Code

of the

Town of Bowling Green

County of Caroline

Commonwealth of Virginia

Book Number: _____

Town of Bowling Green

117 Butler Street

Bowling Green, VA 22427

2010

(Recodified and Adopted June 23, 2010)

OFFICIALS OF THE

TOWN OF BOWLING GREEN

DAVID W. STORKE, **Mayor**

Town Council

Vice Mayor GLENN McDEARMON

MARY FRANCES COLEMAN

JEAN DAVIS

GLEN LANFORD

JASON SATTERWHITE

DANIEL WEBB

OTIS WRIGHT

Town Staff

STEPHEN H. MANSTER

Town Manager

VIRGINIA L. BROOKS

Clerk

KATHRYN C. McVAY

Treasurer

Town Hall

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Article I General Provisions

Section 1-100. How Code designated and cited.
The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of the Town of Bowling Green, Virginia," and may be so cited. Such Code may also be cited as the "Bowling Green Town Code."
State law references: Code of Virginia, § 15.2-1433.

Section 1-101. Definitions and rules of construction.
In the construction of this Code and of all ordinances and resolutions of the Town, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Town council or the context clearly requires otherwise:

Generally. The rules of construction given in the Code of Virginia shall govern, so far as applicable, the construction of all words not defined in this section or other sections of this Code.

"And";"or". "And" shall be construed as a conjunction connecting words or phrases expressing the idea that the latter is to be added to or taken along with the preceding. "Or" shall be construed as a disjunctive particle used to express an alternative or to give a choice of one among two or more things.

"Bond". When a bond is required, an undertaking in writing shall be sufficient.

"Charter". The word "Charter" shall mean the Charter for the Town of Bowling Green, as adopted in the 2008 Acts of the Virginia General Assembly, as amended.

"Code". Whenever the term "Code" or "this Code" is used without further qualification, it shall mean the "Bowling Green Town Code."

"Code of Virginia". A reference to the "Code of Virginia" or "Virginia Code" is a reference to Virginia Code, 1950, as amended. A reference to a specific section shall incorporate subsequent amendments thereof and successor sections.

"Computation of time". The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day be Sunday or a legal holiday, that day shall be excluded.

"Council"; "Town council". The term "council" or "Town council" shall mean the duly elected council of the Town of Bowling Green, Virginia.

"County". The terms "the county" and "this county" shall mean the County of Caroline in the Commonwealth of Virginia.

"Domestic Products". Processed, cooked, dried canned or preserved foodstuffs and other agricultural products meant for human consumption, to include but not to be limited to jellies, pickles, herbs, smoked meats, baked goods, candies, canned foods and other prepared edibles; hand-made crafts produced by vendor.

"Farmers' Market". A collection of two (2) or more vendors, selling farm or domestic products, garden produce or nursery products, ornamental or otherwise, which have been grown or produced by the vendor offering the same for sale, in a open-air setting or with temporary or partially enclosed structures.

Gender. A word importing the masculine gender only, shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

"Health department". The words "health department" shall mean the Caroline County Health Department or the duly authorized agent of such department.

"Health officer". The words "health officer" shall mean the director of the Caroline County Health Department or its authorized agent.

"In the Town". The words "in the Town" or "within the Town" shall mean any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the Town by public or private law.

"May"; "shall". The word "may" is permissive and the word "shall" is mandatory.

"Minor". The word "minor" shall mean any person under the age of eighteen (18) years.

"Month". The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

"Oath". The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

"Occupant" or "tenant". The word "occupant" or "tenant," applied to a building or land, shall mean any person who holds a written or oral lease of or who actually or constructively occupies the whole or a part of such building or land, either alone or with others.

"Officers", "boards", "commission", "agency". Whenever reference is made to a particular officer, department, board, commission or other agency, without further qualification, it shall be construed as if followed by the words "of the Town of Bowling Green," unless otherwise specifically provided. Any reference to an officer shall include his designated representative.

Official time standard. Whenever particular hours are specified in this Code, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the Town.

"Owner". The word "owner," applied to any property, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such property.

"Park". All property owned, maintained or operated by the Town of Bowling Green for public recreational use.

"Person". The word "person" shall include any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

"Preceding"; "following". The words "preceding" and "following" mean next before and next after, respectively.

"Sidewalk". The word "sidewalk" shall mean any portion of the street between the curb and the adjacent property line intended for the use of pedestrians.

"Signature" or "subscription" includes a mark when a person cannot write.

"State"; "commonwealth". The terms "the state", "the commonwealth", "this state", and "this commonwealth" shall be construed to mean the Commonwealth of Virginia.

"State Code". References to the "State Code" or the "Code of Virginia" shall mean the Code of Virginia, 1950, as amended.

"Street". The word "street" shall be construed but not be limited to embrace streets, avenues, boulevards, roads, lanes, viaducts, bridges and the approaches thereto and all other public highways in the Town, and shall mean the entire width thereof between abutting property lines.

"Swear", "sworn". The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

Time. Words used in the past or present tense include the future as well as the past and present.

"Town". The words "Town", "the Town", and "this Town" shall mean the Town of Bowling Green, in the County of Caroline, Commonwealth of Virginia.

"Town Hall". Facility located at 117 Butler Street for the administration of Town government and community and recreational activities and meetings as approved by the Town Council.

"Town Manager" means the Manager or his or her designee.

"Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

"Year". The word "year" shall mean a calendar year.

Section 1-102. Catch Lines of the Several Sections

Catch lines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted.

Section 1-103. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

(1) Promising or guaranteeing the payment of money by or for the Town or authorizing the issuance of any bonds or any evidence of indebtedness;
(2) Authorizing or otherwise relating to any contract;
(3) Granting any franchise or right;
(4) Appropriating funds, levying or imposing taxes or relating to an annual budget;
(5) Authorizing, providing for or otherwise relating to any public improvement;
(6) Making any assessment;
(7) Establishing, extending or contracting the corporate limits of the Town;
(8) Authorizing or otherwise relating to the sale or conveyance of Town property;
(9) The purposes of which have been accomplished;
(10) Which is temporary, although general in effect; or
(11) Which is special, although permanent in effect;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Section 1-104. Provisions of Code considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of prior Town codes and ordinances adopted subsequent to such codes and included herein, shall be considered as continuations thereof and not as new enactments.

Section 1-105. Code and new ordinances do not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.

(b) No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform so far as practicable, to the ordinance in force at the time of such proceedings.

Section 1-106. Repeal of ordinance not to revive former ordinance.

When any ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Section 1-107. Supplementation of Code.

(a) By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," “this section.”

Section 1-108. Copies of Code and supplements to be available for public inspection.

At least three copies of this Code and every supplement thereto shall be kept in the office of the Town clerk and shall there be available for public inspection, during normal business hours.

Section 1-109. Severability of parts of Code.

It is hereby declared to be the intention of the Town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a

court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Section 1-110. Classification of and penalties for violations; continuing violations.

(a) Whenever in this Code or any other ordinance of the Town or any rule or regulation promulgated by any officer or agency of the Town, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

(1) Class 1 misdemeanor. By a fine of not more than $2,500.00, or by confinement in jail for not more than 12 months, or by both such fine and confinement.

(2) Class 2 misdemeanor. By a fine of not more than $1,000.00, or by confinement in jail for not more than six months, or by both such fine and confinement.

(3) Class 3 misdemeanor. By a fine of not more than $500.00.

(4) Class 4 misdemeanor. By a fine of not more than $250.00.

(b) Whenever in any provision of this Code or in any other ordinance of the Town or any rule or regulation promulgated by an officer or agency of the Town, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed herein.

(c) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(d) Any conflict between this article, Chapter 1, Article I, Section 1-110, of the Code of the Town of Bowling Green and the Code of Virginia, the Code of Virginia shall prevail.

Section 1-111. Penalty and interest for failure to pay accounts when due.

Any person failing to pay any account due the Town on or before its due date shall incur a penalty thereon of ten percent (10%), added to the total amount of the account due. No penalty shall be imposed for failure to pay any account if such failure was in no way the fault of the debtor. Interest at the rate of ten percent annually from the first day following the day such account is due may be collected on the principal and penalty of all such accounts.

Section 1-112. Fee for passing bad checks to the Town.

There is hereby established a fee of twenty-five dollars ($25.00) for the writing, uttering, publishing, or passing to the Town of any check or draft for payment of taxes or any other sums due the Town, which check or draft is subsequently returned for insufficient funds or because there is not account or the account has been closed. This fee shall be imposed on the person on whose account such check or draft was delivered to the Town.

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CHAPTER 2: ADMINISTRATION OF GOVERNMENT

Article I Town Seal, Town Council, Mayor

Division 1 Generally

Section 2-100. Town seal.
(a) There is adopted, as the seal of the Town, two (2) embossed concentric circles between which shall be embossed the words "Town of Bowling Green, Virginia." The area within the inner circle shall include the words "SETTLED 1667" at the top and at the bottom "INCORPORATED 1837".
(b) No one shall be permitted to use, publish, duplicate, sale or distribute materials bearing the Town seal without the prior approval of Town Council.

Section 2-101. Town Council, Terms of Office, Elections.
(a) Except as otherwise provided in the Town Charter, all powers of the Town and the administration and government thereof shall be vested in the Council and such boards or officers as are hereafter mentioned or as may be by law otherwise provided.
(b) An election shall be held on the first Tuesday of May, 2008, and every two years thereafter. At the election to be held in May, 2008, the candidate for the office of mayor receiving the highest number of votes shall be elected for a term of four years; the four candidates for councilmen receiving the highest number of votes, respectively, at such election shall be elected for a term of four years, and the three candidates receiving the next highest number of votes, respectively, at such election shall be elected for a term of two years; in the event that the three councilmen receiving the next highest number of votes cannot be determined because of a tie in the vote, the candidates who have tied in the votes shall draw lots to determine who shall serve a two-year term. Thereafter, as the terms of the mayor and the members of council, respectively, expire, their successors shall be elected for terms of four years. The mayor and councilmen elected at such elections shall enter upon their duties the first day of July next succeeding. Any vacancies on the council occurring other than by expiration of terms shall be filled, from the electors of the Town, for the unexpired term, by a majority vote of the remaining members of the council.
(c) The council shall judge of the election, qualification, and returns of its members; and, with the concurrence of two-thirds, expel a member, for cause. If any person returned be adjudged disqualified or be expelled, a new election to fill the vacancy shall be held on such day as the council may prescribe. Any vacancy occurring otherwise during the term for which such person was elected shall be filled by the council by the appointment of anyone eligible to such office. A vacancy in the office of mayor shall be filled by the council from the electors of the Town, and any member of the council may be eligible to fill such vacancy.
(d) A majority of the members of the council shall constitute a quorum for the transaction of business.

Section 2-102. Compensation of Town Council and Mayor.
(a) Each member of the council shall receive a salary in an amount established by council, payable as the council may direct, provided no increase in salary of a council member shall take effect during the incumbent council member's term in office, but this restriction shall not apply when the council members are elected for staggered terms.

(b) The Mayor shall receive a salary in an amount established by council, payable as the council may direct, but no increase in the mayor's salary shall take effect during the incumbent mayor's term in office.
State law references: Code of Virginia, § 15.2-1406

Section 2-103. Establishment of council committees.
The mayor may establish such committees as he deems necessary in carrying out the Town functions.

Division 2 Council Meetings

Section 2-110. Time and place of regular meetings.
The Town council shall each year at its first meeting in July adopt a resolution establishing the day, time and place of its regular meetings to be held during the ensuing months. Unless otherwise provided in the annual resolution, the Town council shall meet in regular session on the first Thursday of each month and the meeting shall be called to order at 7:30 p.m.
State law references: Code of Virginia, § 15.2-1416.

Section 2-111. Order of proceedings; consent agenda.
(a) Town council may establish an agenda format to reflect its order of proceedings by resolution. Any such resolution to change the agenda format shall not be effective until the next regularly scheduled or adjourned meeting of council.
(b) Any such agenda format established by council shall include a consent agenda, which shall include by way of illustration, but not by limitation, the following:
(1) Approval of minutes.
(2) First readings of proposed ordinances and scheduling of public hearings and second readings thereof.
(3) Reports of staff members, department heads and committees.
(4) Resolutions and/or motions appointing persons to boards, committees, posts and commissions.
(5) Resolutions authorizing interdepartmental budget transfers.
(6) Acceptance of reports and petitions and scheduling of public hearings thereon.
(7) Resolutions accepting dedication of streets and/or utilities.
(8) Any item believed by the Town manager to be routine and not controversial in nature.
(c) Any member of Council may by request have any item removed from the consent agenda, which item shall then be discussed as new business on the regular agenda.
(d) A single motion and roll call vote in favor thereof shall approve all items remaining on the consent agenda.
State law references: Code of Virginia, § 15.2-1427.

Section 2-112. Addressing council.
No person who is not a member of the Town council shall address it during public addresses, unless recognized by the mayor, and at other times, unless granted permission by majority consent of the council.

Section 2-113. How debate conducted.
The question shall be stated by the chair before it is debated. In any debate no member shall speak more than once on the same question until all others have spoken who desire to do so, or more than twice upon the same question, except by consent of the council.

Section 2-114. Calling for aye and nay vote.
The ayes and nays on any question may be called for at any time before proceeding to any other business, and shall be ordered upon the demand of any three (3) members of the council.

Section 2-115. How questions determined.
(a) No action of the council, except adjournment, shall be valid or binding unless adopted by the affirmative vote of four or more members of the council.
(b) No ordinance or resolution appropriating money exceeding the sum of $500, imposing taxes, or authorizing the borrowing of money shall be passed except by a recorded affirmative vote of five members.
(c) No rights in and to any streets, avenues, parks, bridges, or other public places, or gas, water, or electric works shall be sold except by ordinance or resolution passed by a recorded affirmative vote of three-fourths of all elected members.
(d) No tax shall be imposed except by a two-thirds vote of the council members.
(e) On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.
(f) All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.
(g) An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.
(h) An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.
(i) An emergency ordinance may be adopted by the Town Council without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of the Code.
State law references: Article VII, § 9, Virginia Constitution.

Section 2-116. Motion to reconsider.
No motion to reconsider a question which has been decided shall be entertained unless it is made by a member who voted with the prevailing side, and unless the motion to reconsider is made at the same meeting of the council or any adjournment thereof or the next subsequent meeting to that at which the question to be reconsidered was decided. All motions to reconsider shall be decided by a majority vote of the members present.

Section 2-117. Motion to adjourn.
(a) The motion to adjourn shall always be in order, except:
(1) When a member has the floor;
(2) When the ayes and nays are being called;
(3) When the previous question has been ordered; or
(4) When a motion to adjourn has been put and lost without any other business intervening.
(b) No motion to adjourn shall be debatable.

Section 2-118. Robert's Rules of Order.
Robert's Rules of Order shall govern in the deliberations of the council, except as otherwise provided by ordinance or resolution.

Section 2-119. Suspension of rules.
The council may temporarily suspend any of its rules by a vote of two-thirds of the members present.

Article II Officers and Employees Generally

Section 2-200. Tenure of officers and employees.
All appointments of officers and hiring of other employees shall be without definite term, unless for temporary services not to exceed one year, or except as otherwise provided by general law or special act.
State law references: Code of Virginia, § 15.2-1503(A).

Section 2-201. Authority of deputies, assistants and acting officers and employees.
(a) Authority vested in and duties imposed upon Town officers by state law, the Town Charter, this Code or other ordinances and resolutions of the Town council may be exercised or performed by their deputies, assistants and other subordinates, to the extent not prohibited by state law, the Town Charter, this Code or other ordinance or resolution of the Town council.
(b) When any Town officer or employee is absent or disabled, or when any office or position in the Town government is vacant, the person designated by competent authority to act in the place of such absent or disabled Town officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or appertaining to such vacant office or position.
State law references: Code of Virginia, § 15.2-1502.

Section 2-202. Participation in Virginia retirement system.
(a) The Town may participate in the Virginia Retirement System and all full-time pay plan officers and employees, and all part-time pay plan employees working an average of 30 or more hours per week may be members of the Virginia Retirement System.
(b) The Town council may, each year, appropriate sufficient funds to make its required employer contributions to the board of trustees of the Virginia supplemental retirement system. All such contributions shall be paid by the Town manager or his designee to such board of trustees in compliance with rules, regulations and procedures established by that board.
(c) The Town manager shall be responsible for the performance by the Town of all duties imposed upon the Town and its member officers and employees under the applicable provisions of the Code of Virginia. The Town manager may assign to the Town clerk, treasurer, finance director or other Town employees specific duties in this connection.

Section 2-203. Right of entry for purposes of inspection.
Whenever any officer or employee of the Town is required or authorized by state law, the provisions of this Code or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his or her duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle in accordance with law at any reasonable time in pursuance of such duties.

Article III Specific Officers

Section 2-300. Town manager.

(a) The Town manager, as the chief administrative officer of the Town as provided in the Charter, shall be the administrative head of the Town and shall be responsible for the proper management of all the affairs of the Town which the governing body has authority to control.

(b) The Town manager, unless otherwise provided by general law, charter, or by ordinance or resolution of the Town, shall:

(1) Enforce all ordinances, resolutions, directives and orders of the Town council and all laws of the Commonwealth required to be enforced through the Town council or officers subject to the control of the Town council are faithfully executed;

(2) Make reports to the Town council from time to time as required or deemed advisable upon the affairs of the Town under the manager's control and supervision;

(3) Receive reports from and give directions to all heads of offices and departments of the Town under the manager's control and supervision;

(4) Submit to the Town council a proposed annual budget, in accordance with general law, with the manager's recommendations;

(5) Execute the budget as finally adopted by Town council;

(6) Keep the Town council fully advised on the Town's financial condition and its future financial needs;

(7) Appoint all officers and employees of the Town, except as the manager may authorize the head of an office or department responsible to the Town manager to appoint subordinates in such office or department.

(c) The Town manager, or his or her designee, is authorized to obtain criminal history record information from the Central Criminal Records Exchange of the Department of State Police on all applicants for employment, permit, or license with the Town to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license.

(d) Except as otherwise provided by law, Charter or ordinance, the Town manager or his or her designee shall be authorized to make and execute, during the ordinary course of business and within the limitations of appropriations, all contracts on behalf of the Town.

State law references: Code of Virginia, §§ 15.2-1536, 15.2-1540, 15.2-1541, 19.2-389.

Section 2-301. Town clerk.

(a) The Town clerk shall have such powers and perform such duties as may be prescribed by state law, the Charter, this Code and other ordinances and resolutions of the Town council.

(b) No record or other item of personal property of the Town shall be removed from the office of the Town clerk except by the Town clerk’s authority, and for which the clerk may require a written receipt, or by authority of the Town council, the Town manager or a valid subpoena duces tecum issued by a court, tribunal, officer or other body having competent jurisdiction.

Section 2-302. Town attorney.

(a) The Town council may retain the services of a member of the bar of the Commonwealth, or a law firm or partnership of two (2) or more members of the bar of the commonwealth, and the person, firm or partnership so retained shall be known as the Town attorney.

(b) The Town attorney shall be the legal advisor to the Town council and its committees and to the mayor, the Town manager and other officers of the Town, and when requested, shall furnish written or verbal opinions upon any subject involving questions of law in which the Town is interested.

(c) It shall be the duty of the Town attorney to draft all bonds, deeds, obligations, contracts, leases, conveyances, agreements and other legal instruments, of whatever nature, which may be required by any ordinance or order of the Town council, or which, by law, usage or agreement, should be drawn by the Town. It shall also be the Town attorney's duty to commence and prosecute all actions and suits to be brought by the Town before any tribunal in this commonwealth, or to request the appointment of other counsel for such purpose, also to appear, defend and advocate the rights and interests of the Town in any suit or prosecution brought against it, and the Town attorney shall perform such other duties as are or may be required for the Town under his or her contract therewith or by any ordinance or resolution of the Town council.
(d) The Town attorney, in consultation with the Town manager, shall have the authority to compromise and settle disputes, claims and controversies involving the interests of the Town, and to discharge any such claims; provided that, where any proposed compromise or settlement involves the payment of more than one thousand dollars ($1,000.00) by the Town. The Town attorney shall obtain the approval of the Town council for such payment. The Town attorney in consultation with the Town manager is authorized to deny any claim against the Town, its officers, officials, agents, or employees, for any reason supported by the law.
(e) The Town attorney is authorized, with the concurrence of the Caroline County Commonwealth's Attorney, to prosecute criminal cases charging the violation of Town ordinances.
State law references: Code of Virginia, §§ 15.2-1536, 15.2-1542.

Section 2-303. Claims procedure.
(a) Persons proposing to make a claim against the Town, its officers, officials, agents, or employees, for injury to person or property or for wrongful death, alleged to have been sustained by reason of the negligence of the Town, its officers, officials, agents, or employees, shall file within six (6) months after the injury or damage is alleged to have occurred, with the mayor, Town manager, or Town attorney, a written statement of the nature of the claim and of the time and place at which the injury or damage is alleged to have occurred.
(b) The claim notice shall be transferred to the Town attorney who shall cause a factual investigation to be made of the claim, research the law governing the claim, and in consultation with the Town manager, deny or offer to settle the claim or make a recommendation with respect thereto, in accord with the Code.
(c) In reviewing any such claim, the Town attorney shall consider any available insurance coverage and shall utilize such coverage when the Town attorney shall deem such course in the best interest of the Town, its officers, officials, agents, or employees.
(d) Settlement or denial of claims, or recommendations with respect thereto, shall be in accord with official written policies or ordinances of this council or law of the commonwealth and United States of America, as determined by the Town attorney, as appropriate.

Section 2-304. Director of Finance, Town Treasurer.
The director of finance and Town treasurer shall have such powers and perform such duties as may be prescribed by state law, the Charter, this Code and other ordinances and resolutions of the Town council.

Section 2-305. Signatures on Town checks.
All checks drawn against the Town shall be signed by the Town Treasurer and the Mayor.

Section 2-306. Payment by credit or debit card.
The Treasurer is authorized to accept payments of local taxes, other fees, or charges generated by the sale of utility services by use of a credit card or debit card. A fee shall be established by Town Council for the acceptance of payments by credit card or debit card.
State law references: Code of Virginia, § 58.1-3013.

Article IV Town Departments

Section 2-400. Parks, Recreation Activities.
This Article shall apply to all park and recreational property owned, maintained or operated by the Town of Bowling Green, Virginia, including but not limited to Town Hall and Dickinson Park. The Town Manager may promulgate rules and regulations for use of park areas and facilities.
State law references: Code of Virginia, § 15.2-1800.

Section 2-401. Rules and Regulations for Use of Parks, Recreation Facilities.
(a) No person, except an employee in the performance of his or her assigned duties, shall in any manner pick, pull, pull up, tear, tear up, dig, dig up, cut down, break, burn, injure, deface, disturb, destroy, mutilate, disfigure, remove, scar, take or gather, in whole or in part, any part of any park, building, sign, equipment or other property, including but not limited to any tree, flower, fern, shrub, vine, turf, plant, rock, artifact, fossil or mineral found growing or being a part of the land of any park, recreation facility or Town Hall. Notwithstanding any other provision in this section to the contrary, the Town Manager may issue permits, in writing, to permit collecting, for scientific and/or educational purposes, trees, flowers, ferns, shrubs, vines, turf, plants, rocks, artifacts, fossils or minerals or any part thereof in any park.
(b) No person, except an employee in the performance of his or her assigned duties, shall deposit, dump, place or abandon any garbage, refuse or trash not generated in a park in any park refuse container.
(c) No person, other than any law enforcement officer, emergency service person or Town employee in the course of his respective employment, shall have in his possession in any park or Town facility any firearm or other gun, including an air- or gas-powered gun, slingshot, bow and arrow, crossbow, dart device, boomerang or any other device for high-speed missile projection, except in areas designated and posted by the Town as areas in which one or more of these devices are permitted for recreational use.
(d) No person, except an employee in the performance of his or her assigned duties, shall erect or post within any park any sign, notice or advertisement of any nature, nor shall any person operate any musical instrument, radio, talking device, phonograph, tape recorder or drum or make any noise for the purpose of attracting attention to any exhibition of any kind within a park without prior written permission from the Town Manager.
(e) No person, except a law enforcement officer or Town employee in the course of his respective employment, shall enter or remain in any park except during such hours as designated and posted by the county as hours of operation. Those hours of operation will be dawn to dusk, unless it is an event scheduled by the Town Manager. All activity must be completed by 12:00 midnight. This may be waived if conditions warrant and written permission is given by the Town Manager.
(f) No person, except an employee in the performance of his or her assigned duties, shall kindle, build, maintain or use a fire other than in grills and in places provided and/or designated by the county for such purpose, except by prior written permission from the Town Manager.
(g) No person, except an employee in the performance of his or her assigned duties, shall sell or offer for sale, hire, lease or let out any object or merchandise, property, privilege, service or any other structure whatsoever without prior written permission from the Town Manager.

(h) Any person who violates any of the provisions of this article shall be deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,500 or imprisoned for a term not to exceed 12 months.

Section 2-402. Additional Rules and Regulations for Use of Town Hall.

(a) The following services are hereby required at the functions and events listed below, when conducted or held at Town Hall, and the fees for such services are hereby established, as follows:

(1) The presence of a police officer shall be required at all events at which alcohol beverages are served. The person or organization sponsoring such dances shall pay the fees established by Town Council in the manner therein prescribed for the presence of such police officer. Such police officer must be approved by the Town Police Chief.

(2) The presence of an event supervisor shall be required during the use of Town Hall and said event supervisor must be approved by Town Manager. All events involving individuals under the age of 18 years shall include a chaperone for every ten (10) individuals under the age of 18 years. Said chaperones must be over the age of 21 years.

(3) The services of a custodian shall be required at any function or event at Town Hall when the Town Manager determines that the function will require clean-up and set-up beyond the usual work required for custodial upkeep of the building so used. The person or organization using such building in such a manner to require such additional custodial service shall pay a fee as established by Town Council and shall be paid to the Town of Bowling Green.

(4) Payment of fees shall be made prior to the use of such Town facility or building or part thereof, or prior to participation in any league, program, or event sponsored by the Town. These fees shall be paid to the Town Manager or his authorized designee.

(b) Town Council may approve the free use of Town Hall or any Town park or property by a non-partisan non-profit organization when such use is not in conflict with any event, activity or project sponsored by the Town. Written documentation of the organization's 501(c)(3) status shall be provided to the Town Manager at least ten (10) days prior to the meeting of Town Council at which free use for the organization will be considered.

Section 2-403. Planning and Zoning Administration, Building Official.

(a) The Town Manager shall serve as the Planning Director and Zoning Administrator for the Town and shall be responsible for administering land use, zoning and building regulations for the Town. In this capacity, the Planning Director-Zoning Administrator shall have staff and assistants as the Town Council may from time to time authorize.

(b) The duly authorized Caroline County Building Official shall serve and hereby has the authority and power of Building Official as the Town of Bowling Green Building Official.

Section 2-404. Fee for review of site development plans; when payable.

(a) The fees charged by the Town for planning and building shall be as established in this code or by a fee schedule in the budget ordinance or amendments thereto. Fees shall remain at the level established until amended by ordinance.

(b) Fees shall be due and payable at the time each application is submitted.

Section 2-405. Public Utilities and Public Works Department.

(a) There is created the department of public utilities and public works of the Town. This department shall provide the functions of public utility facilities construction, operation, maintenance, and repair; maintenance and operation of general properties; street construction maintenance and repair; and landscaping, horticulture, and tree preservation.

(b) There shall be a director of public utilities and public works who shall be appointed by the Town manager. The director of public utilities and public works shall be the administrative head of this department and shall have such staff and assistants as the Town council may from time to time authorize.
(c) The department of public utilities and public works shall be under the supervision and control of the Town manager and the director of this department shall report directly to the Town manager.

Section 2-406. Department of Police; Police Chief.
(a) The police force shall have such personnel who shall hold such ranks as from time to time may be provided by the Town Council; and the organization of the police force shall be as from time to time provided by the Town Council or as prescribed in the rules and regulations of the police force.
(b) The Chief of Police, under the direction of the Town Manager, shall be commanding officer of the police force and shall be responsible for the administration, training, discipline and morale of the members of the force and their effective deployment and employment to preserve and maintain law and order in the Town and to enforce therein all applicable provisions of state law, the Town Charter, this Code and other ordinances and resolutions of the Town Council and such other responsibilities as may be designated by the Town Manager.
(c) The Chief of Police and such other members of the police force for whom uniforms or badges may be prescribed by the Town Council shall at all times while on duty wear such uniform and badge as so prescribed. There shall be no modification of the uniform or badge without the consent and approval of Town Council.
(d) The Town Manager, in consultation with the Chief of Police, shall prepare rules and regulations for the police force of the Town not inconsistent with state law, the Town Charter, this Code or other ordinance of the Town and shall submit them to the Town Council. When any such rules and regulations, so prepared, have been approved by resolution of the Town Council and placed on file in the office of the Town Clerk, with a copy thereof placed on file in the headquarters of the police force for the information of all members of the force, it shall be unlawful for any such member to violate or fail to comply with any such rule or regulation.

Section 2-407. Arts Commission created; composition, appointment, terms of office.
(a) A Bowling Green Arts Commission may be appointed by the Town Council. Citizens of the Town of Bowling Green and the County of Caroline are eligible for appointment. The term of office shall be two years beginning on July 1 of the year of appointment. All terms of office shall be served from July 1 to June 30 of the second year of service.
(b) The Bowling Green Arts Commission shall serve as advisor to the Bowling Green Town Council in matters related to the development and encouragement of the arts in the community. The Bowling Green Arts Commission shall have no independent authority to hold events, collect fees or raise funds without the prior consent of the majority of Town Council.
(c) A written report shall be submitted to the Town Manager on a quarterly basis beginning October 1 of each year.

