUCTION, or RECONSTRUCTION PROJECTS:

List Adjacent Property Owners and Addresses, (i.e., all property owners whose property adjoins your property or any portion of your property):

1. Name: _____
Street Address: _____
Mailing Address: _____

2. Name: _____
Street Address: _____
Mailing Address: _____

3. Name: _____
Street Address: _____
Mailing Address: _____

4. Name: _____
Street Address: _____
Mailing Address: _____

5. Name: _____
Street Address: _____
Mailing Address: _____

6. Name: _____
Street Address: _____
Mailing Address: _____

Appendix C

1977 Architectural Survey of Hillsboro

VIRGINIA HISTORIC LANDMARKS COMMISSION

ARCHITECTURAL SURVEY OF THE OLDER AND
HISTORIC STRUCTURES IN THE TOWN
OF HILLSBORO, VIRGINIA

BY

John G. Lewis
Regional Representative
Virginia Historic Landmarks Commission

Sponsored by the Landmarks Commission
In order to assist the citizens of the
Town with its Historic Preservation.

Original photos by John G. Lewis
taken in 1974 and 1977 have been replaced
with contemporary photos (2006-07). Changes to
structures made since 1977 are explained in the notes.

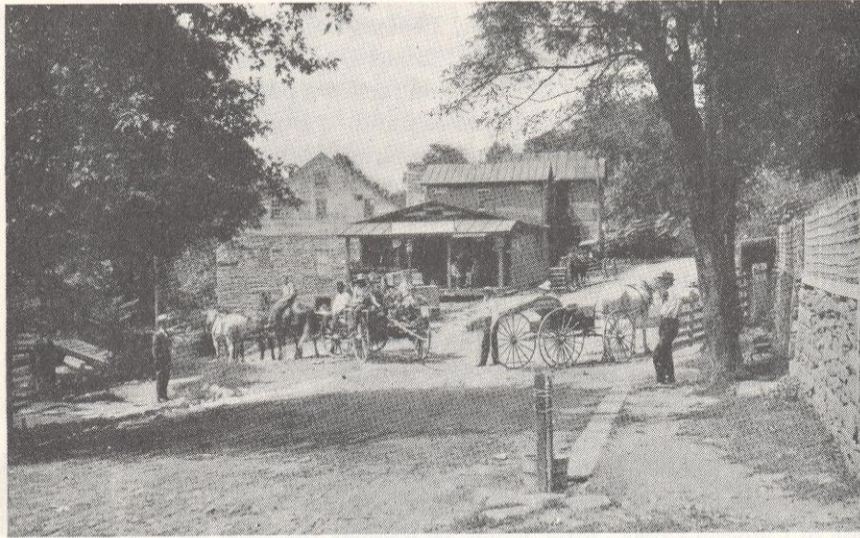
Special thanks and appreciation go
to the following for their kind
assistance in putting this Report together

Hon. Byron Farwell, Mayor
Members of the Town Council
Mrs. H. Randolph Barbee, Jr.

Mr. Joseph T. Martz, Clerk of the Circuit Court

The Loudoun Times-Mirror
The Piedmont Virginian

The Virginia State Library



Main Street showing Janney's Mill about 1900, also C. C. Bell's first store.

The Gap Mills, from an early photo.

On site of 238-20

3545

- NOTES -

The comments made on the individual structures covered in this volume are based purely upon the Architectural features visible and the quality of the building as it now stands (1977).

The use of “appears to be” – “early to mid” – “turn of the century” – etc., is due to not yet having the opportunity to examine each individual structure on the interior

HILLSBORO is listed in District Number 8, Paragraph 8J, Short Hill Area, by the Division of State Planning and Community Affairs in their December 1972 “Critical Environmental Areas”. In which among other things they state “unsuitable for intensive development”.

Permission to use any portion of this volume for the purposes of sale and/or profit, will have to be granted solely by the Copyright holder, John G. Lewis and/or the Virginia Historic Landmarks Commission with their joint agreement.

Reference to WPA Forms is for identification on which go with what property. Information as to dates of construction in these is not accurate.

Updated comments

When contemporary (2006) comments are added to the original document, they appear in italics.