CHAPTER 3: LAND USE AND BUILDINGS

Article I Zoning Ordinance

Division 1 Enabling Provisions

Section 3-100. Statutory authority.

(a) Whereas, by act of the General Assembly of Virginia as provided in Chapter 22, § 15.2-2280 through § 15.2-2327, Code of Virginia 1950, as amended, the governing body of any municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape and size as it may deem best suited to carry out the purposes of this article, and, in each district, it may regulate, restrict, permit, prohibit and determine the following:

(1) The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, floodplain and other specific uses.

(2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures.

(3) The areas and dimensions of land, water and air space to be occupied by buildings, structures and uses and of courts, yards and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used.

(4) The excavation or mining of soils or other natural resources.

Section 3-101. Adoption; purpose.

(a) Therefore, be it ordained by the Town Council of Bowling Green, Virginia, for the purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2280, Code of Virginia 1950, as amended, that the following be adopted as the Zoning Ordinance of Bowling Green, Virginia, together with the accompanying map. This article has been designed:

(1) To provide for adequate light, air, convenience of access and safety from fire, flood and other dangers.

(2) To reduce or prevent congestion in the public streets.

(3) To facilitate the creation of a convenient, attractive and harmonious community.

(4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements.

(5) To protect against destruction of or encroachment upon historic areas.

(6) To protect against one or more of the following:

[a] Overcrowding of land.

[b] Undue density of population in relation to the community facilities existing or available.

[c] Obstruction of light and air.

[d] Danger and congestion in travel and transportation.

[e] Loss of life, health or property from fire, flood, panic or other dangers.

(7) To encourage economic development activities that provide desirable employment and enlarges the tax base.

Division 2 Definitions

Section 3-103. Word usage.

(a) For the purpose of this article, certain words and terms are defined as follows:

(1) Words used in the present tense include the future.

(2) Words in the singular include the plural, and the plural includes the singular.

Section 3-104. Definitions.

As used in this article, the following terms shall have the meanings indicated:

"Abattoir" means a commercial slaughterhouse.

"Accessory Use or Building" means a detached (freestanding) subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building. Private swimming pools associated with single-family residential units only and able to contain more than two feet of water shall be considered an "accessory use."

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

"Administrator" means the official charged with the enforcement of the Zoning Ordinance. He may be any appointed or elected official who is, by formal resolution, designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

"Agriculture" means the tilling of the soil, the raising of crops, horticulture, forestry, but not gardening, including the keeping of animals and fowl.

"Alley" means a permanent public service way providing a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

"Alteration" means any change in the total floor area, use, adaptability or external appearance of any existing structure.

"Animal Hospital or Clinic" means an establishment where treatment of animals is received and no activity is conducted outside the main building. Kennels are not included in this definition.

"Apartment House" means a building used or intended to be used as the residence of three or more families living independently of each other.

"Automobile Graveyard" means any lot or place which is exposed to the weather upon which more than three motor vehicles of any kind incapable of being operated are placed, located or found.

"Basement" means a story having part but not more than 1/2 of its height below grade. A basement shall be counted as a story for the purpose of height regulations.

"Bed and Breakfast Establishment" means a dwelling unit occupied by its owners or caretakers where not more than six (6) rooms are occasionally rented out to travelers for compensation without a provision for cooking in the room and offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided; a bed and breakfast establishment shall be an accessory use to the primary residential use of the property.

"Board" means the Board of Zoning Appeals of the Town of Bowling Green.

"Building" means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or property of any kind.

"Building, Accessory" means a subordinate structure customarily incidental to and located on the same lot occupied by the main structure. No such accessory building, except a guest house, shall be used for living quarters.

"Building, Height of" means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the building to the highest point of the roof if a flat roof, to the deckline of a mansard roof or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

"Building, Main" means the principal building or one of the principal buildings on a lot or the building or one of the principal buildings housing the principal use on the lot.

"Cellar" means a portion of a building having more than 1/2 of its height below grade. Such space shall not be counted as a story.

"Clinic" means an establishment where human patients who are not lodged overnight are admitted for examination or treatment by physicians, dentists or other professionals licensed by the State Board of Medicine.

"Commercial Vehicle" means any vehicle with a rated carrying capacity exceeding 1,500 pounds (3/4 ton), and any vehicle, regardless of capacity, which displays advertising lettered thereon or which is licensed as a for-hire vehicle. For the purpose of this article, "commercial vehicles" shall not be deemed to include any farm vehicle or equipment located on property used for agricultural purposes, motor home, camping trailer, boat, boat trailer, horse trailer or similar recreational equipment recognized as personal property and not for hire and/or any public or private vehicle used exclusively for the transportation of persons to and from a school, place of religious worship or activities related thereto and/or any vehicle owned by a public service corporation or similar utility used for emergency response by an employee on a temporary basis.

"Commission" means the Planning Commission of Bowling Green, Virginia.

"Dairy" means a commercial establishment for the manufacture or retail sale of dairy products.

"Day-Care Center" means a structure, including a private residence, which receives for care, maintenance and supervision more than five children for fewer than 18 hours per day unattended by a parent or legal guardian. Temporary seasonal religious schooling is exempt.

"District" means Districts as referred to in the Code of Virginia, § 15.2-2280.

"Dwelling" means any building which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses, tourist cabins, apartments, recreational vehicles and mobile homes.

"Dwelling, Multiple-Family" means a building arranged or designed to be occupied by more than two families, said building having more than two dwelling units.

"Dwelling, Single-Family" means a building arranged or designed to be occupied by one family, the structure having only one dwelling unit; excludes mobile home, as defined.

"Dwelling, Two-Family" means a building arranged or designed to be occupied by two families, the structure having only two dwelling units.

"Dwelling Unit" means one or more rooms in a dwelling designed for living or sleeping purposes and having one kitchen.

"Dump Heap (Trash Pile)" means any area of 100 square feet or more lying within 1,000 feet of a public right-of-way, state highway, a residence, dairy barn or a food-handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

"Easement" means a grant by property owners of the use of land for a specific purpose or purposes.

"Family" means one or more persons occupying a premises and living in a single-family unit, as distinguished from an unrelated group occupying a boardinghouse, lodging house, tourist home or hotel.

"Family Care Home", "Foster Home" or "Group Home" means a residential structure established to serve mentally retarded or other developmentally disabled persons not related by blood or marriage.

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

"Garage, Private" means an accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the "private garage" may be designed and used for the storage of 1 1/2 times as many automobiles as there are dwelling units.

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

"Garden Apartment" means a dwelling unit situated within a structure consisting of no more than three stories with access to the dwelling units provided by means of an interior hallway or foyer, each dwelling unit normally consisting of a portion of one floor of the structure.

"Gasoline Service Station" means any area of land, including structures thereon, or any building or part thereof, that is used for the retail sale of gasoline or other motor vehicle fuel or accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles.

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

"Golf Driving Range" means a limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

"Governing Body" means the Town Council of Bowling Green, Virginia.

"Guest Room" means a room which is intended, arranged or designed to be occupied or which is occupied by one or more guests paying direct or indirect compensation therefore but in which no provision is made for cooking. The owner of the premises must reside in the structure.

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

"Home Occupation" means:

(a) Any occupation, profession, enterprise or activity conducted by one or more members of a family on the premises, which is incidental and secondary to the use of the premises for dwelling, provided that:

(1) Not more than the equivalent area of one quarter of one floor shall be used for such purpose;

(2) Such occupation shall not require external or internal alterations, or the use of machinery or equipment not customary for domestic household purposes;

(3) No commodity is stored or sold, except such as are made on the premises or sold through catalog sales for home delivery;

(4) There shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling;

(5) Not more than one person, other than the family, is employed.

(b) When within the above requirement, a home occupation includes, but is not limited to the following:

(1) Art studio;

(2) Dressmaking;

(3) Professional office of a physician, dentist, lawyer, engineer, architect, accountant, salesman, real estate agent, insurance agent, or other similar occupation.

(4) Teaching, including musical instruction, limited to one or two pupils at a time.

(c) However, a home occupation shall not be interpreted to include the conduct of nursing homes, convalescent homes, rest homes, restaurants, tea rooms, tourist homes, massage parlor or similar establishments offering services to the general public.

"Hospital" means an institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

"Hospital, Special Care" means an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

"Hotel" means a building designed or occupied as the more or less temporary abiding place of 10 or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

"Junkyard" means the use of any area of land lying within 100 feet of a public right-of-way, a state highway or the use of more than 200 feet of land area in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard" as defined in § 33.1-348 of the Annotated Code.

"Kennel" means a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

"Lot" means a parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by this article and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

"Lot, Corner" means a lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

"Lot, Depth of" means the average horizontal distance between the front and rear lot lines.

"Lot, Double-Frontage" means an interior lot having frontage on two streets.

"Lot, Interior" means any lot other than a corner lot.

"Lot of Record" means a lot which has been recorded in the Clerk's office of the Circuit Court of Caroline County.

"Lot, Width of" means the average horizontal distance between side lot lines.

"Manufacture" and/or *"Manufacturing"* means the processing and/or converting of unfinished materials or products, or either of them, into articles or substances of different character or for use for a different purpose.

"Manufactured Home" means a structure, subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure.

"Mixed-Use Development" means a combination on one lot of two or more principal uses.

"Mobile Home", "Automobile Trailer" or "Tent" means any vehicle, tent or similar easily movable or portable structure supported on wheels, jacks, skids or skirting or on any other type of foundation and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

"Mobile Home Park" means any area designed to accommodate two or more mobile homes intended for residential use where residence is in mobile homes exclusively.

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

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

"Nonconforming Uses (Activity)" means the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this article for the district in which it is located, either at the effective date of this article or as a result of subsequent amendments to the article.

"Off-Street Parking" means space provided for vehicular parking outside the dedicated street right-of-way.

"Public Water and Sewer Systems" means a water or sewer system owned and operated by a municipality or county or owned and operated by a private individual or a corporation properly licensed by the State Corporation Commission and subject to special regulations as herein set forth.

"Recreational Vehicle" means vehicular-type structure designed as temporary living accommodations for recreation, camping and travel use. There are four basic types of "recreational vehicles": travel trailers, motor homes, truck campers and camping trailers.

"Required Open Space" means any space required in any front, side or rear yard.

"Restaurant" means any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops or refreshment stands.

"Retail Stores and Shops" means buildings for display and sale of merchandise at retail or for the rendering of personal services, but specifically exclusive of coal, wood and lumberyards, such as the following, which will serve as illustration: drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop.

"Sawmill, Temporary" means a portable sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

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

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

(a) *"Business"* means a business sign which directs attention to a product, commodity or service available on the premises.

(b) *"Home Occupation"* means a sign directing attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

(c) *"General Advertising"* means a sign which directs attention to a product, commodity or service available other than on the premises, generally throughout the country.

(d) *"Location"* means a sign which directs attention to the exact or approximate location of an establishment from which the advertised product may be obtained.

(e) *"Directional"* means a sign (one end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called; giving the name of the firm, business or service available.

"Sign Structure" includes the supports, uprights, bracings and/or framework of any structure, be it single-faced, double-faced, V-type or otherwise, exhibiting a sign.

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

"Special Events Facility" means a facility used on an intermittent basis for invitation-only activities including but not limited to weddings, receptions, picnics, barbecues, dances, parties, reunions, and banquets where the general public is not invited.

"Store" - See "retail stores and shops."

"Story" means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

"Story, Half" means a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

"Street Line" means the dividing line between a street or road right-of-way and the contiguous property.

"Street" or "Road" means a public thoroughfare which affords principal means of access to abutting property.

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

"Tourist Court", "Auto Court", "Motel", "Cabins" or "Motor Lodge" means one or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space provided on the premises. Cooking facilities may be provided for each unit.

"Townhouse" means at least three and not more than six attached dwelling units forming a continuous structure, each being separated by common or party walls of masonry construction void of fenestration or means of ingress or egress from basement to roof, with individual exterior entrances at grade for front and back, and with not more than three "Townhouses" or dwelling units having the same front yard setback.

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

"Use, Accessory" means a subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

"Variance" means a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk or location of a building or structure when the strict application of the article would result in unnecessary or unreasonable hardship to the property owner and such need for a "variance" would not be shared generally by other properties, and provided that such "variance" is not contrary to the intended spirit and purpose of the article and would result in substantial justice being done. Such peculiar condition shall be related to the property and not be the result of action of the applicant.

"Wayside Stand", "Roadside Stand" or "Wayside Market" means any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the occupant or his family on the property.

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

(a) *"Front"* means an open space on the same lot as a building, such space located between the front line of the building, exclusive of steps, and the front lot or street line and extending across the full width of the lot.

(b) *"Rear"* means an open, unoccupied space on the same lot as a building, such space located between the rear line of the building, exclusive of steps, and the rear line of the lot and extending the full width of the lot.

(c) *"Side"* means an open, unoccupied space on the same lot as a building between the side line of the building, exclusive of steps, and the side line of the lot and extending from the front yard line to the rear yard line.

Division 3 Districts

Section 3-106. Establishment of districts.

(a) For the purpose of this article, the incorporated area of Bowling Green, Virginia, is hereby divided into the following districts:

(1) Agricultural/Conservation/Historic Preservation District A-1
(2) Residential District R-1
(3) Residential District R-2
(4) Residential District R-3
(5) Planned Unit Development District PUD
(6) Business District B-1
(7) Business District B-2
(8) Industrial District M-1
(9) Chesapeake Bay Preservation Overlay District CBPD

Division 4 Agricultural District A-1

Section 3-108. Intent.

The general intent of this district is to recognize the need for the protection of agricultural, forestry and open space areas while allowing certain uses that blend into the land.

Section 3-109. Permitted uses.

(a) In the Agricultural District A-1, structures to be erected or land to be used shall be for the following uses:

(1) Single-family dwellings.
(2) Public utilities.
(3) Agriculture.
(4) Cemeteries.
(5) Conservation areas and parks.
(6) Country clubs and golf courses.
(7) Home occupations.
(8) Manufactured homes.
(9) Nurseries and greenhouses.
(10) Vineyards and wineries.

Section 3-110. Permitted accessory uses. (Reserved)

Section 3-111. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Bed and Breakfast Establishment.
(2) Special Events Facility.

Section 3-112. Specifications and Requirements.

(a) Area. The minimum lot size shall be three acres.

(b) Setback. Structures shall be located 35 feet from any street right-of-way which is 50 feet in width or greater. If the right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. This shall be known as the "setback line."

(c) Frontage.

(1) Lots of five acres or more shall have a minimum lot width of 250 feet.

(2) Lots of three acres or more but less than five acres shall have a minimum lot width of 200 feet.

(d) Yards.

(1) Side. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

(2) Rear. The minimum rear yard for each main structure shall be 35 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

(e) Height. Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

(1) The height limit for buildings may be increased to 45 feet and three stories, provided that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height above 35 feet.

(2) Chimneys, flag poles, flues, monuments, silos and water towers may be erected to a total height of 60 feet from grade.

(3) No accessory building which is within 15 feet of a side or rear lot line shall be more than one story in height. All accessory buildings other than barns shall be less than the main building in height.

(f) Corner lots.

(1) Of the sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting the street.

(2) No structure shall be located closer than 35 feet to a side street.

Division 5 Residential District R-1

Section 3-113. Intent.

This district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and at the same time permit certain home occupations and/or activities of a character unlikely to develop concentrations of traffic, noise, crowds of customers or outdoor advertising. To these ends, development is limited to relatively low concentration, and permitted uses are limited basically to single-unit dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches and certain public and private facilities that do not detract from this low-intensity residential use. Manufactured homes as residences are prohibited.

Section 3-114. Permitted uses.

(a) Only one main building and its accessory buildings may be erected on any lot or parcel of land in the Residential District R-1. Structures to be erected or land to be used shall be for the following uses:

(1) Single-family dwellings.

(2) Public and semipublic uses such as schools, churches, playgrounds and parks.

(3) Accessory buildings, as defined; however, garages or other accessory buildings, such as carports, porches and stoops attached to the main building shall be considered part of the main building. No portion of any accessory building, including roof, may be closer than three feet to any side or rear property line, except that no portion of any swimming pool other than the apron shall be located closer than 10 feet to any side or rear property line. No accessory building shall be located in a front yard.

(4) Public utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.

(5) Off-street parking as required by Section 3-180 of this article.

(6) Parking of one commercial vehicle per dwelling unit subject to the following limitations:

[a] No garbage, truck, tractor and/or trailer of a tractor-trailer truck, dump truck with a gross weight of 12,000 pounds or more, cement-mixer truck, wrecker with a net weight of 12,000 pounds or more or similar such vehicles or equipment shall be parked on any public street in any residential district.

[b] Any commercial vehicle parked in any residential district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

Section 3-115. Permitted accessory uses.

(a) Uses which are customarily accessory and clearly incidental and subordinate to permitted principal uses are permitted accessory uses, including:

(1) Home occupations.

Section 3-116. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Guest rooms.

(2) Family care homes.

(3) Two-family dwellings created by conversion of an existing single-family dwelling into a two-family dwelling.

(4) Day-care center.

(5) Bed and Breakfast Establishment.

Section 3-117. Specifications and Requirements.

(a) Area.

(1) For residential lots containing or intended to contain only a single-family dwelling served by public water and sewage disposal, the minimum lot area shall be 12,000 square feet.

(2) For residential lots containing or intended to contain only a single-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 15,000 square feet. The Administrator may require a greater area if considered necessary by the Health Officer.

(3) For residential lots containing or intended to contain a single-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 15,000 square feet. The Administrator may require a greater area if considered necessary by the Health Officer.

(4) For residential lots containing or intended to contain a single-family dwelling served by individual water and sewage systems, the minimum lot area shall be 20,000 square feet or more if considered necessary by the Health Officer.

(5) For residential lots containing or intended to contain a two-family dwelling served by public water and sewage disposal systems, the minimum lot area shall be 18,000 square feet.

(6) For residential lots containing or intended to contain a two-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 22,000 square feet.

(7) For residential lots containing or intended to contain a two-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 22,000 square feet.

(8) For residential lots containing or intended to contain a two-family dwelling served by individual water and sewage disposal systems, the minimum lot area shall be 26,000 square feet.

(9) For permitted uses utilizing individual sewage disposal systems, the required area for such use shall be approved by the Health Officer. The Administrator shall require a greater area if considered necessary by the Health Officer.

(b) Setback.

(1) Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

(2) Permitted exceptions to Front Yard Requirements. When a residential structure is non-conforming due to encroachment into the required Front Yard Setback, such structure may be expanded or extended on either side or both sides provided that the following conditions are met:

[a] Such addition or extension shall not come any closer to the front property line or further encroach into the front yard to any greater extent than the front corner of the existing structure on the side proposed for the addition or extension; and

[b] All other requirements of the Zoning Ordinance for the zoning designation of the property, including the side and rear yard setback requirements shall be met.

(c) Frontage. The minimum lot width at the setback line shall be 100 feet or more.

(d) Yards.

(1) Side. The minimum side yard for each main structure shall be 15 feet.

(2) Rear.

[a] Each main structure shall have a rear yard of 35 feet or more.

[b] Certain architectural features, those being sills, belt courses, bay windows, cornices, eaves, roof overhangs, chimneys, entrance stairs and stoops, and similar architectural features of a building may project into required yards by not more than five (5) feet. These provisions shall be applied to all lots, conforming and non-conforming.

[c] Unenclosed additions on the rear of houses, those being un-walled, unenclosed additions designed specifically and particularly for outdoor activities and attached to the rear of a dwelling, may extend into a required rear yard area. Extension of such unenclosed addition into a required rear yard may encroach up to a maximum of fifteen (15) feet. In no case shall more than 25% of the required total area of a rear yard be covered by such encroachment. Such extensions may include, but are not limited to decks, porches, patio or deck covers. Screening is considered an enclosure and is therefore not permitted by this Section. In no case may any such addition extend into a required front or side yard, except as otherwise provided herein. These provisions shall be applied to all lots, conforming and non-conforming.

(e) Height. Buildings may be erected up to 35 feet in height, except that:

(1) The height limit for dwellings may be increased up to 45 feet and up to three stories, provided that each side yard is 30 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building, such as a school, church or library, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any party side or rear lot line shall be more than one story in height. All accessory buildings shall be less than the main building in height.

(f) Corner lots.

(1) Of the sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this article, each corner lot shall have a minimum width at the setback line of 125 feet or more.

(4) To reduce traffic hazards, landscaping of corner lots shall be limited to planting, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street corner side of the lot.

Division 6 Residential District R-2

Section 3-118. Intent.

The R-2 District is composed of certain low to moderate concentrations of residential uses plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a quiet, suitable environment for family life; and, at the same time, to permit certain home occupations and/or activities of a character unlikely to develop concentrations of traffic, truck traffic, noise, crowds of customers, or outdoor advertising. The district is not completely residential, as it includes public, semipublic, institutional and other related uses. However, it is basically residential in character and, as such, shall not be spotted with commercial and/or industrial uses. Manufactured homes as residences are prohibited.

Section 3-119. Permitted uses.

(a) In the Residential District R-2 any building to be erected or land to be used shall be for one or more of the following uses:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Single-family dwellings converted into not more than two apartments, provided that the area requirements listed in Section 3-122(a) of this article are met.

(4) Public and semipublic uses, such as schools, churches, playgrounds, parks and hospitals.

(5) Accessory buildings, as defined; however, garages or other accessory buildings, such as carports, porches and stoops attached to the main building shall be considered part of the main building. No portion of any accessory building, including roof, may be closer than three feet to any side or rear property line, except that no portion of any swimming pool other than the apron shall be located closer than 10 feet to any side or rear property line. No accessory building shall be located in a front yard.

(6) Public utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.

(7) Off-street parking as required by Section 3-180 of this article.
(8) Guest rooms.
(9) Parking of one commercial vehicle per dwelling unit subject to the following limitations:
[a] No garbage, truck, tractor and/or trailer of a tractor-trailer truck, dump truck with a gross weight of 12,000 pounds or more, cement-mixer truck, wrecker with a net weight of 12,000 pounds or more or similar such vehicles or equipment shall be parked on any public street in any residential district.
[b] Any commercial vehicle parked in any residential district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

Section 3-120. Permitted accessory uses.
(a) Uses which are customarily accessory and clearly incidental and subordinate to permitted principal uses, including:
(1) Home occupations.

Section 3-121. Special uses.
(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:
(1) Corporate or public swimming pools and/or private clubs.
(2) Bed and Breakfast Establishment.
(3) Family care homes, foster homes or group homes.
(4) Day-care center.

Section 3-122. Specifications and Requirements.
(a) Area.
(1) For residential lots containing or intended to contain only a single-family dwelling served by public water and sewage disposal, the minimum lot area shall be 12,000 square feet.
(2) For residential lots containing or intended to contain only a single-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 15,000 square feet. The Administrator may require a greater area if considered necessary by the Health Officer.
(3) For residential lots containing or intended to contain only a single-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 15,000 square feet. The Administrator may require a greater area if considered necessary by the Health Officer.
(4) For residential lots containing or intended to contain a single-family dwelling served by individual water and sewage systems, the minimum lot area shall be 20,000 square feet or more if considered necessary by the Health Officer.
(5) For residential lots containing or intended to contain a two-family dwelling served by public water and sewage systems, the minimum lot area shall be 18,000 square feet.
(6) For residential lots containing or intended to contain a two-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 22,000 square feet.
(7) For residential lots containing or intended to contain a two-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 22,000 square feet.
(8) For residential lots containing or intended to contain a two-family dwelling served by individual water and sewage disposal systems, the minimum lot area shall be 26,000 square feet.

(9) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the Health Officer. The Administrator shall require a greater area if considered necessary by the Health Officer.

(b) Setback.

(1) Buildings shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width or 55 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

(2) Permitted exceptions to Front Yard Requirements. When a residential structure is non-conforming due to encroachment into the required Front Yard Setback, such structure may be expanded or extended on either side or both sides provided that the following conditions are met:

[a] Such addition or extension shall not come any closer to the front property line or further encroach into the front yard to any greater extent than the front corner of the existing structure on the side proposed for the addition or extension; and

[b] All other requirements of the Zoning Ordinance for the zoning designation of the property, including the side and rear yard setback requirements shall be met.

(c) Frontage. For single-family dwellings, the minimum lot width at the setback line shall be 70 feet or more, and for each additional dwelling unit, there shall be at least 10 feet of additional lot width at the setback line.

(d) Yards.

(1) Side. The minimum side yard shall be 10 feet or more, and the total width of the two required side yards shall be 20 feet or more.

(2) Rear. Each main building shall have a rear yard of 25 feet or more.

(e) Height. Buildings may be erected up to 35 feet in height, except that:

(1) The height limit for dwellings may be increased up to 45 feet and up to three stories, provided that there are two side yards, each of which is 10 feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

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

(3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which walls rest.

(4) No accessory building which is within 10 feet of any part lot line shall be more than one story in height. All accessory buildings shall be less than the main building in height.

(f) Corner lots.

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 20 feet or more for both the main and accessory building.

(3) For subdivisions platted after the enactment of this article, each corner lot shall have a minimum width at the setback line of 100 feet or more.

(4) To reduce traffic hazards, landscaping of corner lots shall be limited to planting, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street corner side of the lot.

Division 7 Residential District R-3

Section 3-123. Intent.

The R-3 District is composed of certain moderate to medium concentrations of residential uses plus certain open areas where similar development appears likely to occur. The standards for this district are designed to stabilize and protect the essential character of the area so designed and to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life. Development is, therefore, limited to single and multifamily dwellings for both permanent and transient occupancy plus selected additional uses, such as schools, parks, churches and certain public facilities that serve the residents of the district. In the development and designation of a primarily multifamily district, it is intended that such be accomplished in consonance with the principles of open area planning, as specified hereinafter. Home occupations, as defined, are permitted. Manufactured homes as residences are prohibited.

Section 3-124. Permitted uses.

(a) In Residential District R-3, any building to be erected or land to be used shall be for one or more of the following uses:

(1) Single-family dwellings.
(2) Two-family dwellings (duplexes).
(3) Townhouses or Townhouse complexes.
(4) Apartment buildings or apartment complexes.
(5) Public and semipublic uses such as schools, churches, playgrounds, parks or hospitals.
(6) Public utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.
(7) Off-street parking as required by Section 3-180 of this article.
(8) Guest rooms.
(9) Accessory buildings, as defined; however, garages or other accessory buildings, such as carports, porches and stoops attached to the main building shall be considered part of the main building. No portion of any accessory building, including roof, may be closer than three feet to any side or rear property line except that no portion of any swimming pool other than the apron shall be located closer than 10 feet to any side or rear property line. No accessory building shall be located in a front yard.
(10) Parking of one commercial vehicle per dwelling unit subject to the following limitations:
    [a] No garbage, truck, tractor and/or trailer of a tractor-trailer truck, dump truck with a gross weight of 12,000 pounds or more, cement-mixer truck, wrecker with a net weight of 12,000 pounds or more or similar such vehicles or equipment shall be parked on any public street in any residential district.
    [b] Any commercial vehicle parked in any residential district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

Section 3-125. Permitted accessory uses.

(a) Uses which are customarily accessory and clearly incidental and subordinate to permitted principal uses, including:

(1) Home occupations.

Section 3-126. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Swimming pools, private club, corporate or public.
(2) Family care homes, foster homes or group homes.
(3) Day-care center.
(4) Bed and Breakfast Establishment.

Section 3-127. Specifications and Requirements.

(a) Area.

(1) For residential lots containing or intended to contain only a single-family dwelling served by public water and sewage disposal, the minimum lot area shall be 12,000 square feet.

(2) For residential lots containing or intended to contain only a single-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 15,000 square feet. The administrator may require a greater area if considered necessary by the Health Officer.

(3) For residential lots containing or intended to contain only a single-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 15,000 square feet. The Administrator may require a greater area if considered necessary by the Health Officer.

(4) For residential lots containing or intended to contain a single-family dwelling served by individual water and sewage systems, the minimum lot area shall be 19,000 square feet or more if considered necessary by the Health Officer.

(5) For residential lots containing or intended to contain a two-family dwelling served by public water and sewage disposal systems, the minimum lot area shall be 18,000 square feet.

(6) For residential lots containing or intended to contain a two-family dwelling served by public water systems but having individual sewage disposal systems, the minimum lot area shall be 22,000 square feet.

(7) For residential lots containing or intended to contain a two-family dwelling served by public sewage disposal systems but having individual water systems, the minimum lot area shall be 22,000 square feet.

(8) For residential lots containing or intended to contain a two-family dwelling served by individual water and sewage disposal systems, the minimum lot area shall be 26,000 square feet.

(9) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the Health Officer. The Administrator shall require a greater area if considered necessary by the Health Officer.

(b) Setback.

(1) Buildings shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width or 55 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

(2) Permitted exceptions to Front Yard Requirements. When a residential structure is non-conforming due to encroachment into the required Front Yard Setback, such structure may be expanded or extended on either side or both sides provided that the following conditions are met:

[a] Such addition or extension shall not come any closer to the front property line or further encroach into the front yard to any greater extent than the front corner of the existing structure on the side proposed for the addition or extension; and

[b] All other requirements of the Zoning Ordinance for the zoning designation of the property, including the side and rear yard setback requirements shall be met.

(c) Frontage.

(1) For single-family dwellings, the minimum lot width at the setback line shall be 70 feet or more.

(2) For two-family dwellings, the minimum lot width at the setback line shall be 80 feet or more.

(d) Yards.

(1) Side. The minimum side yard shall be 10 feet or more, and the total width of the two required side yards shall be 20 feet or more.

(2) Rear. Each main building shall have a rear yard of 25 feet or more.

(e) Height. Buildings may be erected up to 35 feet in height except that:

(1) The height limit for dwellings may be increased up to 45 feet and up to three stories, provided that there are two side yards, each of which is 10 feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

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

(3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which walls rest.

(4) No accessory building which is within 10 feet of any part lot line shall be more than one story in height. All accessory buildings shall be less than the main building in height.

(f) Corner lots.

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 20 feet or more for both the main and accessory building.

(3) For subdivisions platted after the enactment of this article, each corner lot shall have a minimum width at the setback line of 100 feet or more.

(4) To reduce traffic hazards, landscaping of corner lots shall be limited to planting, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street corner side of the lot.

(g) Townhouses and apartment buildings.

(1) The minimum lot requirement of 10,000 square feet shall be waived for the individual lots occupied by each Townhouse dwelling unit. However, in consonance with the concept of open area planning, the total lot area and usable open space per dwelling unit, Townhouse or apartment shall be not less than 6,000 square feet. Such usable open space shall be exclusive of areas devoted to streets, alleys and parking area and shall be adequately landscaped with shade trees and grass to provide a park, playground area or swimming pool for the development.

(2) Any freestanding, continuously walled or continuously roofed structure shall contain not more than six Townhouses or six apartments.

(3) Freestanding structures shall not be closer than 30 feet to each other or 15 feet to any property line.

(4) Front and rear yard requirements shall conform to those of the R-3 District.

(5) The developer shall provide fencing and landscaping of a permanent nature which will adequately screen any Townhouse or apartment development from abutting R-1 and R-2 District properties. The Town Planning Commission shall ensure that this provision is effectively met before the Zoning Administrator shall issue a certificate of zoning compliance.

(6) Off-street parking shall be provided by the developer in the amount of two parking spaces per dwelling unit.

(7) Townhouse and apartment developments shall be served by public water and sewage disposal systems.

Division 8 Planned Unit Development (PUD)

Section 3-128. Intent.

The PUD District is intended to permit a comprehensive planned cluster-type development under one ownership or control. This district plan shall show the location of improvements, permit a variety of housing accommodations in an orderly relationship to one another and allow the greatest amount of usable open spaces and the least disturbance to natural features. A planned unit development may include commercial facilities to the extent necessary to serve the needs of the particular PUD.

Section 3-129. Permitted uses.

(a) In the Planned Unit Development District PUD, any building erected or land to be used shall be for the following uses:

(1) Single-family dwellings.
(2) Two-family dwellings.
(3) Townhouses or Townhouse complexes.
(4) Apartment buildings or apartment complexes.
(5) Public and semipublic uses, such as schools, churches and libraries.
(6) Professional offices.
(7) Neighborhood commercial uses intended to serve the needs of the residents of the planned unit development. Not more than 5% of the gross area of the PUD project shall be devoted to commercial uses.
(8) Recreational uses, including club houses, golf courses, pools, tennis courts and similar recreational improvements and facilities.
(9) Accessory buildings as permitted by Section 3-114(a)(3) of this article.
(10) Public utilities as prescribed in Section 3-114(a)(4) of this article.
(11) Off-street parking as prescribed in Section 3-180 of this article.
(12) Parking of one commercial vehicle per dwelling unit subject to the following limitations:

[a] No garbage, truck, tractor and/or trailer of a tractor-trailer truck, dump truck with a gross weight of 12,000 pounds or more, cement-mixer truck, wrecker with a net weight of 12,000 pounds or more or similar such vehicles or equipment shall be parked on any public street in any residential district.

[b] Any commercial vehicle parked in any residential district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

Section 3-130. Permitted accessory uses. (Reserved)

Section 3-131. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Day-care center.

Section 3-132. Specifications and Requirements.

(a) Area.

(1) The minimum permitted size for any PUD District shall be five contiguous acres. Additional land may be added to an existing PUD if it is adjacent (except for public roads) thereto and forms a logical addition to the existing PUD and is under the same ownership or control.
(2) The procedure for an addition shall be the same as if an original application were filed.

(b) Density. The permitted density for dwelling units in a PUD District shall not be more than 10 units per gross acre.

(c) Required open space.

(1) Open space shall comprise at least 50% of the total gross area of the PUD development.

(2) "Open space" shall be defined, for the purpose of this article, as any area not covered by buildings, parking structures or accessory structures (except recreational structures) and as land which is accessible and available to all occupants of dwelling units for whose use the space is intended. Said open space shall not include proposed street rights-of-way, open parking areas and driveways for dwellings, side yards between buildings nor yards located between buildings and parking lots.

(3) All open space, including public recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at a rate equivalent to or greater than the construction of residential structures.

(d) Management of open space.

(1) All open space shall be preserved for its intended purpose as expressed in the final site plan.

(2) The developer shall establish a nonprofit association, corporation, trust or foundation of all individuals or corporations owning residential property within the planned development to ensure the maintenance of open space.

(3) When the development is administered to open space through an association, nonprofit corporation, trust or foundation, said organization shall conform to the following requirements:

[a] The developer must establish the organization prior to the sale of any lots.

[b] Membership in the organization shall be mandatory for all residential property owners, present or future, within the planned community, and said organization shall not discriminate in its members or shareholders.

[c] The organization shall manage all open space and recreational and cultural facilities; shall provide for the maintenance, administration and operation of said land improvements and any other land within the planned community; and shall secure adequate liability insurance on the land.

[d] The organization shall conform to the Condominium Act, § 55-79.86 et seq. of the Annotated Code, as amended.

(e) Height. The maximum height of any building or structure in a PUD District shall be 35 feet, subject to the provisions of this article and subject to approval of the Town Council.

(f) Streets. Private streets shall not be permitted in a PUD development.

(g) Utilities. Within a PUD development, all utilities, including telephone cable and electrical systems, shall be installed underground. Appurtenances to these systems which require aboveground installations must be effectively screened and, thereby, may be exempted from this requirement.

(h) Site plans required. Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the substantive provisions of Article I, Division 14 of this chapter shall be submitted to the Zoning Administrator for study. Modifications of the plans may be required.

Division 9 Business District B-1

Section 3-133. Intent.

Generally, this district covers the central business district portion of the community and is intended for the conduct of general business to which the public requires direct and frequent access but which is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by nuisance factors, other than those occasioned by incidental light and noise of

congregation of people and passenger vehicles. This district includes such uses as retail stores, banks, theaters, business offices, newspaper offices and restaurants.

Section 3-134. Permitted uses.

(a) In the Business District B-1, structures to be erected or land to be used shall be for one or more of the following uses:

(1) Government office buildings.
(2) Retail food stores.
(3) Banks and savings and loan offices.
(4) Restaurants.
(5) Dry cleaners.
(6) Jewelry stores.
(7) Coin-operated laundries.
(8) Wearing apparel stores.
(9) Drugstores.
(10) Barber and beauty shops.
(11) Home appliance sales and services.
(12) Hardware stores.
(13) Theaters and assembly halls.
(14) Offices.
(15) Libraries.
(16) Auto parts and accessories stores.
(17) Furniture stores.
(18) Department stores.
(19) Newspaper and printing houses.
(20) Florists and gift shops.
(21) Hotels, motels and inns.
(22) Alcoholic beverage control stores.
(23) Clubs and lodges.
(24) Funeral homes.
(25) Bakeries.
(26) Video sales and rental.
(27) Sporting goods shops.
(28) Pawn shops.
(29) Public and semipublic uses, including churches, schools, libraries, museums, parks and noncommercial recreational facilities.
(30) Public utilities transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities, including railroads (except railroad yards) and water and sewage installations.
(31) Off-street parking as required by Section 3-180 of this article; public and private off-street parking lots.
(32) Stores for the sale and rental of goods at retail.
(33) Clinics.

Section 3-135. Permitted accessory uses. (Reserved)

Section 3-136. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Gasoline filling stations for the servicing of and making minor repairs to motor vehicles (when in a completely enclosed structure); public garages for storage and repair of motor vehicles (when in completely enclosed structure).
(2) Pet shops.
(3) Public billiard parlors and pool rooms, bowling alleys, dance halls, amusement centers and similar forms of public amusement, only after a public hearing shall have been held by the Town Council on an application submitted to the body for such use. In approving any such application, the Town Council may establish such special requirements and regulations for the protection of adjacent property and the general public, set limits on the hours of operation and make requirements as the Town Council may deem necessary in the public interest. For purposes of this subsection, "billiard parlor and pool room" shall include any place of business with more than one billiard or pool table in which money, tokens or other consideration is exchanged for the right to use such tables for playing billiards, pool or similar games. For purposes of Section 3-136, "amusement center" shall mean any place of business with more than three amusement devices for which money, tokens or other consideration is exchanged for the right to use such devices. Amusement devices shall include video games, pool or billiards tables, foosball and all similar game devices, tables and equipment.
(4) Business and residential mixed-use development wherein dwelling units shall be a secondary use to the primary business use.
(5) Day-care center.

Section 3-137. Specifications and Requirements.
(a) Area, frontage and yards.
(1) Area, frontage and yard regulations shall be as follows:
[a] None, except for off-street parking which shall be in accordance with the provisions contained herein.
(b) Height. Buildings may be erected up to 50 feet in height from grade.
(c) Setback. Buildings or portions of buildings, including porches, shall be located behind the street right-of-way line. No porch in existence at the time of the adoption of this article which is between the street right-of-way line and the center line of the street can be enclosed or otherwise altered for any use. Porches may be kept in repair and in a safe condition.
(d) Site plan required. Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the substantive provisions of Article I, Division 14 of this chapter shall be submitted to the Zoning Administrator for study. Modifications of the plans may be required.

Division 10 Business District B-2

Section 3-138. Intent.
This district covers that portion of the community intended for the conduct of a variety of businesses, including shopping centers, to which the public requires direct and frequent access and is characterized by constant heavy traffic and by noise from the congestion of people and passenger vehicles. This includes such uses as retail stores, banks, drive-in facilities, restaurants, garages, gasoline service stations and wholesaling activities located mostly on primary arteries but outside the central business district.

Section 3-139. Permitted uses.
(a) In the Business District B-2, structures to be erected or land to be used shall be for one or more of the following uses:

(1) Retail food stores.
(2) Dry cleaners.
(3) Coin-operated laundries.
(4) Wearing apparel stores.
(5) Barber and beauty shops.
(6) Auto and home appliance services.
(7) Theaters and assembly halls.
(8) Hotels, motels and inns.
(9) Office buildings.
(10) Drive-in restaurants and food sales.
(11) Department stores.
(12) Medical clinics.
(13) Clubs and lodges.
(14) Auto sales with service, including auto accessories.
(15) Furniture stores.
(16) Restaurants.
(17) Shopping centers containing uses permitted in this district.
(18) Banks and savings and loan offices.
(19) Funeral homes.
(20) Jewelry stores.
(21) Home appliance sales and service.
(22) Hardware stores.
(23) Florists and gift shops.
(24) Alcoholic beverage control stores.
(25) Bakeries.
(26) Car washes.
(27) Sporting goods.
(28) Pawn shops.
(29) Public and semipublic uses, including churches, schools libraries, museums, parks and noncommercial recreational facilities.
(30) Off-street parking as required by Section 3-180 of this article; public and private off-street parking lots.
(31) Public utilities transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities, including railroads (except railroad yards) and sewage installations.
(32) Video sales or rental.
(33) Stores for the sale and rental of goods at retail.
(34) Ministorage.
(35) Convenience stores, including the sale of motor fuels.
(36) Drug and variety stores.
(37) Antique stores.
(38) Hospitals.
(39) Printing shops.
(40) General stores.

Section 3-140. Permitted accessory uses. (Reserved)

Section 3-141. Special uses.

(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:

(1) Lumber and building supply, with storage under cover.

(2) Plumbing and electrical supply, with storage under cover.

(3) Wholesale and processing not objectionable because of dirt, noise or odors.

(4) Machinery sales and service.

(5) Service stations and garages, with major repair and storage under cover.

(6) Public billiard parlors and pool rooms, bowling alleys, dance halls and similar forms of public amusement, only after a public hearing shall have been held by the governing body on an application submitted to the body for such use. In approving any such application, the governing body may establish such special requirements and regulations for the protection of adjacent property, set the hours of operation and make requirements as they may deem necessary in the public interest.

(7) Animal hospital clinic or pet shop.

(8) Day-care center.

Section 3-142. Specifications and Requirements.

(a) Area, frontage and yards.

(1) Area, frontage and yard regulations shall be as follows:

[a] None, except for off-street parking, which shall be in accordance with the provisions contained herein.

(b) Height. Buildings may be erected up to 50 feet in height from grade.

(c) Setback. Buildings or portions of buildings, including porches, shall be located not less than 50 feet behind the street right-of-way line. This shall be known as the "setback line."

(d) Site plan required. Before a zoning permit shall be issued or construction begun on any permitted use in this district, detailed site plans indicating compliance with the substantive provisions of Article I, Division 14 of this chapter shall be submitted to the Zoning Administrator for study. Modifications of the plans may be required.

Division 11 Industrial District M-1

Section 3-143. Intent.

The primary purpose of this district is to permit certain industries, which do not detract from residential desirability, to locate in an area adjacent to residential uses. The limitations on or provisions relating to height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors and/or noise, landscaping and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply. No junkyards or automobile graveyards shall be permitted. Residences in existence at the time of adoption of this article shall be treated as a conforming use.

Section 3-144. Permitted uses.

(a) In the Industrial District M-1, any building to be erected or land to be used shall be for one or more of the following uses:

(1) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs; also the manufacture of small parts, such as coils, condensers, transformers and crystal holders.

(2) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work; truck repairing or overhauling; tire retreading or recapping; or battery manufacture.
(3) Blacksmith shop; welding or machine shop, excluding punch presses exceeding forty-ton rated capacity and drop hammers; or farm implement sales and service.
(4) Laboratories, pharmaceutical and medical.
(5) Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products.
(6) Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials; bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious materials or stones, shell, straw, textiles, tobacco, wood, yarn and paint.
(7) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
(8) Manufacture of musical instruments, toys, novelties and rubber and metal stamps.
(9) Building material sales yards.
(10) Coal and wood yards and lumberyards.
(11) Contractors' equipment storage yard or plant or rental of equipment commonly used by contractors.
(12) Cotton spinning mills.
(13) Draying, freighting or trucking yard or terminal.
(14) Boat building.
(15) Stone works.
(16) Veterinary or dog or cat hospitals and kennels.
(17) Wholesale businesses and storage warehouses.
(18) Public utility booster or relay stations, transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewage installations.

Section 3-145. Permitted accessory uses. (Reserved)

Section 3-146. Special uses.
(a) The following uses are permitted when authorized by the Town Council of Bowling Green after a recommendation from the Planning Commission:
(1) Day-care center.

Section 3-147. Specifications and Requirements.
(a) Site plan required; fencing and landscaping, action on application.
(1) Before a building permit shall be issued or construction commenced on any permitted use in this district or a use permit issued for a new use, site plans, in sufficient detail to show the operations and processes and indicating compliance with the substantive provisions of Article I, Division 14 shall be submitted to the Zoning Administrator for study. Modifications of the plans may be required.
(2) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge between six and 10 feet in height. Public utilities requiring natural air circulation or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include the storing of any materials.

(3) To reduce traffic hazards, landscaping of corner lots shall be limited to plantings, fences or other landscape features of no more than three feet in height within the space between the setback line and the property line on the street corner of the lot.

(4) Permitted uses in this district shall provide fencing and landscaping of a permanent nature which will adequately screen industrial areas from abutting residential (R-1, R-2 and R-3) properties. The Planning Commission will ensure that this provision is met before a certificate of zoning compliance is issued.

(5) Automobile graveyards and junkyards in existence at the time of the adoption of this article are to be considered as nonconforming uses. They shall be allowed up to three years after adoption of this article in which to completely screen, on any open side, the operation or use by a masonry wall, a uniformly painted solid board fence or an evergreen hedge between six and 10 feet in height.

(6) The Administrator shall act on any application received within 20 days after receiving the application. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

(b) Yards.

(1) Side. None, except that wherever a building is built upon a lot adjacent to a residential district boundary there shall be provided a side yard of 10 feet or more on the side of the building adjacent to the district boundary line, and, on corner lots, the side yard which faces on a street shall be 20 feet or more.

(c) Height. Buildings may be erected up to a height of 50 feet. For buildings over 50 feet in height, approval shall be obtained from the Administrator. Chimneys, flues, cooling towers, flagpoles, radio or communication towers or their accessory facilities not normally occupied by workmen are excluded. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

(d) Lot coverage. Buildings or groups of buildings with their accessory buildings may cover up to 70% of the area of the lot.

(e) Setback. Buildings shall be located 15 feet or more from any street right-of-way which is 50 feet or greater in width or 35 feet or more from the center line of any street right-of-way which is less than 50 feet in width. This shall be known as the "setback line."

Division 12 Chesapeake Bay Preservation Area

Section 3-148. Title.

This article shall be known and referenced as the "Chesapeake Bay Preservation Area Ordinance" of the Town of Bowling Green.

Section 3-149. Purpose and intent; statutory authority.

(a) This article is enacted to implement the requirements of § 10.1-2100 et seq., Code of Virginia (the Chesapeake Bay Preservation Act). The intent of the Town Council and the purpose of this article is to protect existing high-quality state waters; restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; safeguard the clean waters of the commonwealth from pollution; prevent any increase in pollution; reduce existing pollution; and promote water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of Bowling Green.

(b) It is the purpose and intent of this article to regulate development, redevelopment and uses consistent with the Bowling Green Chesapeake Bay Preservation Overlay District regulations.

(c) This article is enacted under the authority of § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and § 15.2-2283, Code of Virginia. Section 15.2-2283, states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in § 62.1-255."

Section 3-150. Definitions.

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this article but defined in the Bowling Green Zoning Ordinance shall be given the meanings set forth therein.

"Agricultural Lands" means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

"Best Management Practices" or "BMP's" means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Buffer Area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

"Chesapeake Bay Preservation Area" or "CBPA" means any land designated by the Bowling Green Town Council pursuant to Part III of 9 VA C 10-20 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations), and § 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

"Construction Footprint" means the area of all impervious surfaces, including but not limited to buildings, roads and drives, parking areas and sidewalks and the area necessary for construction of such improvements.

"Development" means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures.

"Diameter at Breast Height" or "DBH" means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

"Dripline" means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

"Floodplain" means all lands that would be inundated by flood as a result of a storm event of a one-hundred-year interval.

"Highly Erodible Soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The "erodibility index" for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

"Highly Permeable Soils" means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soils Handbook of November 1996 in the Field Office Technical Guide of the United States Department of Agriculture Soil Conservation Service (now the USDA Natural Resource Conservation Service).

"Impervious Cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not

limited to: roofs, buildings, streets, parking areas and any concrete, asphalt or compacted gravel surface.

"Infill" means utilization of vacant land in previously developed areas.

"Nonpoint Source Pollution" means pollution consisting of constituents such as sediment, nutrients and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

"Nontidal Wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the United States Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b.

"Noxious Weeds" means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu and multiflora rose.

"Plan of Development" means the process for site plan or subdivision plat review to ensure compliance with § 10.1-2109 of the Code of Virginia and this article, prior to any clearing or grading of a site or the issuance of a building permit.

"Public Road" means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Virginia Stormwater Management Act (§ 10.1-603 et seq. of the Code of Virginia). This definition includes those roads where VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by a local government in accordance with the standards of the local government.

"Redevelopment" means the process of developing land that is or has been previously developed.

"Resource Management Area" or "RMA" means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMA's include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

"Resource Protection Area" or "RPA" means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Silvicultural Activities" means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation, that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

"Substantial Alteration" means expansion or modification of a building or development which would result in a disturbance of land area of 2,500 square feet or more within the Resource Management Area.

"Tidal Shore" or "Shore" means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

"Tidal Wetlands" means vegetated and nonvegetated wetlands as defined in § 28.2-1300, Code of Virginia.

"Water-Dependent Facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include but are not limited to ports; the intake and outfall structures of

power plants, water treatment plants, sewage treatment plants and storm sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

"Wetlands" means tidal and nontidal wetlands.

Section 3-151. Chesapeake Bay Preservation Area boundaries.

(a) The Chesapeake Bay Preservation Area Map shows the general location of CBPA's and should be consulted by persons contemplating activities within Bowling Green prior to engaging in a regulated activity.

(b) During the plan of development process the developer/owner must ensure that:

(1) A reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow; and

(2) Resource Protection Area boundaries are adjusted, as necessary, on the site, based on this evaluation of the site, subject to approval by the Zoning Administrator.

Section 3-152. Administrative responsibility.

The administration of this article shall be in accordance with Article I, Division 14 of the Bowling Green Zoning Ordinance, the Bowling Green Subdivision Ordinance, the Ordinance regulating Sewage and Sewage Disposal in Bowling Green or the Caroline County Ordinance for Sewage and Sewage Disposal, as appropriate, and Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green. Unless otherwise stated in this article, the review and approval of development, redevelopment and uses governed by this article shall be conducted by the Zoning Administrator of Bowling Green.

Section 3-153. Applicability.

(a) The Chesapeake Bay Preservation Area Ordinance shall apply to all lands identified as CBPA's as designated by the Bowling Green Town Council and as shown generally on the Chesapeake Bay Preservation Area Map. The Chesapeake Bay Preservation Area Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article. All of the performance standards in Section 3-159 will apply Town-wide.

(1) The Resource Protection Area includes nontidal wetlands connected by surface flow and contiguous to water bodies with perennial flow and a one-hundred-foot buffer area located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow.

(2) The Resource Management Area is composed of an area 100 feet in width surrounding Resource Protection Areas, which is deemed necessary to protect the quality of state waters.

Section 3-154. Use regulations.

Permitted uses, special permit uses, accessory uses and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

Section 3-155. Lot size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area to accommodate an intended development, in accordance with the performance standards in Section 3-159(b)(3) and (6).

Section 3-156. Required conditions.

(a) All development and redevelopment within a Chesapeake Bay Preservation Area resulting in 2,500 square feet or more of land disturbance shall be subject to a Plan of Development Process,

including the approval of a site plan in accordance with the provisions of the Zoning Ordinance or a subdivision plat in accordance with the Subdivision Ordinance.

(b) Development in RPA's may be allowed only if it is water-dependent; constitutes redevelopment; is a new use established pursuant to Section 3-159(c)(2); is a road or driveway crossing satisfying the condition set forth in Section 3-156(b)(3); or is a flood control or stormwater management facility satisfying the conditions set forth in Section 3-156(b)(4).

(1) A new or expanded water-dependent facility may be allowed, provided that the following criteria are met:

[a] It does not conflict with the Comprehensive Plan;

[b] It complies with the performance criteria set forth in Section 3-159 of this article;

[c] Any nonwater-dependent component is located outside of the RPA; and

[d] Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

(2) Redevelopment on isolated redevelopment sites outside of locally designated Intensely Developed Area sites shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under Section 3-159(b)(9) and (10) of this article.

(3) Roads and driveways not exempt under Section 3-163 and which, therefore, must comply with the provisions of this article may be constructed in or across RPAs if each of the following conditions are met:

[a] The Zoning Administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;

[b] The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;

[c] The design and construction of the road or driveway satisfy all applicable criteria of this article;

[d] The Zoning Administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under Section 3-161 or subdivision plan.

(4) Flood control and storm water management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that:

[a] The Town of Bowling Green has conclusively established that location of the facility within the RPA is the optimum location;

[b] The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;

[c] The facility must be consistent with a storm water management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the local government's program;

[d] All applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission;

[e] Approval must be received from the Town of Bowling Green prior to construction;

[f] Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed; and

[g] It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.

(c) A Water Quality Impact Assessment shall be required for all proposed land disturbance, development, or redevelopment within RPA's and any proposed land disturbance, development, or redevelopment within RMA's when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of the handout, Water Quality Impact Assessment for Chesapeake Bay Preservation Areas.

Section 3-157. Conflict with other regulations.

In any case where the requirements of this article conflict with any other provision of this chapter, other Town ordinances or existing state or federal regulations, whichever imposes the more stringent restrictions, shall apply.

Section 3-158. Interpretation of Resource Protection Area boundaries.

(a) Delineation by the applicant. The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with the Plan of Development or Water Quality Impact Assessment Process for Chesapeake Bay Preservation Areas. The Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of Resource Protection Areas.

(b) Delineation by the Zoning Administrator. The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use hydrology, soils, plant species and other data and consult other appropriate resources as needed to perform the delineation.

(c) Where conflict arises over delineation. Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator may verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with the Plan of Development Process for Chesapeake Bay Preservation Areas. In the event that the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of the Plan of Development Process for Chesapeake Bay Preservation Areas.

Section 3-159. Performance standards.

(a) Purpose and intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential. The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten-percent reduction in nonpoint source pollution from redevelopment; and achieve a forty-percent reduction in nonpoint source pollution from agricultural uses.

(b) General performance standards for development and redevelopment throughout the Town of Bowling Green, including Chesapeake Bay Preservation Areas.

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

[a] In accordance with Section 3-168 of the Town of Bowling Green Zoning Ordinance, the limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint. The Zoning Administrator shall review and approve the construction

footprint through the Plan of Development process. These limits shall be clearly shown on submitted plans and physically marked on the development site.

[b] The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.

[a] Existing trees over two inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the Zoning Administrator. Other woody vegetation on site shall also be preserved outside the approved construction footprint.

[b] Site clearing for construction activities shall be allowed as approved by the Zoning Administrator through the Plan of Development Review process.

[c] Prior to clearing and grading, suitable protective barriers, like safety fencing, shall be erected 5 feet outside the dripline of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize amount of impervious surface to promote infiltration of stormwater into the ground consistent with the use or development proposed.

[a] Grid and modular pavements may be used for any required parking area, alley or other low-traffic driveway, unless otherwise approved by the Zoning Administrator.

[b] Parking space size may be 162 square feet. Parking space width may be nine feet; parking space length may be 18 feet. Two-way drives may be a minimum of 22 feet in width.

[c] Impervious coverage on any lot shall be limited to the lot coverage permitted under the zoning district requirements of said lot or parcel as noted on the approval plan of development site plan.

[d] Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective.

(4) Notwithstanding any other provisions of this article or exceptions or exemptions thereto, any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks and drainfields, shall comply with the requirements of Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.

(5) All on-site sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the Caroline County Ordinance for Sewage and Sewage Disposal. Alternatives for pumpout are also permitted, including the installation of a plastic filter in the outflow pipe from the septic tank as long as the filter satisfies the standards established in the Sewage Handling and Disposal Regulations under 12 VA C 5-6-10 et seq. as administered by the Virginia Department of Health, or owners of on-site treatment systems may submit, every five years, documentation certified by a sewage handler permitted by the Virginia Department of Health that the septic system has been inspected and is functioning properly and does not need to be pumped out.

(6) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the Caroline County Ordinance for Sewage and Sewage Disposal. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building or construction of

any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer. As an alternate, alternating drainfields may be installed in lieu of the one-hundred-percent reserve drainfield, provided that the following conditions are met:

[a] Each of the two alternating drainfields shall have, at a minimum, an area of not less than 50% of the area that would otherwise be required if a single primary drain field were constructed.

[b] An area equaling 50% of the area that would otherwise be required for the primary drain field site must be reserved for subsurface absorption systems that use a flow diversion device, in order to provide for future replacement or repair to meet the requirements for a disposal system and that expansion of the primary system will require an expansion of this reserve area.

[c] The two alternating drain fields shall be connected by a diversion valve that has been approved by the Caroline County Health Department, is located in the pipe between the septic tank and the distribution boxes and is used to alternate the direction of the effluent flow to one drain field or the other at a time.

[d] Such diversion valves shall not be used for sand mounds, low-pressure distribution systems, repair situations when the installation of a valve is not feasible or any other approved systems for which the use of the valve would adversely affect the design of the system as determined by the Caroline Health Department

[e] The diversion valve shall be a three-port, two-way valve of approved materials.

[f] There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.

[g] The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds and other structures.

[h] The valve shall be used to alternate the drain fields every 12 months.

[i] The Town of Bowling Green shall notify owners annually of the requirement to switch the valve to the opposite drain field.

(7) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with the Plan of Development Process.

(8) Land upon which agricultural activities are being conducted shall have a soil and water quality conservation plan undergo a soil and water quality conservation assessment. Such plan shall be based upon the Field Office Technical Guide of the United States Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this article. Such a plan shall be approved by the local Soil and Water Conservation District. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this article.

(9) For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.). For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the calculated average land cover condition of Caroline County based on Virginia's Chesapeake Bay watershed default value as calculated by the Chesapeake Bay Local Assistance Department.

(10) For redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10%. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided that the following provisions are satisfied:

[a] In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.

[b] Runoff pollution loads must have been calculated and the BMP's selected for the expressed purpose of controlling nonpoint source pollution.

[c] If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. Maintenance agreements are required to ensure compliance with this article.

(11) For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.

(c) Buffer area requirements. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters and aquatic life, a one-hundred-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion and filtering nonpoint pollution from runoff shall be retained if present and established where it does not exist. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with Section 3-153 (Applicability) and Section 3-161 (Plan of development process for Chesapeake Bay Preservation Areas) of this article. The one-hundred-foot buffer area shall be deemed to achieve a seventy-five-percent reduction of sediments and a forty-percent reduction of nutrients. The buffer area shall be maintained to meet the following additional performance standards:

(1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management and best management practices, including those that prevent the upland erosion and concentrated flows of stormwater, as follows:

[a] Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.