- RECOMMENDATIONS -

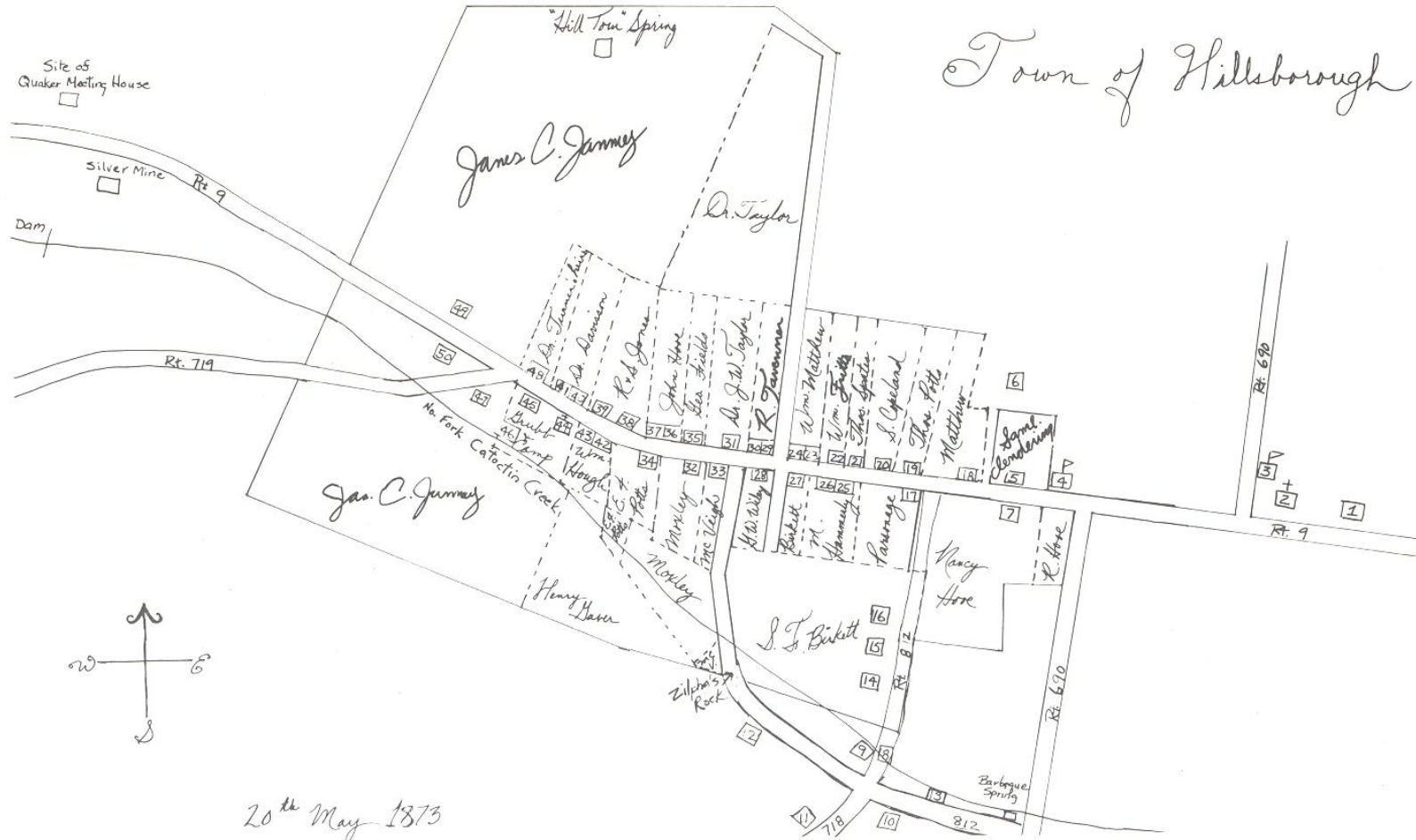
1. If the owners of these properties are interested, a program of Easements should be embarked upon, on properties not only in the Town, but on those on both the east and west end approaches to the Town. This is especially essential in order to preserve its present rural and uncluttered quality. Thus preventing the spreading of commercialization which has wrecked the approaches to so many Towns already. Quiet family run commercial operations could easily be accommodated in some of the existing structures, as has been done in the past. The Hill Tom Market and Filling Station to the west of it should be encouraged to remain.

2. Public Facilities, especially Water and Sewer Systems (or "Pollution Control Projects") should be limited like the village of Waterford, to serve only the existing structures and available lots which now exist within the incorporated area of the Town, and which are not legally recorded at this time.

3. All future exterior alterations or additions to the existing buildings, or construction of new buildings, should take into consideration their period, scale and that of the neighborhood. Such alterations, additions or new construction, should be of a compatible scale and material, with any new structures being either well designed period or contemporary in style, scale and proportion.

1783 Map of Hillsboro

Town of Hillsborough



20th May 1873

The Town of Hillsboro is one of the most unique of Loudoun County's historic areas, not only for its numerous field stone dwellings, some of which date from the 18th century, but also for its picturesque setting in the gap of the Short Hill mountains. The steep slopes rising on both sides of the Town along with the North Fork of the Catoctin Creek on its southern boundary, not only provide great visual quality to the area but have protected it from growth and development. Providing today an unspoiled quality of weathered stone, with a variety of white painted porches enhanced by a backdrop of ancient wooded hills.

Hillsboro is located on a portion of William Fairfax's Piedmont and Shennondale Manor grants from John Colvill in the 1740's, which was later conveyed to John Hough, one of Loudoun County's famous mill owners, and lies within the boundaries of the 150 acres which he conveyed to his son Mahlon Hough in 1788.

As in the instance of many other Towns and Villages in the County, Hillsboro centered and expanded around the Mill of John Hough. About 1814 he sold this to Elisha Janney, whose sons James C. and Aquila Janney agreed to take down the log mill and erect a new stone one in 1837. Prior to his arrival, Elisha Janney had been a neighbor and close friend of George Washington and was appointed by him as Flour Inspector at the port of Alexandria, Virginia. According to a WPA Survey Form of the 1930's, the stone mill was seven stories high with a gable roof covered in slate, 60' x 80'. It was a Wheat and Manufacturing mill which made fine flour, meal and also ground Gypsum for use in plaster and to be sowed broadcast over the fields in the spring of each year as a fertilizer.

The Hillsboro area still abounds with a large number of native families who have remained since the days of settlement, often on the original land grants to their ancestors. Names which appear on early deeds – Potts, Thompson, Grubb, Tribby, Hamerley, Copeland, Virts, Crim, Shoemaker, Everhart – can still be found all through the vicinity, and the two 18th century houses, the Copeland Homestead and the James' "Possum's Rest", belong to direct descendants of the original builders.

The first record of settlement in the Hillsboro area is a Fairfax County Deed showing that in 1746, David Potts leased 866 acres on the "Kittoctin Run" from Catesby Cocke for five Shillings paid in hand with the Right of Purchase and an annual Rental of one Ear of Indian Corn". The present home of Raymond and Lloyd Potts is near the original site of that of David Potts, and the old Potts Cemetery are still located on this land.

One of the first records of any activity in the area was the twice monthly meeting of the Gap Quakers, held in David Potts' house in 1755. In 1788, a substantial stone Meeting House was build near the western end of the Town (on the North side of Route9) on two acres deeded to the Trustees of the Meeting by Mahlon Hough. By 1804, the Fairfax Meeting minutes noted that the Gap Meeting was a constant source of worry due to dissension, disorder and "the great deficiencies of the Gap Friends in several particulars", by its parent organization, the Fairfax Meeting. The building was for sometime used as a School and then later taken down. Many graves nearby, marked only

with a fieldstone, remain at the site, as well as the Grubb burial ground enclosed by an Iron Fence, and the massive stone steps which led up to the Meeting house.

No mention of the area would be complete without reference to the McIlhaney family. Although not Quakers, John and his wife Sarah, a Stuart, fled Scotland in 1745. Landing at Yorktown, they eventually settled in northwestern Fairfax, later to be known as Loudoun County, on a tract of land east of Hillsboro on which the farm of Roland T. Legard is now located. John became a large landholder, a respected citizen and was commissioned by the Governor as High Sheriff of Loudoun. His sons John and James were Officers in the Revolutionary War. At one time James owned nearly 9,000 acres extending from Hillsboro to Lovettsville and another 4,000 acres on the Goose Creek near Lincoln. At his death in 1804, the family fortunes were dissipated, and all descendents have since left the County. The old home was apparently torn down about 1870, but the McIlhaney graveyard where John McIlhaney is buried remain on the Legard farm, surrounded by a stone wall.

Edward Thompson, a Quaker who lived near the Gap of the Short Hill by 1754, kept a Tavern or Ordinary which was patronized frequently by none other than George Washington on his way from Mount Vernon to "Harewood", the home of his brother Samuel Washington, in what is now Jefferson County, West Virginia. No doubt he was the Vestal Gap Road's most illustrious traveler.

It is known that this road, the present State Route 9, was in existence some fifty years before State Route 7. Running from Leesburg past William Mains "Dry Mill", through what is now Clarkes Gap, following the approximate way of Route 9 through Hillsboro and on west over Vestals Gap in the Blue Ridge mountains, crossing the Shenandoah River at Vestals, or Keys Ferry, and on to Charles Town, West Virginia.

Although there were mills and dwellings in the Gap in the last quarter of the 1700's, the Town of Hillsboro (spelled Hillsborough until its Incorporation in 1880) was not formerly established until 31 December 1802, when it was given acknowledgement by Act of the General Assembly "on 25 acres already divided among a score of owners".

The first mill and millers house at The Gap was shown on a plat of "Tayloe's Kittoctin Lands", which is dated 1758. This is probably Butchers mill referred to in early deeds at the site of the later Woolen mill, converted to this manufacture by Henry Gaver in the 1850's. It was located at the east end of the Town just west of where County Route 718 crosses the Catoctin Creek.

About this same time John Hough was building his log mill, already mentioned, upstream from Butchers mill, which became known as "The Gap Mills". His son Mahlon Hough, one of the Trustees of the Town, sold many of the early lots there after he acquired the mill and 150 acres with it. By the early 1800's five mills were operating on the North Fork of the Catoctin Creek from Hillsboro west.

Joseph Martin in his "A New and Comprehensive Gazetteer of Virginia and the District of Columbia", dated 1836, mentions Hillsborough as being on the public road leading from Harpers Ferry to Leesburg. "Four mails a week are received Hillsborough. It contain 30 dwelling houses, 3 mercantile stores, 1 Methodist house of worship, 1 academy, 2 flour manufacturing mills, 1 tavern and temperance society. The merchants are a tanner, saddler, boot maker and shoe manufacturer, tailor, hatter, cabinetmaker, two wagon makers and a blacksmith. The population is 172 persons; one of whom is a physician".