[b] Any path shall be constructed and surfaced so as to effectively control erosion.

[c] Dead, diseased or dying trees or shrubbery may be removed and thinning of trees may be allowed, subject to the approval of the Zoning Administrator pursuant to sound horticultural practice.

[d] For shoreline control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(2) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may authorize encroachment into the buffer area in accordance with Section 3-161 (Plan of development process for Chesapeake Bay Preservation Areas) and the following criteria:

[a] Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

[b] Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

[c] The encroachment may not extend into the seaward 50 feet of the buffer area.

(3) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area.

[a] Agricultural activities may encroach into the buffer area as follows:

[1] Agricultural activities may encroach into the landward 50 feet of the one-hundred-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the local Soil and Water Conservation District Board, addresses the more predominant water quality issue on the adjacent land, erosion control or nutrient management, is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one-hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.

[2] Agricultural activities may encroach within the landward 75 feet of the one-hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture National Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one-hundred-foot wide buffer area.

[3] The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land, either erosion control or nutrient management.

[b] The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District.

[c] When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be convened to other uses, the full one-hundred-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

Section 3-160. Water quality impact assessment.

(a) Purpose and intent. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands within RPA's; ensure that, where development does take place within RPA's, it will be located on those portions of a site and in a manner that will

be least disruptive to the natural functions of RPA's; protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion or vulnerability to flood and storm damage; provide for administrative relief from the terms of this article when warranted and in accordance with the requirements contained herein; and specify mitigation which will address water quality protection.

(b) Water quality impact assessment required. A water quality impact assessment is required for any proposed land disturbance, development or redevelopment within a RPA and for any other development or redevelopment in CBPA's that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use, development or redevelopment. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment. A minor water quality impact assessment pertains only to development within CBPA's which causes no more than 5,000 square feet of land disturbance. A major water quality impact assessment shall be required for any development which exceeds 5,000 square feet of land disturbance within CBPA's and is located in an RMA. The elements to be included in a minor water quality impact assessment and a major water quality impact assessment are described in the handout, Water Quality Impact Assessment for Chesapeake Bay Preservation Areas, which can be obtained from the office of the Zoning Administrator.

Section 3-161. Plan of Development Process for Chesapeake Bay Preservation Areas.

Any development or redevelopment within CBPA's exceeding 2,500 square feet of land disturbance shall be accomplished through a Plan of Development Process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this article. The requirements for a Plan of Development Process are described in the handout, Plan of Development Process for Chesapeake Bay Preservation Areas, which can be obtained from the office of the Zoning Administrator.

Section 3-162. Nonconforming use and noncomplying structures.

(a) The lawful use of a building or structure which existed on August 4, 1994, and which is not in conformity with the provisions of the Chesapeake Bay Preservation Area Ordinance may be continued in accordance with Section 3-165 of this article.

(b) No change or expansion of use shall be allowed, with the exception that:

(1) The Zoning Administrator may grant a nonconforming use and noncomplying structures waiver for principal structures on legal nonconforming lots or parcels to provide for remodeling and alterations or additions to such nonconforming structures, provided that:

[a] There will be no increase in nonpoint source pollution load.

[b] Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this article.

(2) An application for a nonconforming use and noncomplying structures waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this article, the following information:

[a] The name and address of the applicant and property owner.

[b] A legal description of the property and type of proposed use and development.

[c] A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area.

[d] Location and description of any existing private water supply or sewage system.

(3) A nonconforming use and noncomplying structure waiver shall become null and void 12 months from the date issued if no substantial work has commenced.

(4) An application for the expansion of a nonconforming structure may be approved by the Zoning Administrator through an administrative review process, provided that the following findings are made:

[a] The request for the waiver is the minimum necessary to afford relief;

[b] Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situations;

[c] The waiver is in harmony with the purpose and intent of this article and does not result in water quality degradation;

[d] The waiver is not based on conditions or circumstances that are self-created or self-imposed;

[e] Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;

[f] Other findings, as appropriate and required by the Town of Bowling Green, are met; and

[g] In no case shall this provision apply to accessory structures.

Section 3-163. Exemptions.

(a) Exemptions for utilities, railroads and public roads. Construction, installation, operation and maintenance of electric, natural gas, fiber optic, and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the 16 Code of Virginia) and Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or local water quality protection criteria at least as stringent as the above stated requirement are deemed to comply with this article. The exemption of public roads is further conditioned on the following:

(1) The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

(b) Exemptions for local utilities and other service lines. Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted, or both, by the Town of Bowling Green or regional service authority shall be exempt from the overlay district, provided that:

(1) To the degree possible, the location of such utilities and facilities should be outside RPA's.

(2) No more land shall be disturbed than is necessary to provide for the proposed utility installation;

(3) All construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and

(4) Any land disturbance exceeding an area of 2,500 square feet complies with all Caroline County erosion and sediment control requirements.

(c) Exemptions for silvicultural activities. Silvicultural activities are exempt from the requirements of this article, provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in its Virginia's Forestry Best Management Practices for Water Quality.

(d) Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas may be exempted from the overlay district: water wells; passive recreation facilities such as boardwalks, trails and pathways; and historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

(1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
(2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
(3) The intended use does not conflict with nearby planned or approved uses; and
(4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all requirements of Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.

Section 3-164. Exceptions.

(a) A request for an exception to the requirements of Sections 3-156 and 3-3-159(c) of this article shall be made in writing to the Planning Commission. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the performance of a water quality impact assessment which complies with the provisions of Section 3-156(c).

(b) The Town of Bowling Green shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with § 15.2-2204 of the Code of Virginia, except that only one hearing shall be required.

(c) The Planning Commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the Planning Commission finds that:

(1) Granting the exception will not confer upon the applicant any special privileges that are denied by this article to other property owners in the overlay district;
(2) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
(3) The exception request is the minimum necessary to afford relief;
(4) The exception request will be in harmony with the purpose and intent of the overlay district, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
(5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

(d) If the Planning Commission cannot make the required findings or refuses to grant the exception, the Planning Commission shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

(e) A request for an exception to the requirements of provisions of this article other than Sections 3-156 and 3-159(c) shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions, provided that:

(1) Exceptions to the requirements are the minimum necessary to afford relief; and
(2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved.

(f) Exceptions to the provisions of Section 3-159(b) may be granted by the Zoning Administrator provided that the findings noted in Section 3-164(c)(1) through (5) are made.

Division 13 Nonconforming Uses

Section 3-165. Continuation.

(a) If, at the time of enactment of this article, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this article, such manner of use or purpose may be continued as herein provided.
(b) If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use may be continued.
(c) If any nonconforming use (structure or activity) is discontinued for a period exceeding two years, after the enactment of this article, it shall then conform to the requirements of this article.
(d) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such use may only be changed to an even more limited use.
(e) Temporary seasonal nonconforming uses that have been in continual operation for a period of two years or more prior to the effective date of this article are excluded.
(f) Permits previously issued. The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this article may proceed, provided that such building is completed within one year or such use of land established within 30 days after the effective date of this article.
(g) Changes in districts. Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

Section 3-166. Extension or enlargement.

(a) An existing nonconforming structure may be enlarged or expanded so long as the enlargement or expansion does not make the structure any more nonconforming.
(b) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this article.
(c) Nonconforming lots. Any lot of record at the time of the adoption of this article which is less in area or width than the minimum required by this article may be used when the requirements of the Board of Zoning Appeals regarding setbacks, side and rear yards are met.

Section 3-167. Restoration or replacement.

(a) If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50% of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this article.
(b) If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 75% of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this article.
(c) When a conforming structure devoted to a nonconforming activity is damaged less than 50% of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75% of the cost of reconstructing, the entire structure either may be repaired or restored, provided that any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.
(d) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

Division 14 Site Plans

Section 3-168. Purpose.

The purpose of the site development plan is to facilitate the use of the most advantageous techniques in the development of land in the Town and to promote high standards and innovation PNT="12656." in the layout, design, landscaping and construction of developments.

Section 3-169. When required.

(a) A site development plan is required and shall be submitted for uses in the following zoning districts:

(1) Planned Unit Development PUD.
(2) Business B-1.
(3) Business B-2.
(4) Industrial M-1.

Section 3-170. Requirements and Specifications.

(a) Information required.

(1) Every site plan submitted in accordance with this article shall contain the following information:

[a] The location of the tract by an insert map at a scale of not less than one inch equals 2,000 feet, indicating scale coordinates referred to in the United States Coast and Geodetic Survey state grid north and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, Town boundary and magisterial districts or other landmarks sufficient to clearly identify the location of the property.

[b] A boundary survey of the tract with an error of closure within the limit of one in 10,000 related to the true meridian and showing the location and type of boundary evidence. The survey may be related to the United States Coast and Geodetic Survey state grid north if the coordinates of two adjacent corners are shown.

[c] A certificate signed by the surveyor or engineer setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.

[d] All existing and proposed streets and easements; their names, numbers and widths; existing and proposed utilities; watercourses and their names; and owners, zoning and present use of adjoining tracts.

[e] The location of wooded areas on the property and the location of trees and wooded areas that will be retained.

[f] The location, type and size of vehicular entrance to the area.

[g] The location, type, size and height of fencing, retaining walls and screen planting where required under the provisions of this article.

[h] All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with Section 3-180 of this article.

[i] The number of floors, floor area, height and location of each building and proposed general use for each building; if a multifamily residential building, the number, size and type of dwelling units.

[j] All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to the Town or other utility system.

[k] The contributing drainage area in acres and delineation of any floodplain limits.

[l] The location of any springs either within or draining to street rights-of-way and an indication of the proposed method of treatment.

[m] Provisions for the adequate disposition of natural and stormwater and grades of ditches, catch basins and pipes and connections to existing drainage system.

[n] Existing topography with a maximum of two foot contour intervals; where existing ground is on a slope of less than 2%, either one-foot contours or spot elevations where necessary but not more than 50 feet apart in both directions.

[o] Proposed finished grading by contours supplemented where necessary by spot elevations.

(2) All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to be closest to one hundredth (1/100) of a foot and all bearings in degrees, minutes and seconds to the nearest 10 seconds.

(b) Preparation; Submission.

(1) Site plans or any portion thereof involving engineering or land surveying shall be prepared and certified by an engineer or land surveyor duly authorized by the state to practice as such.

(2) Site plans shall be prepared to a scale of one inch equals 50 feet or larger; the sheet or sheets shall be twenty-four by thirty-six (24 x 36) inches. A site plan may be prepared in one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join. Every site plan shall show the name and address of the owner or developer, magisterial district, county, state, North point, date and scale of the drawing and number of sheets. In addition, it shall reserve the blank space, three inches wide and five inches high for the use of approving authority.

(3) Seven clearly legible blue or black-line copies of the site plan shall be submitted to the Zoning Administrator. The site plan shall be accompanied by the appropriate site plan fee, as set forth in Section 3-196 of this article.

(c) Processing.

(1) Initial processing of site plans shall be through the Zoning Administrator, who is responsible for checking the site plan for general completeness and compliance with such administrative requirements as may be established. The Administrator shall submit copies of the site plan to reviewing departments, agencies and officials, as deemed necessary. He shall see that all reviews are completed on time and that action is taken by the approving authority on the site plan within 60 days, except under abnormal circumstances, from the receipt thereof.

(2) All site plans which are appropriately submitted and conform to standards and requirements set forth in this article shall be approved or rejected by the Planning Commission after having been reviewed by the Administrator. If the site plan is denied approval, the Administrator, in notifying the applicant of the decision, shall set forth in detail the reasons for the denial, which shall be limited to any defect in form or required information, any violation of any provision or standard of this article or any other ordinance or the inadequacy of any utility and shall state any changes which would make the site plan acceptable.

(d) Required improvements.

(1) All site plans shall contain the following improvements:

[a] Designation of pedestrian walkways so that patrons may walk on the same from store to store or building to building within the site and to adjacent sites.

[b] The construction of all curbs, gutters and sidewalks and the construction of all roads widening to the width as specified on the street and highway plan for Bowling Green.

[c] The dedication of all rights-of-way to their width as designated on the street and highway plan for Bowling Green.

[d] Construction of vehicular travel lanes or driveways not less than 22 feet in width which will permit vehicular travel on the site and to and from adjacent parking areas and adjacent property.

[e] Connection, wherever possible, of all walkways and driveways, with similar facilities on adjacent property.

[f] Screening, fences, walls, curbs, and gutters as are required by the provisions of this article, other ordinances of the Town, or by the regulations of the Virginia Department of Transportation.

[g] Location and dimensions of proposed recreation, open space and required improvements, including details of disposition.

[h] Location, design, height, size and orientation of proposed signs and outdoor lighting systems.

[i] Easements or rights-of-way for all facilities to be publicly maintained. Such easement shall be clearly designed for the purpose intended and recorded before approval of the site plan.

[j] Curbs and gutters for driveways that provide vehicular travel to and from adjacent parking areas to adjacent property for the purpose of separating the same from parking areas and walkways.

[k] Provisions for the adequate control of erosion sedimentation indicating proposed temporary and permanent control practices and measures which shall be implemented during all phases of clearing, grading and construction.

[l] Adequate no parking signs along such streets, highways or driveways to prohibit parking on such as required by the Town Council. Also the location of no through-street signs where required on cul-de-sac streets or temporary cul-de-sac streets.

[m] Adequate drainage system for the disposition of storm-and natural waters, including provision of ends, if curb and gutter, for erosion control.

[n] Provision for open spaces, including details of disposition.

(2) Upon satisfactory completion of all off-site and on-site improvements the developer shall take the necessary steps to have said improvements accepted by the Town of Bowling Green for maintenance.

(e) Bond. Prior to approval of any site plan, there shall be executed by the owner or developer and submitted with the site plan an agreement to construct such required physical improvements as are located within public rights-of-way or easements or as are connected to any public facility in form and substance as approved by the Town, together with a bond with surety or condition acceptable to the Town in the amount of the estimated cost of the required physical improvements as determined by the Administrator, which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties, including sureties, to the original agreement. The adequacy, conditions and acceptability of any bond hereunder shall be determined by the Town Council.

(f) Expiration; extension.

(1) Approval of a site plan submitted under the provisions of this article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith.

(2) A single one year extension may be given upon written request by the applicant to the Administrator made within 90 days before the expiration of the approved site plan. The Administrator shall acknowledge the request and shall make a decision regarding the requested extension within 60 days after receipt of the request.

(g) Revisions and waivers. Any site plan may be revised in the same manner as originally approved, and any requirement of this article may be waived by the Town Council in specific cases where such requirements are found to be unreasonable in such cases and where such waiver will not be detrimental to the purpose of this article.

(h) Permit to be in conformity with plan. No certificate or permit shall be issued for any structure in any area covered by the site plan that is required under the provisions of this article except in conformity with such site plan which has been duly approved.

(i) Construction standards; inspections; notification; supervision; certification of approval.

(1) Unless specifically provided in this article, the construction standards for all off-site improvements and on-site improvements required by this article shall conform to the Town and state design and construction standards.

(2) Inspections during installation of all improvements shall be made by the department, agency or official charged with this responsibility, with results reported to the Zoning Administrator in order to certify compliance with the approved site plan.

(3) The owner shall notify the Administrator, in writing, three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.

(4) The owner shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman, together with one set of approved plans, profiles and specifications, available at the site at all times when work is being performed.

(5) Upon satisfactory completion of the installation of the required improvements, the owner shall receive a certification of approval from the Administrator on the improvements upon the application for such certificate. Such certificate of approval will authorize the release of any bond which may have been furnished for the guaranty of satisfactory installation of such improvements or parts thereof.

Section 3-171. Appeals.

Any person aggrieved of any decision of the Administrator may, within 10 days of such decision, appeal to and have a determination made by the Planning Commission. Any applicant or adjoining property owner who is aggrieved of the decision of the Planning Commission may, within 10 days of such decision, appeal to and have a determination made by Town Council. Further appeal can be made to the Board of Zoning Appeals in accordance with Article I, Division 17 of this chapter.

Section 3-172. Violations and penalties.

Any person, whether as owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this article or permits any such violation or fails to comply with any of the requirements hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by Article I, Division 18 of this chapter.

Division 15 Special Provisions.

Section 3-173. Zoning permits.

(a) Buildings or structures shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the Administrator.

(b) The Commission may request a review of the zoning permit approved by the Administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.

(c) Each application for a zoning permit shall be accompanied by the appropriate fee, as set forth in Section 3-196, and two copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator may deem necessary for consideration of the application

may be required. If the proposed building or use is in conformity with the provisions of this article, a permit shall be issued to the applicant by the Administrator. One copy of the drawing shall be returned to the applicant with the permit.
(d) Where permits have been issued prior to the adoption of this article, any change may be made in the plans, size of structure, or designated use of a building, if mutually agreed upon by the Zoning Administrator and the permit holder.

Section 3-174. Certificate of zoning compliance.
Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of zoning compliance has been issued by the Administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this article. Activation of Town water and sewers shall be withheld until compliance is assured. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of zoning compliance, either for the whole or a part of a building, shall be applied for simultaneously with the application for a zoning permit. The zoning compliance certificate shall be issued within 10 days after the erection or structural alteration of such building or part has conformed to the provisions of this article.

Section 3-175. Conditional zoning.
(a) The purpose of conditional zoning is to provide a more flexible and adaptable zoning method in instances where competing and incompatible uses conflict and traditional zoning methods and procedures are inadequate. Through conditional zoning, a zoning reclassification may be allowed, subject to certain conditions that are voluntarily proffered by the zoning applicant. Such conditions are for the protection of the Town and are not generally applicable to land similarly zoned.
(b) The owner of property subject to a rezoning request may, at the time of filing a rezoning application and prior to a public hearing before the Bowling Green Town Council, submit with the request conditional zoning proffers as deemed appropriate. The Town Council, with the recommendations of the Bowling Green Planning Commission, may approve these reasonable conditions, provided that the following criteria are met:
(1) The rezoning itself must give rise for the need for the conditions.
(2) All conditions shall have a reasonable relation to the rezoning.
(3) No conditions shall include a cash contribution to the Town.
(4) No conditions shall require mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise authorized by law.
(5) No conditions shall include payment for or construction of off-site improvements except those authorized by law.
(6) No condition shall be proffered that is not related to the physical operation of the property.
(7) All conditions shall be in conformity with the Bowling Green Comprehensive Plan.
(8) The provisions of conditional zoning shall not be used for the purpose of discrimination in housing.
(c) Compliance with approved conditional zoning shall be vested with the Administrator who shall administer and enforce conditions attached to a rezoning or amendment to a Zoning Map, including;
(1) Ordering, in writing, compliance with such conditions.
(2) The bringing of legal action to ensure compliance.
(3) Requiring a guaranty or contract for the construction of physical improvements required by the conditions.
(4) Denying issuance of certificates of zoning compliance as well as use, occupancy or building permits when failure to meet all conditions occurs.
(d) Records of conditional zoning shall be maintained as follows:

(1) The Zoning Map shall show by an appropriate symbol the existence of conditions attached to the zoning on the map.

(2) The Administrator shall keep in the zoning office for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating such conditions, in addition to the regulations provided for in a particular zoning district or zone.

(e) Any person aggrieved by the Administrator's decision or actions under Section 3-175(c) may petition the governing body for the review of such decision.

(f) No amendment or variation of conditions under Section 3-175(b) shall be made until after a public hearing is held before the Bowling Green Town Council in accordance with § 15.2-2204, Code of Virginia 1950, as amended.

Section 3-176. Special use permit.

(a) Where designated by this article, the location of certain uses shall require the prior approval of the Bowling Green Town Council following a recommendation from the Planning Commission. In addition to a zoning permit, such uses shall require a special use permit.

(1) The Bowling Green Town Council must find that the use will not be detrimental to the character and development of adjacent properties and will be consistent with the purpose and intent of the provision of the Code of the Town of Bowling Green and the Bowling Green Comprehensive Plan.

(2) The Bowling Green Town Council shall designate conditions and restrictions in the granting of special use permits to assure the use will be compatible with the neighborhood in which it is to be located and will meet the general standards contained herein; or where that cannot be accomplished, to deny the use as not in accordance with adopted plans and policies or as being incompatible with existing uses or development by right in the area.

(3) The burden of proof lies with the applicant to demonstrate that the proposed special use is consistent with the purpose and intent of the applicable zoning district and satisfies the general standards and any additional specific conditions which may be applicable.

(b) All special use permits shall satisfy the following general standards:

(1) The use shall be in accordance with the purposes of the zoning regulations contained in the Code of the Town of Bowling Green and the Bowling Green Comprehensive Plan.

(2) The use shall not adversely affect the character and established pattern of development of the area in which it wishes to locate, shall be in harmony with the uses permitted by right under a zoning permit in the zoning district, and shall not adversely affect the use of neighboring properties.

(3) The use shall not adversely affect the health or safety or welfare or injurious to property and improvements in the neighborhood or adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.

(4) The use shall be such that air quality, surface and groundwater quality and quantity, are not degraded or depleted to an extent that would hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or building(s) or impair the value thereof. Adequate utilities, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.

(5) The use shall be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on roads serving the site.

(c) The fee for a special use permit shall be as set forth in Section 3-196 of this article.

Section 3-177. Special use permits; additional standards and requirements.

(a) Home occupation permit.

(1) In addition to a business license as set forth in Chapter 7, Article VII, a home occupation must obtain a home occupation permit before operations may begin. These permits shall list any and all of the conditions as the Town Council deems necessary to execute the intent of this article. The fee for a home occupation permit shall be as set forth in Section 3-196 of this article.

(b) Bed and Breakfast Establishments.

(1) Off-street parking for the use shall be in accordance with the Code of the Town of Bowling Green, shall not be located in any required front yard, and shall be effectively screened.

(2) The building(s) so used shall maintain the character and appearance specified by the zoning requirements of the parcel.

(c) Special Events Facility.

(1) A Special Events Notification Form shall be submitted for each event involving 50 or more invited guests to serve as notification to the Town of Bowling Green as to the type, size, noise signature, and duration of the event.

(2) The Special Events Facility must be located on a minimum of a two (2) acre site.

(3) All applicable licenses shall be obtained and publicly displayed onsite for activities conducted on the site.

(4) Capacity of the Special Events Facility shall meet all Building and Fire Code requirements.

(5) Temporary event structures shall comply with Town and County Code requirements.

(6) An off-street parking area shall be provided to accommodate vehicular parking for all invited guests.

(7) The special events facility shall operate so as to limit the impact on any adjoining residential and commercial properties.

(8) The building(s) so used shall maintain the character and appearance specified by the zoning requirements of the parcel.

Section 3-178. Uses not provided for.

If, in any district established under this article, a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission, which shall make its recommendations to the Town Council within 30 days. If the Town Council approves, this article shall be amended to list the use as a permitted use or special use in that district, as the case may be. Both the Planning Commission and Town Council shall hold public hearings in connection with such application in accordance with Section 3-183 of this Code. The fee for this procedure shall be that set forth in Section 3-196 for amendments (uses not stated).

Section 3-179. Widening of streets and highways.

Whenever there shall be plans in existence, approved by either the Virginia Department of Transportation or by the governing body, for the widening of any street or highway within Bowling Green, the Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way for such proposed street or highway widening.

Section 3-180. Off-street parking.

(a) Except as herein provided, there shall be provided at the time of erection of any main building or use or at the time any main building or use is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard-sized automobiles. An area nine feet by 18 feet shall be deemed parking space for one vehicle. All parking spaces and access driveways shall be

covered with an all-weather surface and shall be graded and drained to dispose of surface water. However, no surface water from any parking area shall be permitted to drain onto adjoining property.

(1) Parking spaces shall be provided as follows:

[a] In all residential districts, there shall be provided, either in a private garage or on the lot, space for the parking of one automobile for each dwelling unit added in the case of the enlargement of an existing building.

[b] Bed and Breakfast Establishments shall provide a parking space on the lot for each accommodation for vehicular parking in addition to parking spaces required by the owner(s) and/or caretaker(s).

[c] For church, high school, college and university auditoriums and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every five fixed seats provided in said building.

[d] For hospitals, at least one parking space for each two beds' capacity, including infants' cribs and children's bed.

[e] For medical and dental clinics, at least 10 parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of three doctors or dentists.

[f] For tourist courts and motels, at least one parking space for each individual sleeping or living unit; for hotels and apartment hotels, at least one parking space for each two sleeping rooms, up to and including the first 20 sleeping rooms, and one parking space for each three sleeping rooms over 20.

[g] For mortuaries and liquor stores, at least 30 parking spaces.

[h] For retail stores selling directly to the public, one parking space for each 200 square feet of retail floor space in the building.

[i] Any other commercial building hereafter erected, converted or structurally altered shall provide one parking space for each 200 square feet of business floor space in the building. Any establishment hereafter erected that serves meals, lunches or drinks to patrons, either in their cars or in the building, shall provide one parking space for each 200 square feet of business floor space in the buildings, provided that there shall be at least one parking space for each serving unit. In restaurants, a serving unit shall be two stools, one booth or one table. For dance halls and recreational areas, one parking space for each 200 square feet of floor area. Two or more establishments may provide necessary parking spaces on a single parcel of land.

(2) Parking space as required in the foregoing shall be on the same lot with the main building, except that, in the case of buildings other than dwellings, spaces may be located as far away as 600 feet.

(3) County and municipal parking areas. Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, asphalt or concrete. It shall have appropriate bumper guards where needed as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in any residential district.

(4) Required parking spaces shall be maintained in connection with the buildings which they are to serve and in the manner indicated by the minimum requirements of off-street parking and space regulations. Substitution of equivalent spaces in conformity with the off-street parking regulations may be allowed by the Board of Zoning Appeals.

(5) Space shall be provided for the loading and unloading of trucks and commercial vehicles serving commercial buildings.

(6) Unless separated from a public highway by a substantial fence or barrier at least 36 inches in height or with substantial landscaping approved by the Planning Commission, off-street parking spaces shall be located at a distance not less than 15 feet from any public highway right-of-way.
(7) Businesses with buildings or uses adjacent to or near on-street parking may use such parking to meet the requirements for parking spaces, provided that it can be shown that adequate parking exists to accommodate the business or use taking into account other nearby businesses or uses.

Section 3-181. Restrictions adjacent to airports.
(a) Establishment of approach zones. The Commission shall determine whether there exist within the Town of Bowling Green any areas which would be involved under the Civil Aeronautics Administration's Criteria for Determining Obstruction to Air Navigation. If there are, they shall be marked on a copy of a Zoning Map in the office of the Administrator. It shall be available to the public for examination.
(b) The Administrator shall prepare such height and other regulations governing the construction of buildings within such areas. They are to be consistent with the Civil Aeronautics Administration's recommendations. Following approval by the governing body, the Administrator shall enforce these regulations.
(c) Places of public assembly, such as schools, hospitals, apartment houses, theaters and assembly halls, shall not be erected or otherwise located in any area which would be classified as an "approach zone." This zone includes an area of 11,000 feet from the end of any runway.

Section 3-182. Annexed area.
Any area annexed by the Town of Bowling Green after the effective date of this article shall immediately upon the effective date of such annexation be automatically classified at an R-1 District until a zoning plan for said area has been adopted by the Town Council. The Planning Commission shall prepare and present a zoning plan of the annexed area, within six months, to the Town Council.

Section 3-183. Public hearings.
(a) No amendment may be made to this article, including amendments to the Zoning Map by the rezoning of any parcel or parcels of land, and no amendment shall be made to the Comprehensive Plan unless and until public hearings on the proposed amendment are held by the Planning Commission and the Town Council following notice as required by § 15.2-2204 of the Code of Virginia 1950, as amended. The Planning Commission and Town Council may hold a combined public hearing on any such proposed amendment.
(b) No application for a special use permit or changes in conditions on property conditionally zoned shall be granted by the Town Council unless and until the Town Council shall first hold a public hearing on such application following notice as required by § 15.2-2204 of said Code of Virginia. The Planning Commission may make recommendations on such applications and may appear as a party at any public hearing thereon but shall not conduct its own public hearing.
(c) No variance shall be granted or appeal decided by the Board of Zoning Appeals unless and until the Board of Zoning Appeals shall first hold a public hearing thereon following notice as required by § 15.2-2204 of said Code of Virginia. The Planning Commission may make recommendations and appear as a party at any public hearing thereon but shall not conduct its own public hearing.

Division 16 Signs

Section 3-185. Area of sign.
The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but

not including any supporting framework and bracing which is incidental to the display itself. When the sign consists of individual letters or symbols attached to or painted on a surface other than a sign background, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols.

Section 3-186. Permitted signs.

(a) The maximum permitted size of signs and type of signs shall be in accordance with the following regulations:

(1) All zoning districts. The following signs shall be permitted:

[a] Official traffic or directional signs and other official federal, state, county or Town government signs.

[b] Temporary signs announcing a campaign or drive, political campaign or event of a civic, philanthropic, educational or religious organization, provided that such sign shall not exceed 18 square feet in area and shall be removed within seven days after the completion of the campaign, drive or event.

[c] Signs offering the sale or rental or future use of the premises upon which the sign is erected, provided that the area of such sign shall not exceed 36 square feet, and not more than one such sign shall be placed on the property unless such property fronts on more than one street, in which case one sign may be erected on each street frontage.

[d] One temporary sign of each contractor, developer, architect, engineer, builder and artisan, erected and maintained on the premises where the work is being performed, provided that the area of each such sign shall not exceed six square feet, and provided that such sign shall be removed upon completion of the work.