Hardesty's Historical and Geographical Encyclopedia of 1883 notes that the Town consists of "137 inhabitants with two churches, Methodist-Episcopal and Methodist-Episcopal South. Two free schools, one white and one colored. There are four general stores, one flour mill, one woolen mill, and numerous shops". The first church in the area was built at the east end of Town on land given by Michael Arnold in 1830. It is still known as Arnold Grove Methodist Church and has an active membership.

Had plans for the Alexandria, Loudoun and Hampshire railroad not been changed after the Civil War, and the Loudoun Branch of the Manassas Gap Railroad gone into bankruptcy, Hillsboro might have been serviced by one or both of these. The former chose to go from Clarkes Gap through Hamilton, Purcellville and Round Hill to Snickersville, later know as Bluemont, and over the Blue Ridge to the coal fields in Hampshire County, West Virginia. Construction ended at Bluemont, thus providing it and the other Towns with access to the summer boarding trade and commercial expansion, but leaving Hillsboro by-passed and isolated. Although an advantage to the other Towns at the time, this has become a decidedly favorable factor now in the preservation of the Town.

A young man from Hillsboro who was a freshman student at Hampden-Sydney College some seventy years ago (*c. 1900*) wrote in part; "The little Town of Hillsboro n which I live is situated in a Gap in one of the ranges of the great Blue Ridge mountains. On two sides rise steep heavily weeded mountains, while on each of the other two the Town looks out on a fertile valley, wherein nestle comfortable homes and productive farms. It consists of but one street over which great oaks and maples interlace their branches making a tunnel of foliage which is cool, shady and restful on hot summer days. Most of the houses are stone or brick, with here and there green yards, most of which are full of flowers. The water used in this Town in unsurpassed. High upon the mountainside with no human habitation about, a great spring gushes out, and the water is conveyed through pipes to two public hydrants on the street and also to private homes. The surrounding countryside is the most beautiful one can imagine. It is very rolling, with rich fields containing either abundant crops or fat cattle, with here and there a stretch of woodland and the Blue Ridge mountains rising as a background for all. The people are good plain country people, good hearted and hospitable".

Hopefully in the future Hillsboro will be spared the ravage and destruction of so called transportation "improvement", and can continue to maintain the pleasant unspoiled rural character for generations to come to enjoy, as it was been passed down to us. There

is no question that the historic and highly sensitive environmental qualities of the area should be preserved and respected. Unfortunately it is the nature of certain people with limited ability, aided by reams of senseless regulations, to “improve” (?) such places that have existed with their interference for one hundred years of more! Thus the Gap shall face from now on constant threats to its obliteration without a continual vigil of all it concerned citizens.



236-1

(25A-2)

2613

Two story three bay stucco over stone, with original stucco over stone 1 ½ wing. Original section circa 1800. Frame second floor over west wing 1882. Pleasing later three bay entrance porch with lattice screen and stone retaining walls. See WPA Form 107. *Since survey, three bay porch roof was removed and replaced with a single roof over doorway. Stucco was also removed to expose stone.*



236-2

(25A-1)

2613

Two story five bay stucco over stone dwelling circa 1800, with 1 ½ stucco over stone wing. Pleasing later three bay entrance porch. Good state of preservation. See Mutual R5-V45 and WPA Form #16C.



236-3

(25A-3)

2613

Two story frame dwelling covered in German Siding. Circa late 1800's. East gable end exterior chimney indicates a possible earlier structure within the existing façade. Good porch with turned posts and railing. *Since survey, historic sashes replaced with more contemporary style. Extensive recent renovation.*



Same as above

Log Outbuilding with later garage addition in frame. *Since survey, log structure and garage have been removed.*



236-4

(25A-4)

2613

Two story frame, possibly log, three bay dwelling covered in sawn weatherboards. Circa last ¼ 1700's, with early to mid 1800's two story frame addition to the left. Early 1800's gable front entrance stoop with four square chamfered posts. First floor sash not original and east end gable sash is a later addition. *Since survey, weather boards removed from log structure. Two of four posts removed from entrance stoop. Remaining original sashes where replaced with contemporary design.*



236-5

(25A-8)

2610

1 ½ Story three bay stone building on high basement with three bay frame (or log) addition to the right, of two story on high stone basement. Stone section 1833. Recently remodeled. See WPA Form #70.



263-6

2613

Two story log dwelling circa last ¼ 1700's, covered in pebble-day in 1912. Four bay last one story porch. Possibly one of the earliest structures in Town. See Mutual R18-V133 & WPA Form #69.



236-7

(25A-7)

2613

Two story three bay native rubble field stone town house on high basement. Build circa 1810 by Asa Brown, hotel Keeper and well know saddler. Known for many years as Fritts Tavern, Wood Box cornice with Wall of Troy detail. East end frame addition distracts from overall quality. See WPA Form #33



236-7

(25A-7)

2613

See preceding page. Detail of front wood box cornice.



236-8

(25A-8)

2613

Two story three bay Flemish Bond brick Town House with splayed flat arches over the openings, on native rubble field stone foundation. Circa 1840's. Wood box reeded cornice and small dentils on frieze. See WPA Form #135.



236-8

(25A-6)

2613

See preceding page. Detail of front wood box cornice.



236-9

(25A-8)

2613

One story rubble native field stone building. Possibly late 1700's although mid to late 1800 door and window openings disguise this. Good two bay one story entrance porch with sawn brackets and railing in the Italianate style. At one time operated as a Tavern. Latticework should be preserved. *Since survey, the sawn porch brackets and Italianate railings were removed. Sawn brackets were removed; sawn railings identical to those in 236-35, were replaced with typical picket style. Three dormers were added. Home now joined to home immediately to the east.*



236-10

(25A-10)

2613

Late 1700's to early 1800's two story four bay rubble stone Town House on high basement. A portion of the core may be earlier. Excellent state of preservation. See Mutual R3-V28 and WPA Form #57.



236-11

(25A-11)

2613

Late 18th century two-story frame dwelling with three-part projecting bay window unit. Three bay entrance porch with turned posts and sawn brackets. Concrete block retaining wall with finials adds visual interest.



236-12

(25A-12)

2613

Two-story three bay painted stucco over stone dwelling on high basement. Circa 1860's. Bracketed cornice. Three bay two story porch with sawn brackets and elaborate ornamental iron railing. *Since survey, side stairway was removed and replaced front stairway. Iron railing was removed and replaced with non-historic contemporary design.*



236-12

(25A-12)

2613

Two-story outbuilding covered in painted pressed tin siding, to resemble texture of concrete block retaining wall in front. Frame barn in the background may survive from period of an earlier dwelling on this lot.



236-13

(25A-13)

2613

Two story three bay frame dwelling. Cross gable has round window with ornamental sawn wood screen. Bracketed cornice. Three bay one story entrance porch with turned posts and sawn brackets. Circa 1890 on the site of an earlier log dwelling.



236-14

(25A-14)

2613

Two-story log dwelling covered in weatherboard, with elaborate pedimented one story entrance porch supported by pairs of Roman Doric Columns. Circa 1806 with 1871 additions. Stone retaining wall and picket fence add greatly to the overall quality. See WPA Form #78. *Since survey, picket fence has been removed.*



236-14

(25A-14)

No photo in original

See preceding page for the house on this site. The lot [between 236-14 and 236-15] was at one time the site of one of the largest department stores in the county, which was owned by Charles C. Bell in the early 1900's and burned to the ground in 1914. The stonewall enclosing the boxwood garden were once the foundations for this building.



236-15

(236-16)

2614

Two story four bay painted stucco over stone town house with two story four bay front porch. Top level of the porch has Roman Doric columns, while the first floor level columns are tapered with sawn railings, and good lattice screen below. Sash is not original. See WPA Form #112. Circa 1800. *Since survey, exterior modifications to east side.*



236-16

(25A-17)

2614

Two story three bay native rubble fieldstone dwelling, circa early 1800's. First floor sash not original, was used for many years as a store. Three bay one story entrance porch with square chamfered posts. See WPA #83



236-16

(25A-17)

2614

Detail of cornice of above dwelling. Molded cornice with "H" feet



236-17

(25A-18)

3545

Two story three bay frame dwelling circa 1890. Three bay entrance porch, one story, with sawn brackets on square posts. Now covered in Aluminum siding. Second dwelling on this lot.



236-17

(25A-18)

3545

Site of 1 ½ log dwelling, supposedly the earliest in Hillsboro. Used as the millers house for the log mill of John Hough. Destroyed in the 1940's. See WPA Form #54. See above for newer dwelling built to the east of this on this lot



236-18

(25A-19)

2614

Two story three bay native rubble fieldstone dwelling, circa 1820. 1 ½ rear wing may pre-date the front section. Three bay late 19th century one story entrance porch with sawn brackets and railing. See WPA Form #108



236-19

(25A-20)

2614

Two story stone dwelling circa last quarter of the 1700's, covered in pebble-dash in the early 1800's. Home of Elisha Janney who purchased the Gap Mills from Mahlon Hugh and the boyhood home of John Janney, noted Virginia legislator and Loudoun delegate to the Secession convention in 1861. See WPA Form #150. *Since survey, the home was totally restored with significant changes. Pebble-dash was removed, dormers were added to second floor of main building and new section was added on eastern side.*



236-20

(25A-21)

1879

Early 20th century native rubble field stone Gasoline Station with hipped roof. Built just above site of Gap Mills. Compatible addition to the community. *Since survey, the Gasoline Station has gone out of business. The location has been the site of various businesses, including an antique store, a piano store, and a woodworking shop. The current owner plans to open a coffee shop in 2007.*



236-21

(25A-23 & 47)

1879

18th century native rubble field stone barn converted by the present owner into adaptive use as a T.V. Repair and Service facility. Excellent example of imaginative and practical use. *Since survey, building has been an antique store and unoccupied for extended periods. Plans are under way to make a substantial historical renovation and once again use the building as an antique store.*



236-21 (25A-23 & 47)

Photo was not used in original survey.