[e] Trespassing signs, signs indicating the private nature of a road, driveway or premises and signs controlling fishing or hunting on the premises, provided that the area of any such sign shall not exceed six square feet.

[f] Up to eight temporary signs announcing each yard sale, social gathering or similar activity within the Town, provided that each such sign shall not exceed six square feet in area, and provided that all signs shall be removed within three days after the completion of the yard sale, social gathering or activity.

[g] Logo signs of charitable, religious, service or fraternal organizations, provided that the area of any such sign shall not exceed six square feet, provided also that such signs be placed only near an entrance to Town, and provided that not more than one such sign of each organization shall be placed near each entrance to Town.

[h] The Town Manager shall place or cause to be placed such signs that are located on public property at the direction of Town Council, as follows:

[1] Signs that inform the public of the existence or scheduling of special events or activities sponsored by the Town of Bowling Green or activities taking place on public property with the authorization of the Town Council or provide information or directions for such events or activities.

[2] The Town Manager shall receive approval from VDOT before placing any such sign on public street right-of-way.

[3] Such signs shall meet the size and height requirements of the district in which the sign is to be placed.

[4] Such signs may provide directional information to various groups of businesses, shopping areas, specific sites, or events within the Town, but may not provide advertising for any individual business or site.

[5] Signs that provide information or directions for more than one event, activity, or category of business may be increased in size up to three (3) times the otherwise permitted

square footage when approved by the Zoning Administrator after a determination of need for increased size based on public interest and review and comment by the Planning Commission.

(2) Agricultural districts. The following signs shall be permitted:

[a] Bed and Breakfast Establishment. Signs displaying the name, address, and operating hours of the Bed and Breakfast Establishment and its "open" or "closed" status, provided not more than one such sign shall be erected per entrance to the property, and provided the area of each such sign shall not exceed twelve (12) square feet, and provided each such sign shall not be erected within a street right-of-way or dedicated easement.

[b] Special Events Facility. Temporary signs for directional traffic control may be displayed, provided the signs are positioned no earlier than 24 hours before the event and removed no later than 24 hours after the event, and provided not more than one such sign shall be placed per entrance to and exit from the property, and provided the area of each such sign shall not exceed six (6) square feet, and provided each such sign shall not be placed within a street right-of-way.

(3) Residential districts. The following signs shall be permitted:

[a] Home occupation or nameplate signs displaying the name and address of the occupant or the profession or activity of the occupant of a dwelling or dwelling unit, provided that not more than one such sign shall be erected for each permitted use on the lot, and provided that the area of each such sign shall not exceed six square feet, and provided that each such sign shall be fixed flat on the main wall of such building or may be erected in the front yard, but not within a street right-of-way.

[b] Bulletin, announcement board or identification signs for schools, parks or playgrounds, churches, hospitals, sanitariums, nursing homes, clubs, multifamily dwellings or other principal uses and buildings other than dwellings on the same lot therewith for the purpose of displaying the name of the institution and its activities or services, provided that the area of any such sign shall not exceed 24 square feet, and not more than one such sign shall be erected or displayed on each street frontage. Such sign shall be set back at least 10 feet from a lot line, except on primary highways.

[c] Subdivision signs, not exceeding 24 square feet in area, discounting any wall or other structure, for the purpose of advertising or identifying a housing development or subdivision, when erected or displayed on the property so advertised or identified at least 10 feet from the front lot line, provided that only one such sign shall be erected or displayed facing any one street on the perimeter of such development or subdivision.

(4) Multifamily dwellings. The following signs shall be permitted:

[a] Freestanding real estate signs for advertising the sale or rental of the premises upon which the sign is erected, provided that the total area of the sign does not exceed 18 square feet, that there shall be no more than one such sign on the same street frontage and that no sign shall be erected so as to stand higher than one of the buildings it advertises, or 35 feet, whichever is lower.

[b] Directional signs, not to exceed two square feet each, erected within the project itself to direct persons to a rental office or sample unit.

[c] Permanent identifying signs for the purpose of indicating the name of the multifamily project and for the purpose of identifying the individual buildings within the project. Not more than one sign for each entrance to the project from a public street to identify the name of the project shall be permitted, and no such sign shall exceed 18 square feet in size. Signs to identify the individual buildings within the project shall not exceed six square feet in size.

(5) Commercial districts. The following signs shall be permitted:

[a] Any sign permitted in a residential zone, with the setback requirement, when applicable, reduced to five feet.

[b] Signs advertising only the general business conducted within the premises upon which such signs are erected or displayed, and directional signs up to eight square feet in area per face permitted for drive-up services at each entrance to a public street.

[c] Real estate and contractors' signs, as described in Section 3-186(a)(1)[c] and [d], provided that the allowable area of any such sign facing a commercial or industrial district shall not exceed 18 square feet.

[d] Signs indicating the status of a business being "open" or "closed" and/or signs indicating the operating hours of a business, up to six square feet.

[e] Signs shall be erected or displayed only on such walls of a building as face the street, alley or parking area or as freestanding signs upon the lot, subject to the following provisions as to size and location per each business:

[1] One-story building. The total area of all signs facing a street, alley or parking area shall not exceed one square foot for each foot of building width facing such street, alley or parking area, but in no case shall the aggregate area of such sign or signs exceed 100 square feet.

[2] First-floor businesses in multistory buildings. The total area of all signs facing a street, alley or parking area shall not exceed one square foot for each foot of building width facing such street, alley or parking area, but in no case shall the aggregate of such sign or signs exceed 100 square feet. All such signs shall be kept within a height not to exceed 20 feet above the sidewalk.

[3] Above the first floor of multistory buildings containing one or more businesses above the first floor. The total area of all signs facing a street or parking area or alley on any wall above the twenty-foot height specified in Section 3-186(a)(5)[e][2] above shall not exceed 40 square feet or 1/40 of the area of that wall above such twenty-foot height, whichever is greater.

[4] Multistory buildings occupied by one business only. Where entire buildings over one story in height are occupied by one business, a total sign area of 100 square feet facing any street, alley or parking area or of one-fortieth (1/40) of the wall area facing such street, alley or parking area, whichever is greater, may be substituted for the allowable sign areas specified in Section 3-186(a)(5)[e][2] and [3] above, and, in such case, the sign may be located without regard to the twenty-foot height provision contained in Section 3-186(a)(5)[e][2] above.

[5] Signs hung on marquees. No sign shall be hung on a marquee, canopy or portico if said sign shall extend beyond the established right-of-way line. The area of any such sign shall be included in determining the total area of signs erected or displayed.

[6] Signs advertising occupants, etc. Signs advertising only the name of the occupant of a store, office or building, the business or occupation conducted or the type of products sold therein may be placed on show windows, provided that not more than 50% of the area of such windows shall be covered. The area of such signs shall be included in determining the total area of signs erected or displayed.

[7] Projection and minimum height of signs. A sign may be erected or displayed flat against a wall or at an angle thereto, but no sign shall project beyond the established right-of-way line, unless otherwise indicated. The bottom of a sign, the area of which exceeds six square feet, erected flat against a wall, shall not be less than eight feet above the sidewalk, alley or parking area. The bottom of a sign projecting from a wall shall not be less than 10 feet above a walkway or parking area or less than 14 feet above an alley.

[8] Maximum height of signs. Attached signs shall be permitted no higher than five feet above the roofline.
[9] Freestanding signs. Where signs are erected as freestanding upon a lot, the total area of all signs permitted by this section shall be one square foot for each foot of lot frontage, provided that signs erected or displayed on any building or buildings on such lot shall conform to the requirements and restrictions contained in the other subsections of this section. Freestanding signs upon a lot may be erected or displayed only where drive-in service or parking is provided, provided that not more than one such freestanding sign shall be permitted for any building having a street frontage with such drive-in service area, parking area or building setback. No signs other than those indicated on the sign application shall be attached to a freestanding sign. Freestanding signs shall not be erected more than 35 feet above the grade nor project beyond the established right-of-way line. Freestanding signs shall not exceed 60 square feet in area for single-faced signs and 120 square feet in area for signs with two or more faces. Where fewer than five businesses on adjoining lots qualify for the use of freestanding signs, the allowable signage area for each business may be combined into one freestanding sign not to exceed 150 square feet in area.
[10] Identification signs. Identification signs for shopping centers consisting of five or more separate businesses and having a continuous street frontage of at least 200 feet shall be permitted, and the area of such signs shall not be included in the total area of signs otherwise permitted in this section for the separate businesses, provided that not more than one such sign shall be permitted unless such property fronts on more than one street, in which case one sign may be erected on each street frontage. The total area of such identification signs for any shopping center shall not exceed one square foot for each foot of street frontage, nor shall the total area of such signs facing any street, alley or parking area exceed 150 square feet.
[11] Advertising theater acts, etc. Signs advertising the acts or features to be given in a movie theater or theaters may be displayed on permanent frames erected on theater buildings in accordance with the provision of this section as to size and location, provided that the bottom of any such sign frame erected flat against a wall may be less than eight feet above the sidewalk, alley or parking area, provided further that, when the area of any such frame does not exceed 24 square feet and the area of all such frames facing such street, alley or parking area does not exceed 48 square feet, the area of the signs displayed thereon shall not be included in determining the total area of signs erected or displayed.
[12] Up to two temporary signs or banners, each not exceeding 30 square feet in area, advertising a particular sales event, product or service may be displayed for up to 30 days on exterior walls or in windows, other provisions of this article notwithstanding, for each independent commercial establishment, provided that no signs or banners are displayed for 15 days prior to each thirty-day period.
[13] Temporary holiday or seasonal signs and decorations which do not advertise any product, service or business and which are erected for fewer than 45 days are exempt from the provisions of this article.
[14] In addition to other signs permitted by this Ordinance, each business may have one additional temporary sign which meets the following standards:

{a} Such temporary sign shall only be displayed during operating hours of the business for which the sign is advertising; and

{b} Such sign shall only be displayed on the privately-owned property of the business for which the sign is advertising as a freestanding sign or attached to the building in which the business is located; and

{c} Such sign shall only display information regarding a special sale, special event, menu, or purchasing opportunity which occurs on the day the sign is displayed; and

{d} Such sign shall be no larger than eight (8) square feet for a sign with a single face, and sixteen (16) square feet for a sign with two faces; and

{e} Such sign area for the temporary sign shall not be included in calculating the total amount of permitted sign area; and

{f} A permit shall be required for the temporary sign; and

{g} In consideration of an application to issue a permit for a temporary sign, the Zoning Administrator shall review the location, size, materials, legibility, and construction of the proposed sign to assess the following:

{1} The sign's appropriateness for the character of the area, land and buildings to which it is appurtenant; and

{2} The sign's design as an integral architectural element of the building and site to which it relates; and

{3} Preventing excessive competition among sign displays in their demand for public attention; and

{4} The legibility of the sign to ensure passing motorists can read the sign without creating traffic problems and dangerous situations; and

{5} Sightly presentation of the sign to the public in general; and

{6} Eliminating dangerous distractions to motorists; and

{7} Ensure the sign is securely attached to the building or an adequate support structure is provided for freestanding signs so there is virtually no danger of causing injury to persons or property as a result of construction issues or forces of nature; and

{8} Ensuring the sign does not obstruct a clear view of street crosswalks, entrances, exits, or intersections.

(6) Industrial districts. The following signs shall be permitted:

[a] Any sign permitted in any commercial zone, provided that the allowable area of any such sign where it faces a commercial or industrial zone shall be 1 1/2 times the allowable area specified in Section 3-186(a)(5) of this section.

(7) Supplemental sign regulations.

[a] Freestanding signs. Freestanding signs, including monument signs, shall be designed and placed in a manner that does not obstruct motorists' view of traffic.

[b] Illumination. Signs may be lighted with nonglaring lights or may be illuminated by shielded floodlights; provided, however, that no red, green or amber lights which may be mistaken for traffic control devices shall be permitted, and provided that lighting is screened from adjacent properties. No lights of intermittent, flashing or animated types shall be permitted.

[c] Placement. No signs shall be permitted which are posted, stapled or otherwise attached to public utility poles, trees or other permanent fixtures within the street right-of-way.

[d] Construction. All signs, except temporary signs, shall be constructed of durable, rigid material and kept in good condition and repair.

[e] Nonconforming signs. Nonconforming signs may be replaced with a sign or signs that are less nonconforming. Nonconforming signs may be repainted or repaired, provided that such repainting or repairing does not exceed the dimensions of the existing sign.

(8) General advertising signs (billboards) are prohibited in all districts.

(9) Temporary freestanding message or announcement board signs are prohibited in all districts.

(10) Except in a residential district, no flags or other fluttering devices may be attached to any sign, building or other structure except in accordance with Section 3-186(a)(5)[e][13]. The

display of one each of United States, Virginia, county, Town and corporate flag, on a standard flagpole, is exempt from this provision.

Section 3-187. Permit required.

(a) A sign permit shall be required before a sign is erected, altered or relocated, except as otherwise provided herein.

(1) Applications. Each application for such permit shall be accompanied by plans showing the area of the sign, the size, character and design proposed, the method of illumination, if any, the exact location proposed for such sign, the method of fastening such sign, the name and address of the sign owner and of the sign erector, the width of the building frontage, the area of the building sides, the height of the building and such other information that may be necessary for the issuance of a permit. The Administrator may waive any information he feels is not necessary to process an application in accordance with the requirements of this article.

(2) Fees. Fees for sign permits shall be in accordance with the schedule of fees for zoning permits as adopted by the Town Council.

(3) Nullification. A sign permit shall become null and void if the work for which the sign permit was issued has not been completed within a period of six months after the date of issuance of the permit.

(4) Permit exceptions. A permit shall not be required for the following; provided, however, that such signs shall be subject to any and all applicable provisions of this article:

[a] Any sign listed in Section 3-186(a)(1) of this article.

[b] Signs indicating the operating status and/or hours of a business as described in Section 3-186(a)(4)[d].

[c] Repainting or refacing without changing wording, composition or color, or minor nonstructural repairs.

[d] The changing of the advertising copy or message on an approved sign or theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.

[e] Temporary signs as described in Section 3-186(a)(4)[e][12].

(b) Special use permit. Temporary signs as described in Section 3-186(a)(4)[e][12] may be displayed in excess of 30 days with a special use permit issued by Town Council.

Division 17 Appeals

Section 3-188. Board of Zoning Appeals established; membership.

(a) This Board consisting of five or seven members shall be appointed by the Circuit Court of Caroline County. Members of the Board may receive such compensation as may be authorized by the Town Council. Members shall be removable for cause upon written charges and after a public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall be in all cases for the unexpired term.

(b) The term of office shall be for five years, except that the original appointments shall be made for such terms that the term of at least one member shall expire each year.

(c) Members may be removed for cause by the Circuit Court upon written charges and after a public hearing.

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

(e) The Board shall choose annually its own Chairman and, in his absence, an Acting Chairman.

Section 3-189. Rules and regulations; meetings; minutes; quorum.
(a) The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.
(b) The meetings of the Board shall be held at the call of its Chairman and at such times as the Board may determine.
(c) The Chairman or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.
(d) All meetings of the Board shall be open to the public.
(e) The Board shall keep minutes of its proceedings, showing the vote of each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
(f) A quorum shall be a majority of the members.
(g) A favorable vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

Section 3-190. Powers and duties of Board.
The powers and duties of the Board of Zoning Appeals shall be as provided in § 15.2-2309 of the Annotated Code.

Section 3-191. Appeal to Board of Zoning Appeals.
(a) Appeals to the Board of Zoning Appeals shall be provided in § 15.2-2311 of the Annotated Code.
(b) Appeals shall be mailed to the Board of Zoning Appeals in care of the Zoning Administrator and a copy of the appeal mailed to the Secretary of the Planning Commission. A third copy should be mailed to the individual official, department or agency concerned, if any.
(c) Appeals shall be accompanied by payment of the appropriate fee, as set forth in Section 3-196 of this article.
(d) The Board shall fix a reasonable time for the hearing of an application or appeals, give public notice thereof as prescribed by § 15.2-2204 of the Code of Virginia 1950, as amended, as well as due notice to the parties in interest and decide the same within 90 days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of an administrative officer or may decide in favor of the applicant on any matter upon which it is required to pass under the article or may affect any variance from the article. The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Board and shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records. The Chairman of the Board or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.

Division 18 Penalties.

Section 3-192. Conformance required.
All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this article. They shall issue certificates or permits for uses, buildings or purposes only when they are in harmony with the provisions of this article. Any such certificate or permit, if issued in conflict with the provisions of this article, shall be null and void.

Section 3-193. Violations and penalties.
Any person, firm or corporation, whether as principal, agent, employed or otherwise, violating, causing or permitting the violation of any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to $250. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this article is committed, continued or permitted by such person, firm or corporation and shall be punishable as herein provided.

Division 19 Amendments.

Section 3-194. Procedure for amendment.
(a) The regulations, restrictions and boundaries established in this article may, from time to time, be amended, supplemented, changed, modified or repealed by a majority of the votes of the governing body, provided that:

(1) The Planning Commission shall hold at least one public hearing on such proposed amendment after notice as required by § 15.2-2204, Code of Virginia 1950, as amended, and may make appropriate changes in the proposed amendment to the governing body, together with its recommendations and appropriate explanatory materials. Such public hearing may be held jointly with the governing body at its public hearing.

(2) Before approving and adopting any amendment, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, Code of Virginia 1950, as amended, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing notice. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the Zoning Ordinance. Action shall be taken by the governing body only after a report has been received from the Planning Commission, unless a period of 60 days has elapsed after date of referral to the Commission, after which time it may be assumed that the Commission has approved the change or amendment.

(b) Individual property owners may petition the governing body to have their property rezoned by submitting to the Zoning Administrator their request, in writing, accompanied by payment of the appropriate fee, as set forth in Section 3-196 of this article. After a proper public hearing, the Planning Commission shall make its recommendation to the Bowling Green Town Council, which shall act on the applicant's request.

Division 20 Administration and Interpretation.

Section 3-195. Enforcement.
This article shall be enforced by the Administrator who shall be appointed by the governing body. The Administrator shall serve at the pleasure of that body. Compensation, as such, shall be fixed by resolution of the governing body.

Section 3-196. Fees.
There are hereby imposed the following fees for the indicated zoning-related services, which fees shall be payable to the Treasurer of the Town of Bowling Green upon application for the requested action:

Service	**Fee**
Zoning permits:	
All Construction Except as Noted	$75.00
Accessory Structure less than 100 sq ft	$50.00
Zoning Certification Letter	$100.00
Roofing and Remodeling	$50.00
Comprehensive Plan Amendment	$750.00
Rezoning permits:	
Residential (R)	$750.00 plus $35.00 per acre or part thereof
Business (B)	$1000.00 plus $50.00 per acre or part thereof
Industrial (M)	$1000.00 plus $50.00 per acre or part thereof
Planned unit development	$2500.00 plus $50.00 per acre or part thereof
Special use permit/special exception	$750.00
Zoning Text Amendments	$500.00
Text Prepared by Staff	$750.00
Variance	$600.00
Administrative Appeal	$600.00
Sign permit:	
30 square feet or less	$50.00
Over 30 square feet	$75.00
Home Occupation Permit:	
Initial	$50.00
Annual Renewal	$20.00
Site plan:	
Commercial or Industrial	
Major Site Plan	$1250.00 plus $35.00 per acre or part thereof
Minor site plan	$500.00
Planned unit development	$1250.00, plus $35.00 per acre or part thereof
Other	$1250.00, plus $35.00 per acre or part thereof
Site Plan Revision Review	½ of Required Fee
Subdivision Review Fees:	
Concept Plan	$100.00

Preliminary Plat	$500.00 plus $35.00 per lot
Final Plat	$500.00 plus $35.00 per lot
Boundary Line Adjustment (per Adjustment)	$100.00
Revised, Vacated, or Amended Plat	$100.00
Request for Waiver or Variance	$300.00

Copies of:

Zoning Ordinance	$8.00
Subdivision Ordinance	$6.00
Comprehensive Plan	$15.00
Code Book	$175.00

Section 3-197. Effect on permits granted prior to adoption.
Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this article. However, such construction must commence within 30 days after this article becomes effective. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this article for the district in which the operation is located.

Section 3-198. Interpretation of district boundaries.
(a) Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys or railroad main tracks, such center line or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

(2) Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line of low water or at the limit or jurisdiction of the Town of Bowling Green.

(3) If no distance, angle, curvature description or other means is given to determine a boundary line accurately, the same shall be determined by the use of the scale shown on said Zoning Map, and, in case of dispute in the use thereof, the determination of the County Surveyor or his deputy shall be final.

Section 3-199. Certified copy.
A certified copy of the foregoing Zoning Ordinance of the Town of Bowling Green, Virginia, shall be filed in the office of the Zoning Administrator of Bowling Green and in the office of the Clerk of the Circuit Court of Caroline County.

Article II Subdivision of Land

Section 3-200. Purpose.
(a) The purpose of this article is to establish subdivision standards and procedures for the Town of Bowling Green, Virginia. These regulations are part of a long-range general plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, but not in limitation, the purpose of these standards and procedures is to provide for:

(1) The coordination and beneficial design of streets.

(2) Adequate open spaces for traffic, recreation, light and air.

(3) A distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, comfort, prosperity and general welfare.
(4) Assurance, insofar as possible, for purchasers of lots that they are buying a commodity that is suitable for their development and use.
(5) Adequate public services in a healthy, safe, efficient and assured manner.

Section 3-201. Title.
This article shall be known, referred to and cited as the "Subdivision Ordinance of the Town of Bowling Green, Virginia."

Section 3-202. Statutory authority.
This article is authorized by Title 15.2, Chapter 22, Planning, Subdivision of Land and Zoning, Code of Virginia 1950, as amended.

Section 3-203. Applicability.
This article applies to the subdivision, as herein defined, of any land within the corporate limits of the Town of Bowling Green, Virginia.

Section 3-204. Interpretation; conflict with other provisions.
(a) The standards and procedures contained herein are declared to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare.
(b) This article is not intended to interfere with, abrogate or annul any easement, covenant or restriction or any other agreement between parties; provided, however, that where this article imposes a greater restriction upon the use of buildings or land or imposes additional standards or requires additional improvements or larger open spaces than are imposed or required by other resolutions, ordinances, rules or regulations or by easements, covenants or agreements, the provisions of this article shall govern.
(c) Anything in this article to the contrary notwithstanding, where there is or appears to be conflict between the provisions of this article and the Zoning Ordinance, the provisions of the Zoning Ordinance shall govern.

Section 3-205. Definitions and word usage.
(a) For the purpose of this article, certain words and terms used herein shall be interpreted and defined as follows. Words used in the present tense include the future tense, the singular includes the plural, and the plural, the singular, unless the natural construction of the word indicates otherwise. The word "lot" includes the words "plot" and "parcel"; the word "shall" is mandatory and not advisory; and the word "approve" shall be considered to be followed by the words "or disapproved." Any reference to this article includes all ordinances amending or supplementing the same, and all distances and areas refer to measurements in a horizontal plane.
(b) As used in this article, the following terms shall have the meanings indicated:
"Agent" means the representative of the governing body who has been appointed to serve as the agent of the Council in administering this article.
"Alley" means a permanent service way providing secondary means of access to abutting properties.
"BLA" means Boundary line adjustment.
"Board" means the Board of Zoning Appeals of the Town of Bowling Green, Virginia.
"Building" means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.
"Building Setback Line" means a line showing the minimum distance by which any structure, exclusive of steps, must be separated from the front line or front boundary line of a lot.

"Clerk" means the Clerk of the Circuit Court having jurisdiction in the Town of Bowling Green, Virginia.

"Commission" means the Planning Commission of the Town of Bowling Green, Virginia.

"Corner Lot" - See "lot, corner."

"Council" means the Town Council of Bowling Green, Virginia.

"County" means Caroline County, Virginia.

"Easement" means a grant, running with the land, by a property owner of the use of land for a specific purpose.

"Engineer" means an engineer certified by the Commonwealth of Virginia.

"Frontage" means the shortest distance between the side lines of any lot measured along a line coinciding with, tangent to or meeting at one point the street upon which the lot fronts.

"Health Official" means the Health Director serving the Town of Bowling Green, Virginia, or his deputy.

"Highway Engineer" means the resident engineer serving the Town of Bowling Green, Virginia, of the Department of Highways and Transportation of Virginia or his designated deputy.

"Lot" means a numbered and recorded portion of a subdivision intended for transfer of ownership or for the building of a single building and its accessory buildings.

"Lot, Corner" means a lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

"Lot, Depth of" means the mean horizontal distance between the front and rear lot lines.

"Lot, Double Frontage" means an interior lot having frontage on two streets.

"Lot, Interior" means a lot other than a corner lot.

"Lot of Record" means a lot which has been recorded in the office of the Clerk of the appropriate court.

"Lot, Width of" means the mean horizontal distance between the side lot lines.

"Person" means an individual, a partnership or a corporation or any other legal entity by whatever term customarily known.

"Plat" includes the terms "map," "plan," "plot," "replot"; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

"Public Works Director" means the Public Works Director of Bowling Green, Virginia.

"Recordation" means the term "to record," verb transitive, or the term "record" when used as a verb shall mean the filing for recordation. The actual receipt by the Clerk of the Circuit Court of Caroline County, Virginia, or one of his duly authorized deputies of the item or writing to be recorded and payment of all fees and/or taxes due or to be collected by the office of such Clerk for recordation, and issuance by such clerk or duly authorized deputy of a receipt for the fees and/or taxes collected incident to the receipt of such item or writing for recordation.

"State" means the Commonwealth of Virginia.

"Street" means the publicly owned, principal means of access to any lot in a subdivision. The term "street" shall include road, lane, drive, place, avenue, highway, boulevard or any other thoroughfare used for a similar purpose.

"Street, Local" means a street that is used primarily as a means of public access to abutting properties expected to carry low to medium volumes of traffic.

"Street, Primary" means a street that carries or is expected to carry a volume of through traffic exceeding 400 vehicles per day.

"Street Width" means the total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

"Subdivider" means an individual, individuals, corporation or partnership owning any tract or parcel of land to be subdivided.

"Subdivision" means any division, subdivision, or resubdivision of a lot, tract, or parcel of land into two or more parts or lots of any size for the purpose of transferring ownership of any part or for the purpose of building development on any part.

"Subdivision, Major" means all subdivisions not classified as minor subdivision, including but not limited to subdivisions of three or more lots, or any size subdivisions requiring a new street or extension of public water and/or sanitary sewer or any other public improvements.

"Subdivision, Minor" means any subdivision containing not more than two lots not involving any new street or road construction or the extension of public facilities or the creation of any public improvements, and not in conflict with any provisions or portion of the Comprehensive Plan, Official Zoning Map, Zoning Ordinance, or these regulations. A minor subdivision shall also include boundary line adjustments(s) between adjacent property owners where no new building lots are created.

"Surveyor" means a land surveyor certified by the Commonwealth of Virginia.

"Town" means the Town of Bowling Green, Virginia.

"Town Clerk" means the Town Clerk of Bowling Green, Virginia.

"Town Manager" means the Town Manager of Bowling Green, Virginia.

"Town Treasurer" means the Town Treasurer of Bowling Green, Virginia.

"Zoning Ordinance" means the Zoning Ordinance of the Town of Bowling Green, Virginia.

Section 3-206. Administrative agent.

The Commission is hereby designated the agent of the Council and is authorized and directed to administer this article. The Town Manager and Clerk to the Council will assist the Commission in an administrative capacity and in receiving plats for review.

Section 3-207. Powers and duties of agent.

(a) The agent and its assistants shall perform their duties with regard to subdivisions and subdividing in accordance with this article and the Code of Virginia.

(1) Agent shall establish regulations. In addition to the requirements herein contained for the plotting of subdivisions, the agent shall establish such administrative rules and procedures as it deems necessary to administer this article properly.

(2) Agent shall obtain opinions. In the performance of its duties, the agent shall call for recommendations, either oral or written, from other departments of the Town, county, or state government or any relevant regulatory agency in considering details of any submitted plat.

(3) Agent may waive requirements. Anything in this article to the contrary notwithstanding, for minor subdivisions, the agent, on request of the subdivider, may waive any requirement of the article, if:

[a] A plat of survey of such subdivision deemed adequate by the agent shall have been prepared in form suitable for recordation and is hereafter recorded with the deed of subdivision;

[b] A right-of-way for ingress and egress to and from each part of such subdivision is granted by the subdivider if a public highway does not abut each part;

[c] Each part of such subdivision not served by a central sewerage system is suitable for the installation of an on-site sewerage system acceptable to the Health Official; and

[d] The intent of this article will not be circumvented by such subdivision or by the cumulative effect of a series of such subdivisions.

Section 3-208. Preparation and recording of plat.
(a) From and after the effective date of this article, any owner or proprietor of any tract of land within the area to which this article applies who subdivides the same as herein provided shall cause a plat of such subdivision to be made in accordance with the regulations set forth in this article and in the Code of Virginia, and a copy of said plat shall be recorded in the office of the Clerk.
(b) No final subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the Council, as herein provided.

Section 3-209. Transfer of land.
No parcel of land in a subdivision, as herein defined, created after the effective date of this article shall be transferred, sold or offered for sale until a final plat has been approved and recorded as provided for in this article.

Section 3-210. Issuance of permits.
No official of the Town or the county shall issue any zoning permit, building permit, or occupancy permit for any structure on any land subdivided as herein defined after the effective date of this article until a final plat has been approved and recorded as provided in this article.