No text provided in survey. Substitute text from Nomination Form.

Frame; 2 ½ stories; gable roof with cross gable projecting wing in east bay; 4 bays; 1-story, 1-bay side entrance porch. Colonial Revival. Ca. 1910. Palladian window in cross gable pediment.



236-22 & 23

(25A-22)

1879

1880' commercial structure of unfortunate design concept in relation to the community. Houses the well known Hill Tom Market and Gasoline Station. House to left, two story native rubble field stone five bay dwelling circa 1800. Originally had stone wings on both ends. One torn down for the Market building. Site of the Jonas Potts Academy. *Since survey, the Exxon Gasoline Station was closed and the gas pumps and underground storage tanks removed.*



236-24

(25A-24)

1879

Methodist Episcopal Church South, built 1858. Native rubble field stone structure with bracketed cornice and open belfry. Good state of preservation. Presently used as an antique shop. See WPA Forms 66 & 73. *Since survey, building has been a private residence as well as antique store. Currently it is again an antique store. Rot is evident in the belfry, as well as loss of some slate roof tiles.*



236-25

(25A-25 & 26)

1879

Two story three bay native rubble field stone town house circa 1805. Bracketed cornice and projecting eaves, three part two story bay and entrance porches added at the turn of the century. Porches have turned posts, ornamental brackets and sawn railings. House has projecting eaves and elaborate gable ornament. See WPA Form #145.



236-23

(25A-25 & 26)

1879

Detail projecting eaves and elaborate gable. *Significant deterioration has occurred to eave detail. Photo shows detail of identical design in porch.*



236-26 (25A-27) 1879

Two Story gable end front frame commercial structure, built in 1897. *Since 1991, building has been the Hunt Country Jewelers.*



236-27

(25A-28 & 29)

1877

Two story native rubble stone town house. East wing circa 1780. Two story center section built in 1825 with the west addition added in 1840 and operated as a store and later as a Doctors office.

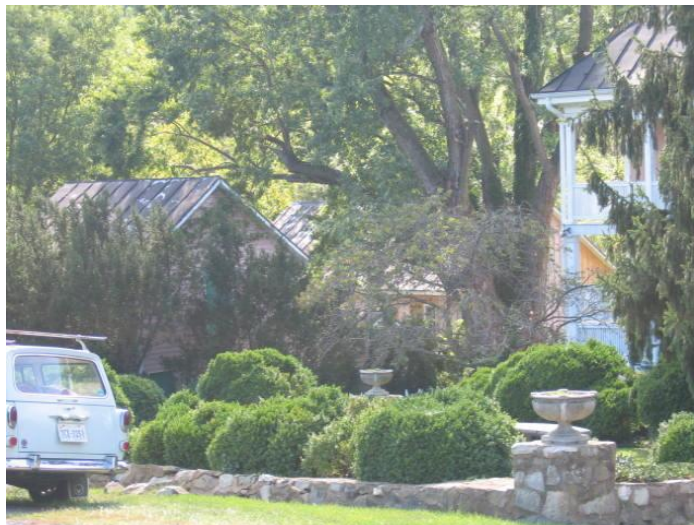


236-28

(25A-30)

1877

Two and one half story frame dwelling built in 1890 on the site of the old Tanyard and Cooper shop. Ranks among Loudoun County's most imposing Victorian structures. *Since survey, home was painted unusual colors that are not representative of the colors of the period of construction.*



236-28

(25A-30)

1877

East side of the dwelling and its outbuildings



236-29

(25A-31)

No photo in original

Site of a now destroyed Two Story native field stone dwelling built circa 1800, on the corner of the old road from Hillsboro to Purcellville. See WPA #72 and Mutual R3-v33. This lot is now the walled box garden for 236-28



236-30

(25A-32 & 33)

1877

1 ½ stone and log dwelling. West section possibly pre revolutionary. The east wing shows a datestone of 1827. Log infill portion supposedly built between these two periods. Used as a wheelwright shop and later by an expert shoemaker. See WPA Form #144. *Since survey, significant renovations to large outbuilding. Front façade is not in keeping with other architecture and owner has plans to remove it and restore it to its original design. There is convincing evidence that this is the oldest remaining structure in Hillsboro. The center log section was constructed circa 1740, nearly 70 years before the stone sections.*



236-31

(25A-35)

1877

Two story painted stucco over stone in the center circa 1800, with two story painted stucco over brick to the left and two story frame addition to the right built about 1900. Owned in the 1820's by John Birkett, Sr., and known for many years as Birkett's Tavern. *Since survey, a long front porch extending from the stone building to the east doorway of the brick building was removed.*



236-32

(25A-36)

1877

Two story five bay town house of frame construction over log. Covered in weatherboards on the front and German Siding on the left gable end. Most of the sash has been replaced. Three bay one story entrance porch with one filled in with a three part projecting bay. Turned posts with elaborate brackets and good lattice screen below. See WPA Form #81 and Mutual R3-V26. Lot 34 is included with this property. *Since survey, extensive landscaping is evident.*



[Needs tighter photo]
236-33

(25A-37)

1877

Two story native rubble fieldstone dwelling circa late 1700's. Originally 1 ½ story and used for many years as an office and shop. Three bay one story entrance stoop with turned posts on concrete base.