Section 3-211. Modifications and exceptions.
(a) The requirements of this article will ordinarily be observed.
(b) Where the Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve modification, exception and waiver of conditions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the modification, exception or waiver conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Board shall not approve modifications, exceptions and waiver of conditions unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the modification, exception or waiver of conditions shall not be detrimental to the public safety, health or welfare, or injurious to other property;

(2) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

(4) The relief sought shall not in any manner vary the provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map, except that those documents may be amended in the manner prescribed by law.

Section 3-212. Zoning requirements.
The creation of a subdivision shall in no way exempt the land included within it from the provisions of the Zoning Ordinance.

Section 3-213. Violations and penalties.
(a) It shall constitute a violation of this article for any person or agent to disobey, neglect or refuse to comply with or resist the enforcement of any of its provisions.
(b) Any violation of this article shall be punishable as provided in Chapter 1, Article I, Section 1-110 of the Code of the Town of Bowling Green.

(c) Any person who knowingly and intentionally makes any false statement relating to a material fact for the purpose of complying with the requirements of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the statutes of the Commonwealth of Virginia existing at the time for misdemeanor violations.
(d) All departments, officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall conform to the provisions of this article. Any such permit or license if issued in conflict with the provisions of this article shall be null and void.
(e) Where there has been a violation of this article, the Town may, notwithstanding the imposition of any fine in accordance with this section, seek equitable relief to enjoin any violation in any court of competent jurisdiction.

Section 3-214. Appeals.
Any person aggrieved by any interpretation, administration or enforcement of this article by the agent may appeal to the Council. The Council may override the action of the agent.

Section 3-215. Fees.
(a) To compensate the Town for costs incurred for administration, examining plats, making investigations, advertising, travel and other work incidental to the approval of plats, the following fees are payable to the Town Treasurer for deposit in the general fund:

(1) Upon submission of the preliminary plat, a fee of $500, plus $35 per lot.

(2) Upon submission of the final plat, a fee of $500, plus $35 per lot.

(3) Upon submission of a boundary line adjustment, a fee of $100 per adjustment.

(4) Revised, vacated or amended plats shall be accompanied by a fee of $100, and each request for a waiver or variance from the requirements of this article shall be accompanied by a fee of $100.

Section 3-216. Vacating plat and boundary line adjustment (BLA).
(a) Vacating a plat. Any recorded plat or portion thereof, or any interest in streets, alleys, easements for public rights of passage, or easements for drainage, granted to the Council as a condition of the approval of a site plan, may be vacated according to the provisions of § 15.2-2270 through § 15.2-2278, inclusive, Code of Virginia 1950, as amended. The Zoning Administrator is hereby designated to act as the agent on behalf of the Council to consent to such vacations and to sign recordable instruments in writing to indicate such consent.
(b) Boundary line adjustment. Notwithstanding the provisions of this article, when the boundary lines of any legal lot or parcel of record are proposed to be relocated, vacated or otherwise altered without creation of any additional lot or parcel, three plats at a scale of 30 feet to one inch shall be submitted, and the following provisions shall apply:

(1) The Zoning Administrator shall waive the requirements of this article and approve such boundary line adjustment (BLA) as evidenced by his signature on a plat thereof so long as the following conditions have been met:

[a] Involve no more than two lots, consistent with the definition of a "minor subdivision."

[b] Such BLA shall not involve the relocation or alteration of streets, alleys, easements for public passage or other public areas, and no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

[c] Such BLA shall be clearly depicted upon an otherwise valid plat of boundary line adjustment which shall be executed, acknowledged and recorded by the owner or owners of such land as provided in § 15.2-2264 and § 15.2-2275, Code of Virginia 1950, as amended.

[d] Such BLA shall not result in any new violation of the area or other dimensional requirements of the Zoning Ordinance; provided, however, that any existing violation of

minimum yard requirements or any existing nonconformity in any nonconforming lot (as defined in the Zoning Ordinance) shall be permitted to continue so long as such yard violation or nonconformity is not enlarged, expanded or extended.

[e] With respect to each lot or parcel resulting from any such BLA, the applicant shall satisfy one of the following two requirements or a combination of both, as determined by the Zoning Administrator:

[1] Submit documentation to demonstrate that such parcel has an approved source of water and the capability of providing sanitary sewage service; or

[2] Place a conspicuous note upon the plat, in substantially the following form:

{a} The Caroline County Health Department has not approved this lot for water supply or sewage disposal. A certification from the Caroline County Health Department that such lots meet the requirements concerning water supply, sewage disposal and well testing shall be required prior to any new construction in accordance with the provisions of the Zoning Ordinance. This boundary line adjustment shall not result in any off-site subsurface disposal field (e.g., drainfield).

{b} Unless the titles to all parcels affected by the BLA are vested identically in the same person or entity or the same combination of persons and/or entities, a deed shall be filed with the plat which makes clear that no additional lot or parcel shall be created by the BLA.

(2) For the purposes of the Zoning Ordinance and this article, the lots or parcels resulting from any such boundary line adjustment approved hereunder shall be considered as coming into existence as of the date of recordation in the office of the Clerk of the boundary line adjustment plat.

(3) The Zoning Administrator shall take action to approve or deny any boundary line adjustment plat filed hereunder within 30 business days (excluding time that elapses awaiting applicant's response to the Zoning Administrator's comments and requirements) after such plat has been officially submitted.

(4) Any boundary line adjustment plat approved hereunder shall be recorded by the applicant in the office of the Clerk within six months of the date of final approval, or it is void.

Section 3-217. Dedication of land to Town.

(a) The subdivider shall dedicate to the Town of Bowling Green all land required for streets and alleys as provided for in this article.

(b) Where the size of the subdivision warrants, the subdivider may dedicate to the Town of Bowling Green such reasonable amount of land for parking lots, parks and playgrounds as determined necessary to protect the safety, fire and traffic hazards considered and general public welfare of the area. The size, location and character of land dedicated or reserved, if any, shall be determined by the agent after:

(1) Consultation with the subdivider;

(2) Consideration of the purpose of this article;

(3) Consideration of any related objective approved by the Council; and

(4) Consideration of the Comprehensive Plan.

Section 3-218. Amendments.

Any regulation or provision of this article may be amended from time to time by the Council in accordance with § 15.2-2251, § 15.2-2252 and § 15.2-2253, Code of Virginia 1950, as amended.

Section 3-219. Suitability of land.

(a) Land encumbered by any of the following characteristics may be deemed as being generally unsuitable for subdivision:

(1) Land subject to periodic flooding, such as wetlands (as defined by the Virginia Wetlands Act of 1972, § 28.2-1300 et seq.) or floodplains.

(2) Land having physical characteristics, such as poor drainage, excessive slope, etc., the subdivision of which would increase danger to health, life or property or aggravate erosion or flood hazard.

(b) The subdivision of any land which falls under Section 3-219(a) above may be allowed, provided that:

(1) Sufficient land is provided in each lot to provide a building site free from flood or other danger.

(2) The developer installs land preservation improvements as required by the agent to prevent increased danger to health, life or property and to render the land safe and otherwise acceptable for development.

(c) In connection with this section, the subdivider may be required to furnish topographical maps, elevations, flood profiles and other relevant data as necessary.

Section 3-220. Streets.

(a) Streets shall connect with existing streets and shall provide access to adjoining subdivisions as required by the agent.

(b) Streets shall intersect at as near right angles as practical. Offsets or jogs shall be avoided. No street shall intersect another street at an angle of less than 80°.

(c) Where it is deemed desirable or necessary to provide access to adjacent tracts as presently subdivided, proposed streets in the subdivision shall be extended to the boundary lines with such adjacent tracts. Temporary turnarounds shall be provided at the ends of such streets by means of temporary easements or otherwise.

(d) When lots in a subdivision abut on one side of a public right-of-way, the subdivider shall be required to dedicate enough land so that the distance as measured from the center line of the right-of-way to the subdivision property line shall be 1/2 of the standard width of the right-of-way. The standard width of the right-of-way shall be based on the standards of the Virginia Department of Highways and Transportation and the Comprehensive Plan of the Town of Bowling Green, Virginia. The subdivider shall not be responsible for grading or surfacing any such right-of-way required above.

(e) Half-streets along the boundary of land proposed for subdivision shall not be permitted.

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

(g) Streets shall have a minimum right-of-way of 50 feet and may be wider if required by future traffic counts or the Comprehensive Plan of the Town of Bowling Green, Virginia. Alleys, when allowed, shall have a minimum width of 20 feet.

(h) All streets and their drainage facilities shall be designed in compliance with the requirements of the Virginia Department of Highways and Transportation and the Town of Bowling Green, Virginia.

Section 3-221. Lots.

(a) The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to the requirements of this article. Lots shall not contain peculiarly shaped elongations or other odd configurations which do not conform to a standard square, rectangular or trapezoidal design in order to provide required square footage of area, minimum lot width at the building line or required highway access.

(b) Excessive lot depth in relation to lot width shall be avoided. A ratio of depth to width of 2:1 shall be considered a desirable maximum.

(c) Each lot shall abut on a street dedicated by the subdivision plat or on an existing publicly dedicated street.

(d) Corner lots shall have the width required by the Zoning Ordinance.

(e) Side lines of lots shall be approximately at right angles or radial to the right-of-way line.

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

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

(h) In the case of lots for commercial, industrial or other nonresidential use, the lot area, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated and in accordance with the requirements of any existing zoning, the Comprehensive Plan for the Town of Bowling Green, or other applicable ordinance and shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

Section 3-222. Blocks.

(a) Generally, the maximum length of blocks shall be 1,200 feet, and the minimum length of blocks upon which lots have frontage shall be 500 feet.

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

(c) Where a proposed subdivision will adjoin a major road, it may be required for the greater dimension of the block to front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

Section 3-223. Easements.

Easements shall be provided by the subdivider for utilities and shall comply with the provisions of The Town of Bowling Green Design Standards for Water and Sewer Facilities, Volumes I and II as amended by the Town of Bowling Green, Virginia.

Section 3-224. Required improvements.

(a) The subdivider is required to make the improvements provided for in this section. All improvements shall be installed at the cost of the developer. No subdivider shall commence the construction of any required improvement without obtaining written approval from the Council.

(1) Monuments.

[a] Identifying monuments shall be placed on the right-of-way line at all street intersections, at all points where the street line intersects the exterior boundaries of the subdivision, at all

points of curvature in each street and at all lot corners and subdivision boundaries. Monuments shall be composed of reinforced concrete, iron pins, pipes or rods.

[b] All concrete monuments shall be composed of reinforced concrete, four inches in diameter or square, three feet long, with a flat top, and shall have no more than four inches or less than one inch above finished grade.

[c] All monuments composed of iron pins, pipes or rods shall be not less than 1/2 inch in diameter and 18 inches long and be driven so as to be flush with the finished grade. When rock is encountered, a hole four inches deep in the rock shall be drilled and a steel rod 1/2 inch in diameter cemented in place whose top shall be flush with the finished grade line.

[d] Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by this section and the Virginia Department of Transportation regulations are clearly visible for inspection and use. Such monuments shall be inspected by the Public Works Director before any improvements are accepted by the Town. The Commission may require a spot check of plat accuracy based on monument placement before recordation.

(2) Streets.

[a] All streets shall be constructed in compliance with the state Subdivision Street Design Guide (24 VAC 30-91-160) requirements of the Virginia Department of Highways and Transportation and the Town of Bowling Green, Virginia.

[b] Curbs, gutters and sidewalks shall be required in all subdivisions either having three or more dwelling units or which tie into existing streets having curbs, gutters and sidewalks. In addition, all sidewalks constructed shall be handicap accessible with ramps of exposed aggregate in accordance with ADA standards.

[c] Sidewalks shall be required as follows and shall be constructed in accordance with the state Subdivision Street Design Guide (24 VAC 30-91-160) as required for acceptance by the state and shall be located adjacent to the street right-of-way in a manner so as to maximize safety and convenience:

[1] Subdivisions located in the Town.

[2] All subdivisions involving multifamily or attached dwellings.

[3] Along all streets in residential subdivisions where curb and gutters are provided.

[4] Sidewalks shall be required by the Zoning Administrator, in the case of a minor subdivision, or the Council where necessary to continue another sidewalk or pedestrian walkway on an existing street, to link areas within a proposed subdivision or to other areas of planned significant development or to link subdivisions to schools and/or recreational areas.

[5] Sidewalks are not eligible for Town maintenance.

(3) Drainage.

[a] A drainage system shall be provided for by means of curbs and gutters, culverts, ditches, catch basins and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from and across all streets and adjoining property. Such drainage system shall be in compliance with regulations of the Virginia Department of Highways and Transportation and the Town of Bowling Green.

[b] All detention facilities over four feet in depth, as measured from the bottom of the pond to the top of the bank, or with a bank slope greater than 1.5 to 1 shall be enclosed with a minimum four-foot-high chain-link fence, with a fifteen-foot wide access gate. This fencing shall be designed in accordance with the Virginia Department of Highways and Transportation road and bridge standards, installed and maintained to allow the free flow of runoff and sediment into the facility. Fencing may be waived by the Zoning Administrator in areas zoned other than residential where the pond is more than 500 feet from a residential district or single

or multifamily residence. The Zoning Administrator may also require fencing in areas otherwise not warranting, but where the general welfare of the public is better served by fencing such facilities. The maintenance of all stormwater detention facilities shall be the responsibility of the subdivision's property owners' association.

(4) Street identification signs. The subdivider shall provide and install street identification signs approved by the Council at all street intersections.

(5) Location of utility structures. Except as provided below, transmission, distribution and customer service utility facilities carrying or used in connection with electric power, street lights, telephone, cable television, petroleum, gas, water, and sewer shall be placed below the surface of the ground in all subdivisions. All installations shall be in accordance with applicable codes. Exceptions are as follows:

[a] Equipment such as electric distribution transformers, switch gear, meter pedestals, telephone pedestals, meters, service connections, bulk feeder and accepted utility practices for underground distribution;

[b] Temporary overhead facilities required for construction purposes;

[c] High tension transmission lines, 33,000 volts or more; and

[d] Repair or replacement of existing overhead facilities.

(6) Water service.

[a] Where public water is available, the service shall be extended to all lots within the subdivision by the subdivider or developer. Where this is not possible, the subdivider or developer shall be encouraged to provide a central water supply system. If neither of the above is possible, the subdivider or developer may propose individual wells. No subdivision or development shall be approved without an acceptable water supply plan which provides water service to each lot and a system design that allows integration into the Town's central water supply system.

[b] In all subdivisions being serviced by a central water supply system, an acceptable system of fire hydrants shall be installed and operational prior to the start of any building construction.

(7) Sewerage service. Where public sewerage facilities are available, the service shall be extended by the subdivider or developer to all lots, and individual septic tanks shall not be permitted. Where such tap-on is not possible, the subdivider or developer shall provide a central sewerage system. If neither of the above is possible and the subdivider proposes individual septic tanks, then the subdivider shall provide sufficient technical information to allow the determination that each and every lot is suitable for an individual septic tank. Upon determination by the appropriate official that a lot is unsuitable for an individual septic tank, then such fact shall be so noted on the final plat in the lot so affected.

(8) Street lights. The Council shall require that street lights be installed, at the developer's expense, in order to promote the general health, safety and welfare and to enhance general subdivision quality and aesthetic character. Street lights should be of scale and character befitting the overall development plan. The following specific requirements apply:

[a] Street lights shall be installed along all sidewalks.

[b] Street lights shall be a colonial and/or historical design.

[c] Street lights shall be located not less than 24 inches or not more than 48 inches from the back side of the curb.

[d] A minimum twenty-four-inch grass strip shall be maintained between the backside of the curb and the street light.

[e] The minimum height of the street light shall not be less than 12 feet above finished grade.

[f] The maximum height of the street light shall not be more than 15 feet above finished grade.

[g] Street lights shall be spaced in accordance with acceptable engineering practices.

[h] Street lights are not eligible for Town maintenance.

Section 3-225. Preliminary plat.

(a) Preliminary questionnaire and conference. Before the preparation of a preliminary plat, a subdivider shall be required to complete and submit a preapplication questionnaire regarding the proposed subdivision and confer with the agent relative to the details contained in this article, the Town's Comprehensive Plan and other applicable plans and ordinances. The purpose of such a questionnaire and conference is to assure that the applicant is made fully aware of all the requirements and interpretations of existing plans and ordinances plus any amendments which are pending at the time of the subdivision plan or plat preparation.

(b) Purpose. Any person proposing a subdivision of land under this article shall submit to the agent a preliminary plat showing the general design and layout of the area proposed to be subdivided. The purpose of this requirement is to enable the subdivider to ascertain whether or not his preliminary plat generally conforms to the requirements of this article and the Zoning Ordinance.

(c) Submission. Fifteen copies of a preliminary layout at a scale of 50 feet to the inch, or a scale determined by the Zoning Administrator, as a preliminary plat shall be submitted by the subdivider to the agent. The agent shall promptly deliver copies thereof to other Town, county, or state officials as required, retaining the other copies for use by the agent.

(d) Requirements. The preliminary plat shall include the following information:

(1) The date of the plat and the name of the person preparing the same.

(2) The scale.

(3) The number of sheets comprising the plat.

(4) The North meridian, designated "true" or "magnetic," and the direction oriented to the top of the sheet, and each sheet comprising the plat shall be so oriented and prepared in accordance with the Virginia Coordinate Grid System.

(5) The name and signature of all owners of property to be subdivided.

(6) The name of the subdivision. The name shall not duplicate nor too closely approximate that of any existing subdivision in the Town of Bowling Green, Virginia, or Caroline County, Virginia. To the maximum extent possible, the name shall not duplicate nor too closely approximate that of any existing subdivision in adjoining counties so that emergency services from adjoining counties rendered across the Caroline County boundary line will not be impaired.

(7) The sources of data used in preparing the plat, particularly the deed book and page number of the last instrument in the chain of title.

(8) The names of all adjoining property owners and the location of their common boundaries.

(9) All pertinent natural and historical features and landmarks.

(10) The boundary lines of the proposed subdivision and of any larger tract of which the subdivision forms a part, shown on a reduced scale insert.

(11) All adjoining roads and streets with their numbers and/or names.

(12) The boundary lines and total acreage of the proposed subdivision and the acreage remaining in the original tract, if any. In case only a part of a tract of land is proposed for subdivision, the agent shall require the preliminary plat to show a proposed future subdivision of such remaining acreage or a part thereof to make certain that proper orientation of future streets may be developed with the platted streets.

(13) The location of existing buildings within the subdivision and within 200 feet thereof.

(14) The location and description of all existing and proposed monuments and easements.

(15) Contour lines, at not more than five-foot intervals.

(16) The proposed locations, widths and names of all streets.

(17) The approximate location, number, dimension, size and the proposed use of all lots and other areas, including watercourses, marshes, impoundments, lakes and those areas to be used for

parking, recreation, commercial purposes or for public or governmental use, and existing utility installation.

(18) Proposed lot numbers and block letters.

(19) If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be included on the preliminary plat by broken lines, and identification of such respective tracts shall be shown on the preliminary plat.

(20) All parcels of land dedicated for public use.

(21) A blank space reserved for the written approval of such plat by the agent.

(22) Such other information as required by the agent.

(23) The location of Resource Protection Area boundary, as specified in Section 3-151, including any additional required buffer areas.

(e) Items to accompany preliminary plat. Items as described below shall accompany the preliminary plat at the time it is submitted to the agent or, in any event, not later than 12 days thereafter:

(1) Street and drainage plans. Three sets of detailed street and drainage plans showing:

[a] All existing, platted and proposed streets and their names, numbers and widths, existing utility or other easements, public areas and parking spaces, culverts, drains and watercourses and their names and other pertinent data.

[b] The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage.

[c] A cross section showing the proposed street connection, depth and type of base, type of surface, etc.

[d] A profile or contour map showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets, together with proposed grade lines connecting therewith.

[e] A location map tying the subdivision into the Town's or county's present road system, either by aerial photographs or topographic maps of the United States Department of the Interior.

[f] The alignment and grade of all proposed utilities to be placed underground within the street right-of-way, to be shown on the street plans.

[g] The course, distances and curve data of all present and proposed streets and alleys within and abutting the subdivision.

(2) To eliminate the necessity of many separate documents, plans and sketches, the subdivider may incorporate into a single document, plan and sketch, in support of the preliminary plan or plat, all or any part of the additional information required herein, provided that the sheet sizes specified are adhered to.

(3) A statement by the subdivider as to whether or not he proposes to dedicate or reserve land, other than for streets, for public use or for the common use of future property owners in the subdivision and, if so, a statement giving an outline of the maintenance and other terms proposed and acreage involved.

(4) A statement summarizing proposed restrictive covenants and reservations.

(5) A check payable to the Town Treasurer to cover the required fees.

(f) Public hearing. The agent shall not make any decision on the preliminary plat of any proposed subdivision that contains three or more lots until it shall have first held a public hearing to consider such plat. The agent shall cause notice of such hearing to be published for two successive weeks in a newspaper published or having general circulation in the Town of Bowling Green, Virginia, giving the date, time and place of the hearing and a brief identification thereof. All hearings held pursuant

to this section shall be open to the public, and all interested persons may appear and state their views.

(g) Action by agency. Within 60 days after submission to the agent of the preliminary plat and the items that are required to accompany such plat by the provisions of this article, the agent shall approve the preliminary plat if it finds that the plat has been properly drawn, that it is accompanied by the aforesaid items in proper form and that the proposed subdivision conforms to the requirements and purposes of this article. Otherwise, the Commission shall disapprove the same, stating its reasons for such disapproval, or, if only minor changes are required for approval, conditional approval may be given by writing such requirements on the plat or by placing a reference upon it to an accompanying statement, or an extended time may be given the subdivider for submission of revised plans.

(h) Disposition of preliminary plat after agent action. One copy of the preliminary plat with the action of the agent noted thereon shall thereupon be returned to the subdivider, and an annotated copy shall be kept by the agent for comparison with future plats submitted by the subdivider.

(i) Guaranty. Approval by the agent of the preliminary plat does not constitute a guaranty of approval of the final plat.

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

Section 3-226. Final plat.

(a) Submission. After approval of the preliminary plat by the agent, the subdivider shall submit to the agent 15 copies of the final plat drawn in accordance with Section 3-226(b) of this section. Said copies shall be photographic copies of original tracings and shall be of semipermanent quality.

(b) Final requirements. The final plat shall adhere to the following requirements:

(1) The final plat shall be prepared by a surveyor or civil engineer, who shall endorse upon such plat a certificate signed by him setting forth the source of title of the land subdivided and the place of record of the last instrument in the chain of title.

(2) The final plat shall be substantially in accordance with the preliminary plat, together with any changes or additions required by the agent as a condition for its approval, except that the final plat may include all or any part of the area covered by the preliminary plat.

(3) The final plat shall be legibly and accurately drawn upon sheets having a size of 18 by 24 inches. The plat shall be drawn at a scale of one inch equals 50 feet or a scale determined by the Zoning Administrator. If the subdivision is shown on more than one sheet, the sheet number, total number of sheets and subdivision name shall be shown on each sheet, and match lines shall clearly indicate where the several sheets join.

(4) It shall also show the following details:

[a] A boundary survey.

[b] The location and dimensions of all street lines of all streets, both within and adjoining the subdivision; the names and widths of all streets; and the boundaries of all easements, school sites, parks or other public areas.

[c] All dimensions shown in feet and decimals of a foot to the closest 1/100 of a foot, and all bearings and degrees, minutes and seconds, to the nearest 10 seconds.

[d] Curve data showing radius, delta and arc, either at the curve or in a curve data table.

[e] The location and bearing of all property lines intersecting the subdivision perimeter boundary.

[f] The number of each lot and the letter of each block.

[g] The location of all monuments, both concrete and iron pins, pipes, or rods.

(5) If any land or water areas are being dedicated or reserved for streets, alleys, parking space or for other public use, or for the common use of future property owners of the subdivision, the final plat shall so state and indicate which land and water areas are affected.

(6) The final plat shall have appended to it an unexecuted copy of a proposed certificate of owner's consent to subdivision suitable for recording, containing a statement to the effect that the subdivision is with the free consent and in accordance with the desire of the owners, proprietors, trustees and lien holders thereof, as applicable, and setting forth in full all restrictive covenants, reservations and dedications applicable to the proposed subdivision.

(7) The final plat shall provide on the first sheet space for the surveyor's certificate as to title, the surveyor's certificate as to monuments, all restrictive covenants or references thereto and space for approval of the Council.

(c) Documents to accompany final plats. When delivered to the agent, all final plats shall be accompanied by the following:

(1) Security for performance.

[a] A subdivider shall furnish to the governing body a certified check, cash escrow or performance bond in the amount of the estimated costs for construction within the subdivision of all streets, curbs, gutters, sidewalks, bicycle trails, drainage or sewerage systems, waterlines as part of a public system or other improvements. Such certified check, cash escrow or performance bond shall be posted upon such terms and conditions as the Commission shall require, except that the Commission shall require in all cases that such certified check, cash escrow or performance bond be posted on condition that such facilities are to be completed on or before a date certain in a manner satisfactory to the Commission acting on behalf of the governing body and that such certified check, cash escrow or performance bond be available to the governing body and not expire until the satisfactory completion of the facilities, regardless of whether the target date for completion shall have passed. On any performance bond, surety may be required satisfactory to the Commission as agent for the governing body, which surety shall be obligated for the life of the bond or, in the event the suretyship expires before proper completion of construction, such surety shall be automatically renewable or shall provide for such notice by surety to the governing body at least 60 days prior to termination of the suretyship.

[b] In the event the governing body has accepted the dedication of a road or street for public use and such road or street, due to factors other than its quality of construction, is not acceptable into the state highway system, then the governing body may require the subdivider or developer of the subdivision wherein such road or street is located to post with the governing body a maintenance and indemnifying bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the maintenance of such road or street until such time as it is acceptable into the state highway system. Maintenance of such road or street shall be deemed to mean maintenance of the streets, curbs, gutters, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water, or debris, so as to keep such road reasonably open for public usage.

[c] Any certified check, cash escrow or performance bond or other performance guarantee provided for under this section shall be released in whole or part within 30 days after such receipt of written notice by the subdivider or developer of completion of all or part of any facilities required to be constructed unless the governing body notifies such subdivider or developer in writing of any specified defects or deficiencies in construction and suggested corrected measures prior to the expiration of said thirty-day period; provided, however, that the governing body shall not be required to release such certified check, cash escrow or performance bond or other performance guarantee in an amount in excess of 90% of the actual

cost of construction for which the bond, etc., was taken until such facilities have been completed and accepted by the governing body or appropriate state agency.

[d] The subdivider shall maintain his certified check, cash escrow or performance bond until all improvements are completed in a manner satisfactory to the governing body and, if necessary, shall renew or reinstate the same from time to time as may be required by the governing body until satisfactory completion. In the event a subdivider sells or conveys the land subdivided or proposed for subdivision, or in the event a subdivision is to be developed by a person or entity other than the subdivider, the foregoing provisions of this article shall be applicable to such successor in interest to the subdivider or to such developer to the same extent that said provisions are applicable to the subdivider.

[e] Failure by any subdivider, developer, or successor in interest to a subdivider to obtain and maintain such certified check, cash escrow, performance bond, or other performance guarantee as provided for in this article shall be punishable in the same manner as provided for in Chapter 1, Article I, Section 1-110 of the Code of the Town of Bowling Green.

(2) A check payable to the Town Treasurer to cover all required fees.

(3) An unexecuted copy of the proposed deed of dedication, accompanied by a certificate signed by the subdivider and duly acknowledged before some officer authorized to take acknowledgments of deeds to the effect that this is a true copy of the proposed deed of dedication which will be presented for recordation. Said copy shall:

[a] Contain a correct description of the land subdivided and state that said subdivision is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.

[b] Contain language such that when the deed is recorded it shall operate to transfer in fee simple to the Town of Bowling Green, Virginia, such portion of the platted premises as is on such plat set apart for streets, alleys, easements or other public use and to create a public right of passage over the same.

[c] Contain all protective or restrictive covenants, including those referred to in Section 3-226 (b)(7) hereof.

(4) An erosion and sedimentation control plan approved by the appropriate agent in accordance with the Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.

(d) Action by agent. Within 30 days after any final plat and the accompanying documents required by this article shall have been received by the agent, the agent shall determine whether they comply with the provisions of this article. When the aforesaid determination has been made, the agent shall make a recommendation to the Council to approve or disapprove the final plat. The Council will make final determination of approval or disapproval.

(e) Disposition of plat after final action.

(1) Following approval, three copies of the final plat measuring 18 by 24 inches shall be returned to the subdivider. One copy of the full-size final plat shall be submitted to the Clerk for filing in the subdivision plat book. One copy of the full-size plat shall be delivered to the Town Treasurer, and one copy thereof, with the accompanying documents, shall be retained in the files of the agent. Any surety bond to be posted by the subdivider pursuant to the requirements of this article shall be delivered to, and approved by, the agent. The cash bond or check, if any, shall be delivered to the Town Treasurer.

(2) Following disapproval of a plat, all copies of the plat and accompanying documents shall be returned to the subdivider. The Council shall notify him in writing of the reasons for disapproval.

(3) A final plat shall become null and void if it is not recorded in the office of the Clerk within 90 days from the date of approval by the agent.

(4) Recordation of the final plat of a subdivision shall not be deemed to be the acceptance by the Town of any street or road or other public place shown on the plat for maintenance, repair or operation thereof.
(5) Upon recordation of the approved final plat, the subdivider shall file a copy thereof in the office of the Town Clerk.

Article III Erosion and Sediment Control

Section 3-300. Title, purpose, and authority.