236-34

(25A-38)

1877

Two story three bay painted stucco over stone including circa 1900's addition to the right with three part two story projecting bay window unit. Used for many years as the residence of ministers for the Methodist Episcopal Church South and Salem Church on the Harpers Ferry Road.



236-34

(25A-38)

1877

View of east gable end of the stone portion, the rear wing to the south, frame garage and stone retaining walls enclosing pleasing grounds on the corner of Virginia Route 9 and the “new road to Purcellville (Route 718).

Historical Marker states: “Hillsboro, Loudoun county Virginia. This is the birthplace of Susan Koerner Wright April 30, 1831-July 4, 1889. Mother of Wilbur and Orville Wright inventors of the airplane. A notable woman largely guided and wisely inspired her sons to their immortal discovery. She was the mother also of Katharine Wright Haskell August 19, 1874-March 3, 1929 whose sisterly devotion aided in giving mankind access to the unlimited Aerial Highway”. Erected by the Rivanna Garden Club of Charlottesville, Virginia December 17, 1929.

A State Historical Marker of Virginia T-5 at Purcellville, Virginia titled Mother of the Wright Brothers states “Six miles north at Hillsboro was born in 1831 Susan Koerner, mother of Wilbur and Orville Wright, inventors of the airplane”. This is located at the junction of Virginia Route 7 and Route 287.

To date your recorder knows of only one property owned in the County by the parents of Susan Koerner Wright, and that is 53-384 now the home of Mr. and Mrs. Jean K. Weston, on the east side of Route 287 between Purcellville and Wheatland.



236-34

(25A-38)

1877

Detail of the elaborate scroll bracket on the porch of the rear wing, facing east.



236-35

(25A-39)

1877

Two story three bay frame dwelling covered in painted stucco. Front section on west end originally two story log house. Added on to circa 1910. Outbuildings consist of a log meat house, used at one time as a shop and stone spring house.



236-35

(25A-39)

1877

Log outbuilding used as a meat house and later as a shop.



236-36

(25A-40)

3545

Two story three bay frame dwelling on native rubble field stone foundation, with cross gable. One story entrance porch with turned posts. Circa 1886. On "the new road to Purcellville".



236-37

(25A-40A&40B)

3545

One story three bay frame commercial building. Exchange office for the Chesapeake and Potomac Telephone Company. They should be commended for their sensitivity to the area. *Since survey, building has remained unchanged except for commercial name on building. It is now a Verizon facility.*



236-38

(25A-41)

3545

Two story painted pebble dash over frame country Victorian dwelling with three bay one story entrance porch. Roman Doric Columns. Cross gable with Palladian style window unit. Circa 1915.



236-39

Two story frame cottage built in the 1890's. One story three part projecting bay centered on façade, under the entrance porch. Aluminum siding distracts from overall quality.



[Better photo needed]
236-41 [Missing page and description]

Substitute text from Nomination Form: Frame on stone (possibly log in center section), gable roof with cross gable in east bay, 6 bays. Vernacular. Second half of 19th century. 1-story wing to west consisting of 6/6 sash in west bay. Entrance in east bay of wing. Center section of house is 2 stories, e bays. Entrance in center bay. 6/6 sash in first- and second-story windows in east and west bays. West section consists of 2 ½ - story projection, 1 bay. Windows diminish in size from first floor to gable.



236-42 [Missing page and description]

Substitute text from Nomination Form: Frame with random rubble basement, 2 stories, not roof, 1 bay. Vernacular. Late 19th century. Abandoned house. Original siding falling off or stripped away. Roof collapsed. Exterior random rubble chimney to east. *Home described in original has apparently been replaced by home in photo.*



236-43 [Missing page and description]

Substitute text from Nomination Form: Frame (aluminum siding) on concrete base, 1 story, gable roof, 4 bays, 1-bay entrance porch in second bay. Exterior end chimney to east. 1-bay rear wing to east. Triple window in east bay. Prefabricated tract house. Vernacular Ca. 1965.



236-44 [Missing page and description]

Substitute text from Nomination Form: Frame, 1 story, hipped roof, 3 bays. Vernacular. Ca. 1950. Stone foundation. Exterior stone chimney with brick stack to east. 6/6 sash. Entrance in center of bay. *Sashes have been replaced.*



53-236

1900

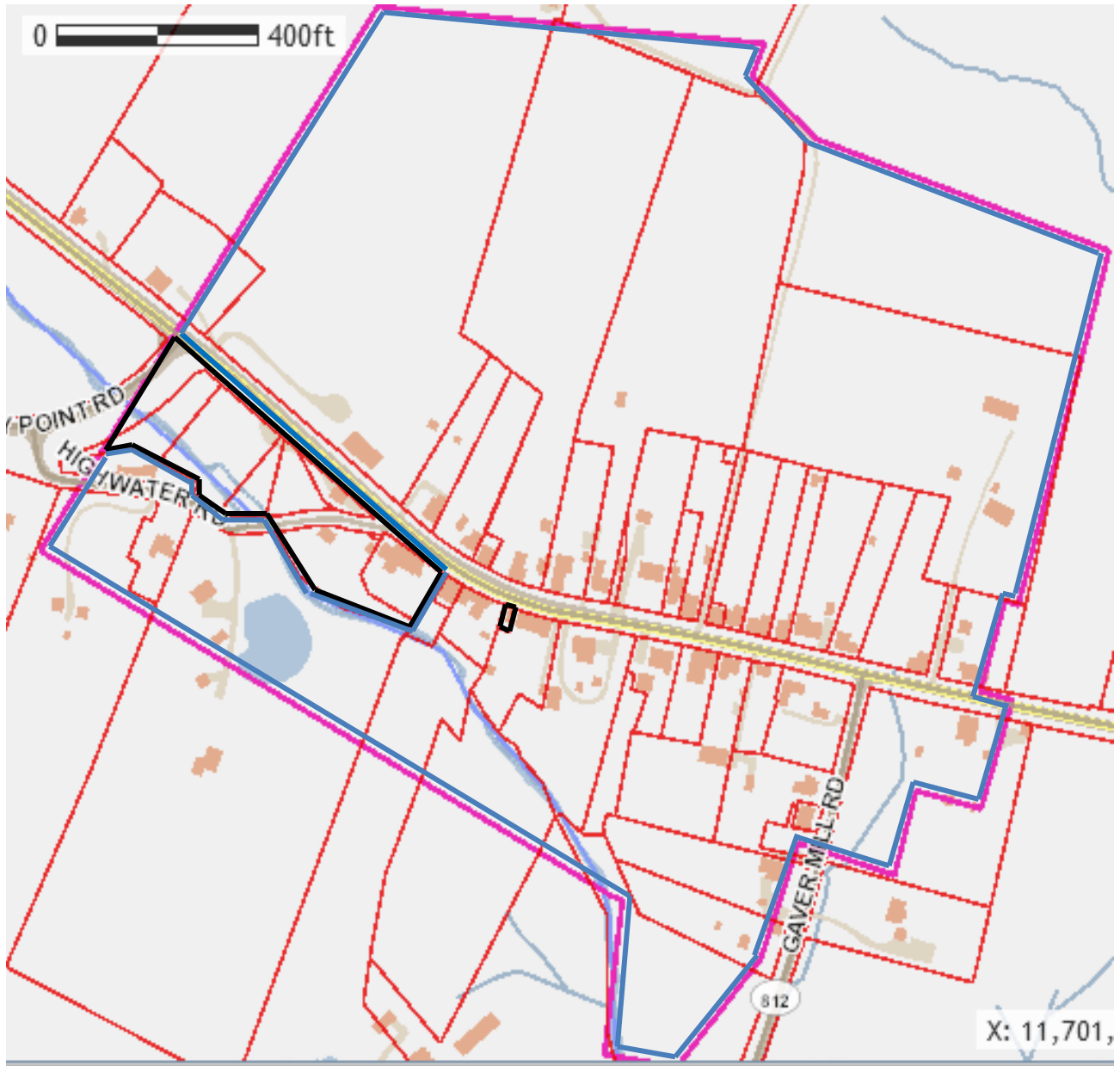
Single span Steel Truss Bridge on Route 719 over the north fork of the Catoclin Creek, by Hill tom Market. 14' X 60' *Since survey, bridge was closed to vehicles. Efforts are underway to preserve the bridge.*

- BIBLIOGRAPHY -

1. "Hillsboro: Memories of a Mill Town," by the Hillsboro Bicentennial Committee, August 1976. Printed by Potomac Press, Leesburg, Virginia.
2. Acts of the General Assembly of the Commonwealth of Virginia.
3. W.P.A. Survey Forms of the early 1930's.
4. Deeds, Wills and Chancery Cases, Loudoun County Office of the Clerk of the Circuit Court, Leesburg, Virginia.
5. Map of Loudoun County Virginia by Yardley Taylor 1854
6. Map of Fairfax County, Virginia 1748

Appendix D

Zoning Map



- Hillsboro Town Boundary and Historic
- R1 District
- Land Parcels
- * Commercial District

A complete listing of parcels within the Commercial District is on the next page.

TOWN OF HILLSBORO COMMERCIAL PARCEL LIST

PIN: 517-10-4784-000

Address: 36955 Charles Town Pike, Hillsboro, VA 20132

PIN: 517-10-2692-000

Address: 36933 Charles Town Pike, Hillsboro, VA 20132

PIN: 517-10-1295-000

Address: 36929 Charles Town Pike, Hillsboro, VA 20132

PIN: 517-20-1407-000

Address: 36923 Charles Town Pike, Hillsboro, VA 20132

PIN: 517-29-9808-000

Address: NA

PIN: 517-29-9016-000

Address: NA

PIN: 517-29-8020-000

Address: NA