(a) This article shall be known as the "Erosion and Sediment Control Ordinance of the Town of Bowling Green." The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the Town of Bowling Green by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.
(b) This article is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (§ 10.1-560 et seq.), known as the "Erosion and Sediment Control Law."

Section 3-301. Definitions.

As used in this article, unless the context requires a different meaning, the following terms shall have the meanings indicated:
"Administrator" - The Bowling Green Town Manager and/or his designated agent.
"Agent" - An employee of the Town of Bowling Green, who has been designated by the Administrator for inspection, plan review, and program administration of this article.
"Agreement in lieu of a plan" - A contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
"Applicant" - Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
"Board" - The Virginia Soil and Water Conservation Board.
"Certified Inspector" - An employee or agent of the program authority who:
(1) Holds a certificate of competence from the Board in the area of project inspection; or
(2) Is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
"Certified Plan Reviewer" - An employee or agent of the program authority who:
(1) Holds a certificate of competence from the Board in the area of plan review;
(2) Is enrolled in the Virginia Soil and Water Conservation (VSWC) Board's training program for plan review and successfully completes such program within one year after enrollment; or
(3) Is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1.
"Certified Program Administrator" - An employee or designated agent of the Town of Bowling Green who:
(1) Holds a certificate of competence from the Virginia Soil and Water Conservation (VSWC) Board in the area of program administration; or
(2) Is enrolled in the Virginia Soil and Water Conservation (VSWC) Board's training program for program administration and successfully completes such program within one year after enrollment.

"Chesapeake Bay Preservation Area" or "CBPA" - Any land designated by the Town Council of the Town of Bowling Green pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 179-02-01, and Code of Virginia § 10.1-2109.

"Clearing" - Any activity which removes the vegetative ground cover, including, but not limited to, root mat removal and/or topsoil removal.

"County" - The County of Caroline, Virginia.

"Department" - The Department of Conservation and Recreation.

"Development" - A tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Director" - The Director of the Department.

"District" or "Soil and Water Conservation District" - The Hanover-Caroline Soil and Water Conservation District.

"Erosion and Sediment Control Plan" or "Plan" - A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion Impact Area" - An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes (or to shorelines where the erosion results from wave action or other coastal processes).

"Excavating" - Any digging, scooping or other methods of removing earth materials.

"Filling" - Any depositing or stockpiling of earth materials.

"Grading" - Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

"Land-Disturbing Activity" - Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

(2) Individual service connections;

(3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

(4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

(5) Surface or deep mining;

(6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines, and off-site disposal areas;

(7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6, Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. However, this exception shall not apply to

harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Code of Virginia § 10.1-1163;

(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Disturbed land areas of less than 2,500 square feet in size;

(10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article; and

(12) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

"Land-Disturbing Permit" - A permit issued by the program authority for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth in this article.

"Local Erosion and Sediment Control Program" or "Local Control Program" - An outline of the various methods employed by the Town of Bowling Green to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

"Owner" - The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

"Permittee" - The person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

"Person" - Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

"Plan-Approving Authority" - The Town Manager of the Town of Bowling Green.

"Program Authority" – The Town Council of the Town of Bowling Green.

"Resource Management Area" or "RMA" - That component of the Chesapeake Bay Preservation Area that is not classified as a resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

"Resource Protection Area" or "RPA" - That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline that have intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Responsible Land Disturber" - An individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

(1) Holds a responsible land disturber certificate of competence;

(2) Holds a current certificate of competence from the Board in the areas of combined administration, program administration, inspection, or plan review;

(3) Holds a current contractor certificate of competence for erosion and sediment control; or

(4) Is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

"Single-Family Residence" - A noncommercial dwelling that is occupied exclusively by one family.

"State Erosion and Sediment Control Program" or "State Program" - The program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia, § 10.1-560 et seq., including regulations designed to minimize erosion and sedimentation.

"State Waters" - All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdictions.

"Transporting" - Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

"Wetlands" - Those areas that are inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Section 3-302. Local erosion and sediment control program.

(a) Pursuant to § 10.1-562 of the Code of Virginia, the Town of Bowling Green hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to:

(1) The Virginia Erosion and Sediment Control Regulations;

(2) The Virginia Stormwater Management Handbook; and

(3) The Virginia Erosion and Sediment Control Handbook, as amended.

(b) Before adopting or revising any regulation under this article, including any regulation that is more stringent than the state program, as provided by Code of Virginia § 10.1-570, the Town of Bowling Green shall give proper notice as required by law.

(c) Pursuant to § 10.1-561.1 of the Code of Virginia, an erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Town's erosion and sediment control program shall contain a certified program administrator, a certified plan reviewer, and certified inspector, who may be the same person.

(d) The Town Council of the Town of Bowling Green hereby designates the Town Manager as the plan-approving authority.

(e) The program and regulations provided for in this article shall be made available for public inspection at the business office of the Town of Bowling Green.

Section 3-303. Submission and approval of plans; contents of plans.

(a) Submission and approval. Except as provided herein, no person may engage in any land-disturbing activity until he has submitted an erosion and sediment control plan for the land-disturbing activity to the Town of Bowling Green and such plan has been approved by the plan-approving authority.

(1) Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(2) The standards contained within the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook and the Virginia Stormwater Management Handbook [and the Chesapeake Bay Local Assistance Manual] are to be used by the applicant when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan.

(3) A completed plan shall be acted upon by the plan-approving authority within 45 days from receipt thereof. The plan-approving authority shall either approve the plan in writing or disapprove the plan in writing and give specific reasons for its disapproval. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(4) The plan-approving authority shall approve a completed plan, if it is determined that the plan meets the requirements of the Board's regulations, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to approval of the plan, the person responsible for carrying out the plan shall provide the name of a responsible land disturber, who will be in charge of and responsible for carrying out the land-disturbing activity, in accordance with the approved plan.

(5) When a Plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the Plan.

(6) An approved plan may be changed by the plan-approving authority when:

[a] An inspection reveals that the plan is inadequate to satisfy applicable regulations; or

[b] The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and state law, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

(7) In order to prevent further erosion, the Town of Bowling Green may require approval of a plan for any land identified as an erosion impact area.

(8) The preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(9) Utilities and railroad companies.

[a] Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Town Council for review and written comments. The specifications shall apply to:

[1] Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and

[2] Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

[b] Individual approval of separate projects in Section 3-303.(a)(9)(a)[1] and [2] is not necessary when Board-approved specifications are followed; however, projects included in

Section 3-303.(a)(9)(a)[1] and [2] must comply with the Town Council-approved specifications. Projects not included in Section 3-303.(a)(9)(a)[1] and [2] shall comply with the requirements of the Town of Bowling Green erosion and sediment control program.

(10) State agency projects are exempt from the provisions of this article, except as provided for in the Code of Virginia, § 10.1-564.

(b) Contents of plans. The erosion and sediment control plan shall detail the methods and techniques to be utilized in the control of erosion, sedimentation and storm water. The erosion and sediment control plan shall contain the following components:

(1) The name, address and phone number of the person preparing the plan and a statement that the plan was prepared by a licensed professional engineer, architect, certified landscape architect, or land surveyor registered in the state.

(2) The name, address, and phone number of the applicant.

(3) The name, address and phone number of the landowner of record.

(4) The name, address and phone number of the person who holds a certificate of competence, as provided for by the Code of Virginia § 10.1-563, who will be in charge of and responsible for carrying out the land-disturbing activity.

(5) The location of the site, including, but not limited to, road number, Tax Map reference and lot number.

(6) A site plan or map which conforms to any plan of development or subdivision plat.

(7) The location of all buffers required by this Code or the Code of Virginia, including, but not limited to, all buffers designated as resource protection area buffers pursuant to the Zoning Ordinance of the Town of Bowling Green or any other buffer imposed or required pursuant to any other section of the Zoning Ordinance of the Town of Bowling Green. The plan also shall contain a certification that prior to any land-disturbing activity:

[a] All buffer areas and wetlands shall be conspicuously flagged or otherwise identified and not disturbed unless authorized by law; and

[b] The applicant shall notify the Administrator upon completion of flagging and before any land-disturbing activities commence.

(8) Measures to control erosion and sediment.

(9) Measures to control and manage stormwater.

(10) A comprehensive drainage plan.

(11) Evidence that no more land than is necessary to provide for the desired use or development shall be disturbed.

(12) A statement by the permittee that all erosion and sediment control measures shall be maintained and that the permittee will inspect the erosion and sediment control measures at least once in every two-week period and within 48 hours following rain-storm events during construction to ensure continued compliance with the approved plan. Records of self-inspection shall be maintained on the site and be available for review by Town and its agents.

(13) A statement by the permittee acknowledging that the U.S. Army Corps of Engineers may have additional jurisdiction over wetlands not regulated by the Town.

(14) A statement by the permittee acknowledging that a National Pollutant Discharge Elimination System permit application, if required, has been made for land-disturbing activities of five acres or greater.

(15) A statement incorporating by reference the minimum standards (Section 1.5) of the erosion and sediment control regulations of the Virginia Division of Soil and Water Conservation (VR625-02-00).

(16) Environmental site assessment information consisting of:

[a] Base flood hazard areas (one-hundred-year floodplain).

[b] Location of all tidal and nontidal wetlands, as defined in 9 VAC 10-20-40.

[c] Location of all tidal shores, as defined in 9 VAC 10-20-40.

[d] Location of all tributary and nontributary streams, as defined in 9 VAC 10-20-40.

[e] Location of boundaries of all areas designated as RPAs pursuant to Section 3-158 of the Town of Bowling Green Zoning Ordinance.

[f] Soils delineation.

(17) A statement that, prior to any land-disturbing activity, all wetlands shall be conspicuously flagged or otherwise identified, and that the applicant shall notify the Administrator upon completion of flagging and before any land-disturbing activities commence.

(18) Evidence that applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands or appropriate waivers of jurisdiction have been obtained.

(19) Evidence that a water quality impact assessment, as required by Section 3-160 of the Town of Bowling Green Zoning Ordinance has been performed for any proposed development within an RPA, including any buffer area modification or reduction, and for any development in an RMA which, due to the unique characteristics of the site or intensity of the proposed development, is considered to be environmentally sensitive land.

(20) Calculations or other evidence showing:

[a] Nonpoint source pollution loads of phosphorus and sediments to receiving surface waters during and after development will not be increased because of new development or redevelopment of any site currently served by water quality BMPs.

[b] Nonpoint source pollution loads of phosphorus and sediments to receiving surface waters during and after development will be reduced by 10% for redevelopment of any site not currently served by water quality BMPs.

[c] The development will comply with the performance standard for nonpoint source pollution loads to receiving surface waters, as demonstrated by a stormwater management plan, which must contain the following:

[1] Location and design of all planned stormwater control devices.

[2] Procedures for implementing nonstructural stormwater control practices and techniques.

[3] Predevelopment and postdevelopment nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations.

[4] For facilities, verification of structural soundness, including a professional engineer or Class IIIB surveyor certification.

[5] A long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance.

Section 3-304. Permits; fees; security for performance.

(a) As provided by law, agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this article, and the required fees have been paid and any required bond posted. In addition as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide to the program authority the name of a responsible land disturber, who will be in charge of and responsible for carrying out the land-disturbing activity, in accordance with the approved plan. Failure to provide the name of a responsible land disturber prior to engaging in land-disturbing activities may result in revocation of plan approval and the

responsible land disturber shall be subject to the penalties provided in this article. A responsible land disturber shall not be required for agreements in lieu of a plan. However, if a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall be required to provide the name of a responsible land disturber to the program authority. Failure to provide the name of a responsible land disturber shall be a violation of this article.

(c) All required fees shall be paid to the Town of Bowling Green Treasurer at the time of submission of the erosion and sediment control plan.

(d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(e) All applicants for permits shall provide to the Town of Bowling Green a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Town Attorney, to ensure that measures could be taken by the Town of Bowling Green at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity.

(1) The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation, which shall not exceed 25% of the cost of the conservation action. Should it be necessary for the Town of Bowling Green to take such conservation action, the Town of Bowling Green may collect from the applicant any costs in excess of the amount of the surety held.

(2) Within 60 days of adequate stabilization, as determined by the Administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

(f) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Section 3-305. Monitoring, reports, and inspections.

(a) The Town of Bowling Green shall require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The Administrator shall periodically inspect the land-disturbing activity in accordance with 4 VAC 50-30-60 of the Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

(1) If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

(2) The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided herein.

(c) Upon determination of a violation of this article, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

(1) If land-disturbing activities have commenced without an approved plan, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

(2) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

(3) The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Caroline County.

(4) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the Town of Bowling Green.

(5) The owner may appeal the issuance of an order to the Circuit Court of Caroline County.

(6) Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of Caroline County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

(7) Nothing in this section shall prevent the Administrator from taking any other action authorized by law.

Section 3-306. Penalties, injunctions, and other legal actions.

(a) Any person who violates any provision of this article shall, upon a finding of the General District Court of Caroline County, be assessed a civil penalty. The civil penalty for any one violation shall be $100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be $1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of $10,000.

(b) The Administrator or the owner of property which has sustained damage or which is in imminent danger of being damaged may apply to the Circuit Court of Caroline County to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless:

(1) He has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property; and

(2) Neither the person who has violated the local program nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or created the probability of causing, damage to his property.

(c) Any person who violates any provision of this article may be liable to the Town of Bowling Green in a civil action for damages.

(d) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000 for each violation. A civil action for such violation or failure may be brought by the Town of Bowling Green. Any civil penalties assessed by a court shall be paid into the treasury of the Town of Bowling Green, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(e) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, the Town of Bowling Green may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Section 3-306(d). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Section 3-306(d).

(f) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Section 3-307. Appeals and judicial review.

Final decisions of the Administrator or the plan-approving authority under this article shall be subject to review by the Circuit Court of Caroline County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Article IV Building Construction

Section 3-400. Prevailing Standard.

The Uniform Statewide Building Code is the prevailing standard for building construction in the Town.

Article V Numbering of Buildings

Section 3-500. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Building" means any structure having a roof supported by walls, constructed specifically for human occupancy.

"Front" or "Frontage" means that side of a lot or parcel of land which abuts the street; or that side of a building containing the main doorway which faces the property boundary abutting the street.

"Officially Named Street" means only those streets whose names have been approved or accepted by the Town Council and identified by the standard and authorized street signs.

"Property Owner" or "Owner" means any person or persons, natural or corporate, who are vested with fee simple title or a life estate or who are responsible for the care, maintenance, upkeep or payment of all taxes, levies or charges against the realty.

"Street" means any officially named, numbered or dedicated public right-of-way or thoroughfare utilized for vehicular traffic within the corporate limits of the Town.

Section 3-501. Numbering plan.

(a) Geographical center. The intersection of Main Street, Chase Street and Milford Street shall be considered the geographical center of the Town.

(1) Streets running generally in the east/west direction which traverse Main Street shall bear the prefix "East" or "West," as applicable, and buildings fronting on such streets shall be numbered from the point of transversal, beginning with the number 100 in both easterly and westerly directions.

(2) Streets running generally in the north/south direction which transverse Milford or Chase Streets shall bar the prefix "North" or "South," as applicable, and buildings fronting thereon will be numbered from the point of transversal, beginning with the number 100 in both the northerly and southerly directions.

(b) Primary thoroughfares. For the purpose of this article, Main Street, Milford Street and Chase Street shall be considered as primary thoroughfares. On streets intersecting primary thoroughfares, buildings will be numbered, beginning with the number 100, at the point of intersection.

(c) Buildings on streets. Buildings which do not transverse or intersect with primary thoroughfares shall be numbered, beginning with the number 100, from the intersection as designated by the Town Council.

(d) Vacant lots. Numbers will be designated for vacant lots which have been established as such by deed or by a certified surveyor. These numbers will be maintained in the office of the Town Clerk and assigned as buildings are constructed.

(e) Odd and even numbers. On streets running generally in a north/south direction, odd numbers shall be assigned to buildings on the east side of the street; even numbers on the west side. On streets running generally in an east/west direction, odd numbers shall be assigned to buildings on the north side; even numbers on the south side.

Section 3-502. Assignment of numbers.

(a) Single-family dwellings shall each be assigned a number.

(b) Multifamily dwellings.

(1) Single-family dwellings which have been converted into or are being used as multifamily dwellings or multiple commercial establishments shall be assigned only one number.

(2) Apartment buildings or duplexes, constructed originally as multifamily dwellings, shall be assigned a number for each main entrance fronting the street on which it is located.

(c) Commercial establishments, business or professional offices shall be assigned separate numbers, notwithstanding the fact that several of each may be situated within the same building, provided that each has a separate entrance fronting the street on which the building is located.

(d) Public, fraternal and community buildings shall be assigned numbers.

(e) Churches and church buildings fronting on streets shall be assigned numbers; however, the provisions of Sections 3-505 and 3-506 shall not apply.

(f) Buildings outside the Town limits, as described in this section, but fronting on officially named streets, may be assigned numbers; however, the provisions of Sections 3-505 and 3-506 shall not apply.

Section 3-503. Size, type and location of numbers; exceptions.

(a) Numerals used by property owners for structures as described herein shall not be less than three inches in height and shall be made of durable material.

(b) Location of numerals. Numerals shall be placed on the building, establishment or office, in the immediate proximity of the doorway fronting the street and clearly visible from the street. Commercial establishments and offices having glass fronts or glass doors may use decal-type or hand-lettered numerals placed on the glass of the main doorway or on glass immediately adjacent to or above the main doorway. Property owners' assigned numbers for buildings whose doors are not readily visible from the street shall use an additional set of the numbers placed on or near the street on a gatepost, lamppost, driveway pillar or some similar object.
(c) Exceptions. Where it is impractical to comply strictly with the provisions of this section, numbers shall be assigned and located as directed by the Town Council.

Section 3-504. Maintenance of map and records.
(a) It shall be the responsibility of the Town Clerk to maintain in his office in current status at all times:
(1) A map of the Town showing all lots and buildings which are subject to the assignment of numbers as provided in this article.
(2) A list of the owners of such lots and buildings.
(3) A list of the numbers assigned to such lots and buildings.

Section 3-505. Responsibility to affix and maintain numbers.
(a) It shall be the responsibility of each person owning or being in charge of real estate which is within the Town to keep himself informed as to the number or numbers assigned to each building or structure on such real estate and to maintain thereon the number or numbers assigned thereto pursuant to the provisions of this article.
(b) Within 10 days following the completion of a new building or of an addition to a building, and before the occupation or use thereof, the owner or person in charge thereof shall ascertain from the Town Clerk the correct number or numbers assigned thereto and affix to and thereafter maintain on such new building or new addition the proper number or numbers assigned thereto, as provided in this article.

Section 3-506. Violations and penalties.
Any owner of a building which is located in the Town who fails to comply with the provisions of Section 3-505 shall be subject to a fine not to exceed $10 for each offense. Each additional day of violation shall constitute a separate offense.

Article VI (Reserved)

Article VII Air Pollution and Open Burning

Section 3-700. Purpose.
The Town Council enacts this article in order to promote the health, safety and general welfare of the Town.

Section 3-701. Definitions.
For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:
"Air Pollution" means the emission into the atmosphere of substances of such character, in such quantities and of such duration as are or may tend to be injurious to human, plant or animal life or to property or to interfere unreasonably with the comfortable enjoyment of life or property or with the conduct of business. The sources of air pollution emissions shall include, but not be

limited to, stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, dust, fumes, gases, vapors, toxic odors or radioactive substances and waste.

Nuisance" means environmental conditions, intermittent or continuous, produced or correctable by human agency, prejudicial to the reasonable enjoyment of health, comfort or safety by any individual or causing injury or damage to persons, property or the conduct of business.

"Open Fire" means a fire not contained within a combustion unit so designed as to prevent the excessive emission of smoke, soot, cinders, noxious acids, fumes and gases.

Section 3-702. Prohibited acts.
It shall be unlawful for any person to cause or allow to escape into the open air such quantities of cinders, dust, fly ash, soot, acid or other fumes, dirt or other materials or obnoxious gases in such place or manner as to constitute a nuisance to any other person or damage to any other property.

Section 3-703. Open burning.
A person shall not cause or allow open burning in streets, alleys and public places. Open burning on private property shall be permitted as provided for in Sections 3-704 through 3-709.

Section 3-704. Allowable burning.
Open burning shall be allowed without prior notification to the Fire Department for recreational fires, highway safety flares, smudge pots and similar occupational needs.

Section 3-705. Notification required.
Open burning shall be allowed, after notifying the Fire Department, for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, heating for warmth of outworkers, preparation of gardens, disposal of yard waste and bonfires. Notification shall be made before the fire is set and shall include the purpose of the proposed burning, the nature and quantities of material to be burned, the date when such burning will take place and the location of the burning site.

Section 3-706. Location requirements.
The location for any open burning shall be not less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in approved containers shall be permitted to be not less than 15 feet from any structure.

Section 3-707. Open burning restrictions.
Open burning shall not be used for waste disposal purposes, other than yard waste, shall be of the minimum size for the intended purpose, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Section 3-708. Open burning attendance.
Any open burning shall be constantly attended until the fire is extinguished. Fire extinguishing equipment shall be available for immediate use.

Section 3-709. Open burning prohibited.
The Mayor or Town Manager may prohibit open burning when atmospheric conditions or local circumstances make such fires hazardous to persons or property and may order the extinguishment of any open burning which creates or adds to a hazardous or nuisance situation.

Section 3-710. Violations and penalties.
Any person, firm or corporation committing an offense against any provision of this article shall, upon conviction thereof, be punishable as provided in Chapter 1, Article I, Section 1-110 of the Code of the Town of Bowling Green.

Article VIII Smoking in Public Buildings

Section 3-800. In general.
The purpose of this article is to adopt regulations controlling and regulating smoking in public places in the Town and to direct and authorize the Town manager to develop and implement smoking policies and procedures for Town-owned and controlled buildings and work areas.

Section 3-801. Authority; definitions.
The authority for this article is found in the Virginia Indoor Clean Air Act, § 15.2-2800 et seq and all definitions therein shall apply.

Section 3-802. Smoking prohibited.
It is unlawful for any person to smoke in any permitted in any Town-owned and controlled buildings, vehicles, facilities, or parks.
State law references: Code of Virginia, § 15.2-2804.

Section 3-803. Town-owned and controlled buildings and work places.
(a) The Town manager may develop and implement policies and procedures governing no smoking in Town-owned and controlled buildings or work areas not open to the general public in the normal course of business, except by invitation. The Town manager shall enforce these policies and procedures through administrative methods.
(c) Any person who continues to smoke in such area after being asked to refrain from smoking may be subject to the civil penalty.
(d) In all cases, the civil penalty shall be payable to the Town.
(e) Violation of this section shall result in a civil penalty of twenty-five dollars ($25.00) against the violator. Any aggrieved person, including the Town, may seek to impose the civil penalty by civil action, which shall be paid to the Town.
(f) Any law enforcement officer may issue a summons regarding a violation of this article.
State law references: Code of Virginia, §§ 15.2-2801, 15.2-2802, 15.2-2808, § 15.2-2809.

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CHAPTER 4: NUISANCES AND OFFENSES

Article I Offenses

Section 4-100. Interfering with Town officers and employees.
No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the Town who is engaged in, en route to or returning from, the performance of official duty, whether such interference, hindrance or obstruction is by threat, assault or otherwise.

Section 4-101. Impersonation of Town officers and employees.
No person shall falsely represent that he or she is an officer or employee of the Town, or without proper authority wear or display any uniform, insignia or credential which identifies any Town officer or employee; nor shall any person, without proper authority, assume to act as an officer or employee of the Town, whether to gain access to premises, obtain information, perpetrate a fraud or

for any other purpose; provided that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his or her presence.
State law references: Code of Virginia, § 18.2-174; § 18.2-175.

Section 4-102. False alarm or report to police.
No person shall knowingly give or cause to be given any false alarm of the need for police protection, assistance or investigation, or any false report to the police department.
State law references: Code of Virginia, § 18.2-461.

Section 4-103. Alarm fees.
(a) The Town manager shall charge and collect the following fees to each person maintaining under contract with the Town a burglar, intrusion, holdup, fire or other security or emergency alarm system terminating at the police communications console and monitored by police communications personnel:

(1) Twenty-five dollars ($25.00) per alarm system per calendar month for basic service;

(2) Fifteen dollars ($15.00) for each false alarm from such alarm system over one per calendar month. False alarm shall mean the activation of such an alarm system in the absence of an actual or apparent security or safety reason therefore the Town manager shall determine whether an alarm was false or not.

(b) The Town manager may prepare, issue and amend regulations to facilitate the operation of this program.

Section 4-104. Alarm notification.
(a) Any person maintaining an intrusion or fire alarm for a facility or residence in this Town shall provide to the Town, and continually update as necessary, a list of two (2) people whom may be contacted to turn off the alarm in the event the alarm is triggered and the person maintaining the alarm may not be found. The person shall provide to the Town the name, business and home address and telephone number, and street address of these persons to be contacted.
(b) Violation of this section shall constitute a Class 4 misdemeanor.

Section 4-105. Costs imposed on criminal and traffic cases.
(a) There is assessed, as part of the fees taxed as costs in each criminal or traffic case arising in the Town of Bowling Green, the sum of two dollars ($2.00) for each such case processed in the general district court, and two dollars ($2.00) for each such case processed in or appealed to the circuit court of Caroline County.
(b) The clerk of the court in which the action is filed, or to which the action has been appealed, shall collect the fee imposed by this section as part of the cost of the proceeding, and without delay remit it to the director of finance of the Town.
(c) The Town council shall appropriate the funds generated by these fees for construction, renovation, or maintenance of the courtroom, jail, or other court-related facilities in the Town of Bowling Green, and for the defrayal of increases in the cost of heating, cooling, providing electricity for, and the ordinary maintenance of, these facilities.
(d) The fees imposed by this section shall be in addition to, and not instead of, any fees or costs imposed by any competent authority.

Section 4-106. Fee for voluntary fingerprinting.
The fee to be charged by the Town for voluntary fingerprinting of persons upon request shall be five dollars ($5.00) per set of fingerprints.

Section 4-107. Sale of unclaimed bicycles in possession of the police; action of Town manager.
The Town manager is authorized either to sell at a public sale, or to donate to a charitable organization for disposition to needy individuals, any bicycle or moped which has been in the possession of the chief of police, unclaimed, for more than thirty (30) days. In case of the sale of this property, the Town manager shall follow the procedures set out in this Code or purchasing procedures governing the disposition of surplus supplies.
State law references: Code of Virginia, § 15.2-1720.

Section 4-108. Disposition of unclaimed property.
(a) The Town manager may sell at public sale any unclaimed personal property which has been in possession of the police department and unclaimed for more than sixty (60) days.
(b) "Unclaimed personal property" means any personal property belonging to another which has been acquired by a law enforcement officer pursuant to his or her duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1, and following, Code of Virginia).
(c) Prior to the sale of any unclaimed item, the chief of police shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth a written statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in this Town once a week for two (2) consecutive weeks, notice that there will be a public sale of unclaimed personal property. Such property shall be described generally in the notice, together with the date, time, and place of sale. The Town manager shall cause the chief of police to pay from the proceeds of the sale the costs of the advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by the Town for the owner and paid to the owner upon satisfactory proof of ownership.
(d) If no claim has been made by the owner for the proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the Town. Any such owner shall be entitled to apply to the Town within three (3) years from the date of sale and, if timely application is made therefor, the Town shall pay the remaining proceeds of the sale to the owner without interest or other charges. No claim shall be made and no suit, action or proceeding shall be instituted for the recovery of such funds after three (3) years from the date of the sale.
State law references: Code of Virginia, § 15.2-1719.

Section 4-109. Disorderly conduct in public places.
(a) A person shall be guilty of disorderly conduct and a Class 1 misdemeanor if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, such person:

(1) In any street, highway, or public building, or while in or on a public conveyance or in a public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or

(2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or any meeting of the Town council or any department, division or agency thereof, or of any school, literary society or place of religious worship, if such disruption:

[a] Prevents or interferes with the orderly conduct of the funeral, memorial service, or the meeting; or

[b] Has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

(3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption:

[a] Prevents or interferes with the orderly conduct of the operation or activity; or

[b] Has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

(b) However, the conduct prohibited under Section 4-109(a), (b) or (c) shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under the Code of Virginia Title 18.2.

(c) The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

Section 4-110. Posting advertisements, signs, etc., on property of another.

Any person who shall put up or cause or direct another to put up any show bill, notice or advertisement, or any brand or mark any sign, letters or characters, upon any building, window, wall, fence, utility pole or other property of another person, or of the Town, without first obtaining the consent of the owner or person in charge or control of such property, shall be guilty of a Class 4 misdemeanor.

Section 4-111. Littering.

No person shall sweep, throw or otherwise deposit in or on any street or sidewalk or on private premises any animal or fowl carcass, rubbish, paper, handbills, dirt, filth, shavings, manure, offal, ashes, vegetables, fruit, broken glass, tacks, tin cans or any other articles or substance or refuse matter of any kind, or any matter or substance or thing calculated to render the streets unclean or unsightly or unsafe for any person or vehicle using such street, or matter, substance or thing liable to affect injuriously the health of the community.

State law references: Code of Virginia, § 33.1346.

Section 4-112. Urination or defecation in public.

It shall be unlawful for any person to urinate or defecate in or on any sidewalk, street or in any public place, or in any place where other persons are present, unless such urination or defecation be in a bathroom, restroom or other facility specifically designed for such purpose. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

Section 4-113. Abandoned or discarded refrigerators and other airtight containers.

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two (2) cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any violation of the provisions of this section shall constitute a Class 3 misdemeanor.

State law references: Code of Virginia, § 18.2-319.

Section 4-114. Discharge of firearms.

(a) No person shall discharge a firearm of any description within the Town. This section shall not apply to any law-enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. In addition, this section shall not apply to any otherwise lawful discharge while actually engaged in target practice on ranges lawfully established and maintained; nor shall it apply to the use of weapons in hunting as described in Section 4-110 of this article, the use of blank ammunition at athletic events, military funerals, theatrical performances or events of similar character.

(b) For purposes of this article, the word "firearm" shall mean any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure. The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

State law references: Code of Virginia, § 15.2-1113; §§ 18.2-280, 18.2-286.

Section 4-115. Use of weapons in hunting.

(a) Hunting with bow and arrow is permitted in the Agricultural District zoning district on any lot of three (3) acres or more, during seasons declared by the Virginia Department of Game and Inland Fisheries, including any early, late, or special Urban Archery Season. Hunting with bow and arrow is prohibited in all other zoning districts at all times.

(b) Hunting with shotguns and muzzle loading rifles is permitted within the Agricultural District, during hunting seasons declared by the Virginia Department of Game and Inland Fisheries. Hunting with rifles, shotguns and muzzle-loading rifles is prohibited in all other areas of the Town at all times.

(c) It is unlawful to hunt except from a stand elevated at least ten (10) feet from the ground.

(d) It is unlawful to hunt within one hundred (100) yards of a dwelling, sidewalk, street, or roadway. Violation of this subsection is a Class 3 misdemeanor.

(e) No person shall shoot or hunt with a firearm or traverse an area with a loaded firearm within one hundred (100) yards of the property line of a public school or a county, Town or regional park. Violation of this subsection is a Class 4 misdemeanor.

(f) The owner or lessee of land, or other person designated by the director of game and inland fisheries, may use a rifle to kill deer, pursuant to a valid permit from the director of the department of game and inland fisheries, pursuant to Virginia Code § 29.1-529.

(g) Any person hunting must comply with all applicable federal and state laws and regulations.

(h) The discharge of a firearm within Town limits is permitted by hunters hunting in compliance with all of the terms of this section.

(i) Except as designated, any violation of this section is a Class 1 misdemeanor.

Section 4-116. Profane swearing and intoxication in public.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor. In any area in which there is located a court-approved detoxification center a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

State law references: Virginia Code § 18.2-388; § 18.2-389.

Section 4-117. Disturbing the peace, generally.
It shall be unlawful and a Class 1 misdemeanor for any person to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct, or by threatening, challenging to fight, assaulting, fighting or striking another.

Section 4-118. Curfew.
(a) Any person under the age of 18 years old shall be prohibited from loitering in, upon, or around any public place, whether on public or private property. Any persons under the age of 18 years old who are not attended by their parents from frequenting or being in public places, whether on public or private property, at such times between 10:00 p.m. and 6:00 a.m.
(b) A violation of such ordinances by a minor shall be disposed of as provided in §§ 16.1-278.4 and 16.1-278.5.
(c) A locality may by ordinance regulate the frequenting, playing in or loitering in public places of amusement by minors, and may prescribe punishment for violations of such ordinances not to exceed that prescribed for a Class 3 misdemeanor.
(d) Without limiting or restricting the general powers created by this section, the term "public place" shall also include public libraries.
State law references: Virginia Code § 16.1-278.4; §16.1-278.5.

Article II Nuisances

Section 4-200. Definition.
"Nuisance" means the doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property. Whenever the term nuisance is used, it shall be deemed to mean a public nuisance.

Section 4-201. Illustrative enumeration.
(a) The existence of any of the following activities or conditions is hereby declared to be a public nuisance, provided, however, that this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:
(1) Any condition which provides harborage for rats, mice, snakes and other vermin.
(2) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
(3) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
(4) The carcasses of animals or fowl not disposed of within a reasonable time after death.
(5) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances.
(6) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
(7) Any action which unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage area.

Section 4-202. Prohibited.
(a) It shall be unlawful for any person to create, cause, permit or maintain a public nuisance. It shall also be unlawful for any person to permit the continuation of a public nuisance after having been served a notice to abate such nuisance.
(b) If the owner of a building or premises fails to abate or cause to be abated a public nuisance occurring on his or her property after receiving reasonable notice of its existence, even though such nuisance was caused or maintained by others, such owner shall be deemed to have permitted the continuation of such nuisance.
(c) Violation of this section shall constitute a class 1 misdemeanor. In addition, each day a public nuisance shall continue after the date set by the Town for its abatement shall constitute a separate offense.

Section 4-203. Notice to abate.
Whenever a nuisance is found to exist within the Town, a duly designated officer of the Town shall give written notice to the owner or occupant of the property upon which such nuisance exists and to the person causing or maintaining the nuisance, if such person be known.

Section 4-204. Contents of notice.
(a) The notice to abate a nuisance issued under the provisions of this article shall contain:
(1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
(2) The location of the nuisance, if the same is stationary.
(3) A description of what constitutes the nuisance.
(4) A statement of acts necessary to abate the nuisance and a date by which the nuisance shall be abated.
(5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Town will abate such nuisance and assess the cost thereof against such person.
(6) A statement that the failure to abate a nuisance constitutes a criminal offense punishable as a Class 1 misdemeanor.

Section 4-205. Service of notice.
(a) The notice to abate a nuisance shall be given to the owner, the owner's agent, or person in control of the property on which the nuisance is located by delivering a copy of the notice to abate in person. If the person named in the notice to abate cannot be found after a diligent search, such notice shall be sent by certified mail to the last known address of such person and a copy of the notice to abate shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.
(b) The notice to abate a nuisance shall be given to a corporation, bank, trust company or other corporate entity who is the owner of such property or who acts as the owner's agent by delivering a copy thereof to its president or such other officer, manager, or director or agent thereof in the Town; or if such person cannot be found at the regular office or place of business in the Town of such corporation, bank, trust company, corporate entity, by delivering a copy to any employee thereof found at such office or place of business; or if no such person is found in such office or place of business, by leaving such copy posted at the front door of such office or place of business and a copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.
(c) If the owner of property on which a nuisance is located is unknown or has no place of abode, office or place of business in the Town, or after reasonable efforts the Town cannot locate a last

known address, notice shall be given by order of publication, by publishing a copy of the notice in a newspaper of general circulation in the Town at least 30 days prior to the abatement of the nuisance and a copy of the notice to abate shall also be posted in a conspicuous place on the premises.

Section 4-206. Abatement by Town.
(a) Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article or who was so ordered by a hearing officer to abate the same, the Town shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. In order to abate a nuisance, the Town may revoke any permit or license issued by the Town to the owner of the offending property and which is required by law to conduct the business or activity which gives rise to the nuisance. If the nuisance is not subject to abatement by the Town, or if otherwise appropriate, the designated officer shall cause criminal proceedings to be instituted against the person or persons causing or permitting the continuation of the nuisance.
(b) When in the opinion of the designated officer, a nuisance results in a condition that creates an immediate, serious and imminent threat to the health or safety of the public, the official may have the necessary work done to abate the nuisance whether or not notice to require the owner or occupant of the premises to abate the nuisance has been given.

Section 4-207. Costs of Town action constitute lien on property; administrative fee authorized.
Any and all costs incurred by the Town in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied. In addition, an administrative fee of $150.00 or 25% of the cost, whichever is less; however in no event shall the fee be less than $25.00.

Article III Animals

Division 1 General Provisions

Section 4-300. Running at large.
(a) It shall be unlawful for any person to permit the running at large in the streets or public places of the Town of any cow, horse, mule, goat, hog or other barnyard animal or beast of burden, and it shall be the duty of Town police officers, when directed so to do by the Town Manager, to impound any such animal so found running at large in a pound or enclosure designated for that purpose by the Town Council, and the Town Manager or his designee shall be empowered to employ such assistance and use such lawful means as he may find necessary to capture and impound such animals, the expenses therefore to be paid out of the Town treasury, subject to the availability of funds appropriated for such purposes, and he shall thereupon notify the owner of the impounded animal that the animal is being held at the owner's expense. Each violation of this section shall subject the owner of such animal to the payment of all costs and expenses incurred in capturing and holding the animal, in addition to any penalty which may be imposed for such violation.
(b) Any person owning geese, chickens or other domestic fowl in the Town shall keep such fowl confined within an enclosure, and it shall be unlawful for him to permit any one or more of them to run at large in the streets or public places of the Town or to depredate upon the property of any other person.

Section 4-301. Maintenance of stables or pens.
Each person owning or having the custody or control of an animal or fowl within the Town shall provide for such animal or fowl a suitable stable, pen or other enclosure or place of habitation therefore; and it shall be his duty to maintain such place at all times in a safe and sanitary condition, free of excrement and other unsanitary or offensive substances or liquids. Such place of habitation shall include a shelter that may be reasonably expected to protect the animal from physical suffering or exposure to the elements or adverse weather. The shelter shall be of adequate size for the animal and shall be of material which will repel the elements and help maintain the body temperature of the animal.

Section 4-302. Disposition of carcasses.
The owner of any animal or grown fowl which has died, when he knows of such death, shall forthwith have its body cremated or buried, and if he fails to do so, the Town Manager, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose, and the officer or other person shall be entitled to recover from the owner of every animal so cremated or buried a fee to cover the actual cost of the cremation or burial.

Section 4-303. Animals constituting public nuisance.
(a) No owner shall fail to exercise the proper care and control of his dog, cat or other animal to prevent it from becoming a public nuisance. While not limited to the following, excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals or trespassing upon school grounds or private property in such a manner as to damage property shall be deemed a nuisance.
(b) Any person owning or having in his possession or under his control any dog, cat or other animal suspected of constituting a nuisance may be proceeded against by warrant or summoned before the general district court of the county to show cause why such animal should not be confined, killed, removed or the nuisance otherwise abated. Upon proof that such animal does constitute a public nuisance, the animal shall, by order of the Judge of the General District Court of the county, be confined, killed, removed or the nuisance shall be otherwise abated, as such Judge shall order. No person shall fail to comply with such an order.

Section 4-304. Quarantine of certain animals.
(a) If any animal bites any person or any other warm-blooded animal or if any animal exhibits active signs of rabies or is suspected of having rabies, such animal, along with any other animal which has been bitten, shall be confined in accordance with the Animal Warden's directions for such time as may be deemed necessary. If the confinement is impossible or impracticable, such animal shall be destroyed. All the provisions of this article shall be complied with.
(b) Any animal in the Town which has bitten a person or another animal and which is not deemed vicious by the Town Manager or County Animal Warden and which has been vaccinated and is not suspected of being rabid shall be confined to the premises of its owner, keeper or custodian for such period as may be designated by order of the Town Manager or the County Animal Warden, but not fewer than 10 days nor more than 45 days, provided that a seriously injured or sick animal may be humanely euthanized and its head sent to the Health Department for evaluation. During such confinement, such animals shall not be permitted to come in contact with other animals. No person shall fail to comply with such order after receiving notice of the same.
(c) Any violation of this Article shall constitute a Class I misdemeanor.

Division 2 Dogs

Section 4-310. Leash law.

(a) It shall be unlawful for the owner of any dog to permit the dog to go or be in the Town off the premises of the owner, unless the dog is kept secured by a leash, or led by other means of restraint (which may include an electronic leash or training device) not harmful to the dog.

(b) This section shall not apply to:

(1) Any dog used by law-enforcement agencies, or any dog under contract by law-enforcement agencies.

(2) Any person who uses a dog under his or her direct supervision while lawfully hunting, while engaged in a supervised, formal obedience training class or show, or during formally sanctioned field trials.

(3) Any dog found or whose owner's premises are located in an agricultural district.

(c) Any person violating this section shall be liable to the Town for a civil penalty of fifty dollars ($50.00).

(d) Any ticket for a violation shall inform the violator that he or she may avoid a trial by paying this penalty to the Town by mail or in person at the office of the director of finance within fourteen (14) calendar days following the date of the ticket. If a person charged with a violation does not elect to pay the civil penalty within fourteen (14) calendar days, 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. A finding of liability shall not be deemed a criminal conviction for any purpose.

State law references: Code of Virginia, § 3.1-796.95.

Section 4-311. Unlawful to allow dogs to urinate or defecate on public or private property; exception.

(a) It shall be unlawful for any owner of a dog to:

(1) Knowingly or willfully allow the dog to urinate or defecate on the private property of other persons without their consent; or

(2) Knowingly or willfully allow the dog to urinate or defecate on public property, except that defecation by a dog on public property shall not constitute a violation of this section if the owner of the dog immediately removes the material defecated and disposes of it in a safe and sanitary manner.

Section 4-312. License and rabies vaccination required.

It shall be unlawful for any person to own, keep, hold or harbor a dog over the age of six months within the Town without a currently valid county dog license and certificate of rabies vaccination for such dog.

Section 4-313. Running at large; disposition of impounded dogs.

(a) It shall be unlawful for any person to permit a dog of either sex to run at large at any time. For the purpose of this section, a dog shall be deemed to run at large while off the property of its owner or custodian and not under its owner's or custodian's immediate control.

(b) It shall be the duty of the Animal Warden to catch and pen all dogs found running at large in violation of this section. Every dog so impounded shall be penned for a period of not less than five days from the time of capture, such period to commence on the day immediately following the day the dog is initially confined in the facility, during which time it may be redeemed by the owner or custodian after paying the fees required by Caroline County Animal Shelter.

(c) The owner of an impounded animal that required and received veterinary treatment while impounded under any of the provisions of this article shall pay for all medical costs incurred during

such impoundment, including reimbursement to the Town for any such costs already paid by the Town on behalf of such animal.
(d) If any dog is impounded as provided for in this article, it shall be the duty of the Animal Control Officer, if the rightful owner of any dog confined may be readily identified, to make a reasonable effort to notify the owner or custodian within a period of 48 hours. If not redeemed within five days, such dog shall, upon the payment of a fee as set by the Caroline County Animal Shelter, be placed for adoption in a suitable home or humanely destroyed under the direction of the Animal Control Officer pursuant to Code of Virginia § 3.1-796.119, except that no animal may be disposed of by sale or gift to a federal agency or state-supported institution, agency of the commonwealth, agency of another state, a licensed federal dealer or any other person or agency unless such person or agency proposes to adopt such animal as a pet. This fee shall be used to cover the cost of transfer, seizure and veterinary care of the dog. The person desiring to adopt the dog shall sign an adoption contract agreeing to abide by the rules and regulations of the Animal Control Officer and shall have the dog spayed or neutered within a time period administratively set by the Animal Control Officer, which time period shall not be more than six months. Such person shall, in the case of a dog, obtain a proper license for such dog, pursuant to this article, within 10 days of such transfer
(e) The provisions of this section relating to impoundment and disposition of impounded animals shall apply to cats, dogs, pets and all other animals of any type, including domesticated or wild animals held under captivity, but provisions of this section related to spaying and/or neutering shall apply to dogs and cats only; all other animals are exempt from said procedure.

Section 4-314. Female dogs in heat.
No person shall permit any female dog owned by him or in his custody or control to stray from his own property while such dog is in heat.

Section 4-315. Dangerous, vicious or biting dogs; dogs killing animals or poultry.
(a) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by the following:
"Dangerous Dog" means a canine or canine crossbreed, which has bitten, attacked or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal.
"Vicious Dog" means a canine or canine crossbreed which has killed a person; inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.
"Run at Large" or "Go at Large" means the act of roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.
"Private Property" means real estate or leasehold estate not owned, possessed or used by the Town, the Commonwealth of Virginia, the United States of America or any political subdivision or agency of these governments.
"Public Property" means real estate or leasehold estate, owned or possessed or used by the Town, the Commonwealth of Virginia, the United States of America or any political subdivision or agency of these governments.
"Owner" means a person who:
(1) has a right of property in an animal;
(2) keeps or harbors an animal;
(3) has an animal in his or her care;
(4) acts as a custodian of an animal; or,

(5) any person who knowingly permits an animal to remain on or about the premises he or she occupies.

(b) Any Animal Control Officer who has reason to believe that a canine or canine crossbreed within the Town of Bowling Green is a dangerous dog or vicious dog shall apply to a magistrate of Caroline County for the issuance of a summons requiring the owner or custodian, if known, to appear before the General District Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The Animal Control Officer or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this article. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of state law.

(c) An Animal Control Officer may determine, after investigation, whether a dog is a dangerous dog. If the Animal Control Officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this article. If the animal's owner disagrees with the Animal Control Officer's determination, he may appeal the determination to the General District Court for a trial on the merits.

(d) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or a vicious dog if the threat, injury or damage was sustained by a person who was committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or provoking, tormenting or physically abusing the animal or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times. No police dog, which was engaged in the performance of its duties at the time of the acts complained of, shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, was protecting itself, its kennel, its offspring or its owner or owner's property shall be found to be a dangerous dog or a vicious dog.

(e) The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the Animal Control Officer for a fee of $50 in addition to other fees that may be authorized by law. The Animal Control Officer shall also provide the owner with a uniformly designed tag, which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(f) All certificates or renewals required to be obtained under this article shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination, if applicable, and that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals under this article shall not be issued a certificate or renewal unless they present satisfactory evidence that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and the animal has been permanently identified by means of a tattoo on the inside of the thigh or by electronic implantation.

(g) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its

escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(h) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this article.

(i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning that the dog has been found to be dangerous, notify the local animal control authority if the animal is loose or unconfined; bites a person or attacks another animal; is sold, given away or dies; or has been moved to a different address.

(j) All fees collected pursuant to this article, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this article, shall be paid into a special dedicated fund in the treasury of Caroline County for the purpose of paying the expense of any training courses needed by the Animal Control Officer to comply with the Dangerous and Vicious Dog Ordinance.

(k) All certificates or renewals required to be obtained under this article shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

Section 4-316. Damage or nuisance by dog.

No owner of a dog shall permit or tolerate such dog to damage or destroy property of any kind or to deposit waste or allow a dog to commit a nuisance upon the premises of a person other than the owner or person harboring such a dog.

Section 4-317. Barking or howling dogs.

The harboring or keeping of any dog which by loud, frequent or habitual barking or howling shall cause annoyance and disturb the peace and quiet of any person or neighborhood shall be unlawful.

Section 4-318. Rabies vaccination required.

(a) It shall be unlawful for any person to own, keep, hold or harbor a dog or cat over the age of four months within the Town unless such dog or cat shall have been vaccinated against rabies as provided in § 3.1-796-97:1 of the Code of Virginia.

(b) Any person transporting a dog into the Town from some other jurisdiction shall be required to conform to the above regulation within 30 days.

Section 4-319. Tag and certificate of vaccination; noncompliance.

(a) At the time of vaccination, a suitable and distinctive collar tag and certificate of inoculation setting forth the type of vaccine used shall be issued to the dog owner. The collar tag shall be affixed to the dog's collar and must be worn at all times when the dog is not on the owner's property or in the immediate control of a responsible person.

(b) Any dog found in the Town not vaccinated and identified as described in the above provisions may be impounded by the Animal Control Officer, and such dog may be held for a period of 10 days. The dog may be returned to its owner upon proof of ownership, vaccination of the dog, payment of the cost of impounding the dog at the rate provided by the county, and payment of any fine which may be imposed for a violation of this article

(c) At the expiration of the ten-day period, any dog not so claimed by its owner may be disposed of by giving it into the possession of any person willing to pay the cost of impounding, vaccination and

license, or if not so disposed of, it may be killed in a humane manner by the impounding officer or other designated official.

Section 4-320. Town quarantine.
When, in the judgment of the Caroline County Health Director, an emergency shall be deemed to exist in the Town due to a widespread rabies epizootic, for the protection of the public health the Health Director may declare a quarantine in the Town and restrict all dogs to the owners' premises or to the immediate custody of a responsible person for the duration of such emergency as it is set forth.

Section 4-321. Violations and penalties.
Any person, firm or company or corporation who or which neglects or refuses to do any act required by this article shall be guilty of an offense. The penalty for the first violation is a fine not to exceed $50 or a term of imprisonment not to exceed 15 days, or both. Each week that such violation, disobedience, omission, neglect or refusal continues or arises shall be deemed a separate offense. The penalty for the second violation is a fine not to exceed $100 or a term of imprisonment not to exceed 15 days, or both. The third violation and all subsequent violations within 18 months have penalty of a fine not to exceed $200 or a term of imprisonment not to exceed 30 days or both.

Division 3 Cruelty and Disposition of Animals

Section 4-330. Cruelty to animals.
(a) Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or (ii) deprives any animal of necessary sustenance, food, drink or shelter; or (iii) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor. Prosecution for violations of this subsection shall commence within five years after commission of the offense. Prosecutions of this subsection regarding agricultural animals, as defined in Code of Virginia § 3.1-796.66, shall commence within one year after commission of the offense.
(b) Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a Class 3 misdemeanor.
(c) Nothing in this section shall be construed to prohibit the dehorning of cattle.
(d) For the purposes of this section the word animal shall be construed to include birds and fowl.
State law references: Code of Virginia, §§ 3.1-796.94, 3.1-796.122.

Section 4-331. Disposition of dead dogs, animals and fowl.
(a) The owner of any animal or grown fowl which has died, when he knows of such death, shall forthwith have its body appropriately cremated or buried. If he fails to do so, the Town manager shall petition the General District Court for permission to do so, pursuant to Code of Virginia § 18.2-510. The Town manager shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars ($75.00), and of the owner of every fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars ($5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of the owner.

(b) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.
(c) Violation of this section shall constitute a class 4 misdemeanor.
State law references: Code of Virginia, § 3.1-796.121.

Section 4-332. Confinement in case of hydrophobia.
Whenever there is sufficient reason to believe that there is a case of hydrophobia in the Town, the Town council shall adopt an emergency ordinance requiring that all dogs and cats immediately be confined for a reasonable length of time. Upon the issuance of such declaration, all dogs and cats shall be confined in accordance with the terms thereof.
State law references: Code of Virginia, § 3.1-796.98.

Section 4-333. Destruction of rabid animal.
The Town manager shall have the power to order the destruction of any animal infected with hydrophobia or of any animal, for which no proof of current rabies vaccination is available, bitten by an animal so infected. Upon such order by the Town manager, such animal shall be destroyed. It shall be unlawful for the owner of any animal subject to destruction hereunder to conceal such animal.
State law references: Code of Virginia, § 3.1-796.98.

Article IV Motor Vehicles and Traffic

Division 1 General Provisions

Section 4-400. Statutory authority.
This article is enacted pursuant to § 15.1-132, § 46.2-1237, § 46.2-1300 and § 46.2-1313 of the Code of Virginia 1950, as amended.

Section 4-401. Adoption of statutory provisions.
(a) The following sections of Title 46.2 of the Code of Virginia are hereby adopted and incorporated into this section by reference thereto and are hereby made applicable within the Town with the same force and effect as if hereinafter fully set forth verbatim. Subtitle I, Chapter 1, § 46.2-100, § 46.2-102, § 46.2-103, § 46.2-104, § 46.2-110, § 46.2-111 and § 46.2-113; in Subtitle II, Chapter 3, § 46.2-300, § 46.2-301, § 46.2-301.1 and § 46.2-302; in Subtitle III, all code sections contained in Chapter 8 of said subtitle and within Chapter 10 of said subtitle § 46.2-1000, § 46.2-1002, § 46.2-1003, and all code sections contained within Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 20 and 21 within said Chapter 10. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the Town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this article as fully as though set forth at length herein, and it shall be unlawful for any person, within the Town, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia which is adopted by this section, provided that in no event shall the penalty imposed for violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia.
(b) All sections of Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia are hereby adopted and incorporated in this section by reference thereto and are hereby made applicable within the Town with the same force and effect as if hereinafter fully set forth verbatim.

Section 4-402. Reporting of convictions.
All convictions obtained in the courts of Caroline County for any violations of any provision of this article shall be reported to the Department of Motor Vehicles of the Commonwealth, as provided in § 46.2-382 and § 46.2-383 of the Code of Virginia, which is hereby adopted and incorporated in this section by reference thereto.

Section 4-403. Severability of statutory provisions.
Should any section of Title 46.2 or of Title 18.2 of the Code of Virginia which has been incorporated in this article by reference thereto be subsequently amended by emergency legislation or be declared unconstitutional or invalid by a court of competent jurisdiction, such action shall affect only that Code section so amended or declared unconstitutional or invalid and shall not affect the validity or constitutionality of this article as a whole.

Section 4-404. Protective helmet.
(a) Every person 14 years of age or younger shall wear a protective helmet that meets the standards promulgated by the American National Standards Institute or the Snell Memorial Foundation whenever riding or being carried on a bicycle or an electric power-assisted bicycle on any highway, sidewalk, or public bicycle path.
(b) Violation of this section shall be punishable by a fine of $25. However, such fine shall be suspended for first-time violators and for violators who, subsequent to the violation but prior to imposition of the fine, purchase a helmet of the type required.
(c) Violation of this section shall not constitute negligence, or assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle or electric power-assisted bicycles, nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action.

Division 2 Vehicle Parking

Section 4-410. Parking Prohibited and Interference with Parked Vehicle.
(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:
(1) On a sidewalk;
(2) In front on a public or private driveway;
(3) Within an intersection;
(4) Within 15 feet of a fire hydrant;
(5) On a crosswalk;
(6) On the roadway side of any vehicle parked at the edge or curb of a street;
(7) At any place where official signs prohibit parking;
(8) In a designated fire lane;
(9) Against a yellow curb;
(10) Within a parking space reserved for persons with disabilities that limit or impair their ability to walk unless such vehicle displays a disabled parking license plate, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under the Code of Virginia, or a disabled veterans (DV) disabled parking license plates issued under the Code of Virginia;
(11) Within the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(12) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

(b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

(c) On any street in the Town in which traffic may proceed in opposite directions, no person shall stand or park a vehicle other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within the distance required under the Code of Virginia. Nothing in this section shall be construed to prohibit a vehicle from being parked at an angle where angle parking is permitted.

Section 4-411. Parking Rules and Regulations.

(a) Pursuant to Section 46.2-1220 of the Code of Virginia, as amended, Town Council shall make and promulgate additional rules and regulations for the parking or stopping of vehicles upon the highway, streets and Town parking lots in the Town of Bowling Green, including rules and regulations providing for classification of vehicles with reference to parking or stopping, designation of the time, place and manner such vehicles may be allowed to park or stop on the highways and streets, and designation of areas for bus stops, taxicab stands and loading zones.

(b) At such times when, in the opinion of the Mayor, traffic conditions and the use of the highways require immediate action in order to provide for proper regulation of parking or stopping of vehicles, the Mayor is authorized to make and promulgate emergency rules and regulations for the parking or stopping of vehicles upon highways, streets and Town parking lots in the Town of Bowling Green, which emergency rules and regulations shall only be in force and effect for such time as ordered by the Mayor, but in no case shall such emergency rules and regulations remain in force and effect longer than the next succeeding Town Council meeting.

Section 4-412. Enforcement of Parking Rules and Regulations.

It shall be unlawful for any person to fail, refuse or neglect to observe and comply with any such rule or regulation made and promulgated by the Town Council or by the Mayor; provided, however, that no such rule or regulation shall be deemed to have been violated unless appropriate and adequate signs, markers or other devices are erected. The term "signs, markers or other devices" shall include white lines or markers painted on highways and streets and yellow curb markings, customarily indicating parking spaces and no-parking zones.

Section 4-413. Parking Violations.

(a) Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be tried for the offenses set forth in the notice. Such waiver shall be effective upon voluntary payment of $50.00 to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing $50.00. and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not thereafter be required to appear before the Caroline County General District Court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle:

(1) On a sidewalk;
(2) In front on a public or private driveway;
(3) Within an intersection;

(4) On a crosswalk;
(5) On the roadway side of any vehicle parked at the edge or curb of a street;
(6) At any place where official signs prohibit parking;

(b) Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be formally tried for the offense set forth in the notice. Such waiver shall be effective upon voluntary payment of $100.00 to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing $100.00 and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not be thereafter required to appear before the Caroline General District Court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle:

(1) Within 15 feet of a fire hydrant;
(2) Within the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;
(3) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;
(4) Within a designated fire lane;
(5) Against a yellow curb;
(6) Standing or parking a vehicle on any street in the Town in which traffic may proceed in opposite directions in a manner that is not parallel with the edge of the roadway headed in the direction of lawful traffic movement and not with the right-hand wheels of the vehicle within the distance required under the Code of Virginia.

(c) Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be tried for the offense set forth in the notice. Such waiver shall be effective upon voluntary payment of $250.00 to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing $250.00 and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not thereafter be required to appear before the Caroline General District Court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle within a parking space reserved for persons with disabilities that limit or impair their ability to walk unless such vehicle displays a disabled parking license plate, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under the § 46.2-1241, Code of Virginia, or disabled veterans (DV) disabled parking license plates issued under § 46.2-739, Code of Virginia.

(d) Any person who has received a notice pursuant to Section 4-513(a), (b), or (c) and wishes to contest the offense cited in such notice may, within five days after issuance of such notice, appear at the Town's Business Office and certify the contesting of such offense.

(e) Any person who has received a notice pursuant to Section 4-513(a), (b), or (c) and who fails to comply with Section 4-513(a) through (e) within five days after issuance of such notice shall be subject to a fine of $50.00; and, in addition, a summons or arrest warrant may be issued for such person pursuant to § 46.2-941, Code of Virginia.

(f) The Town Treasurer shall be the administrative official responsible for the collection of parking citation penalties. The Town Treasurer shall render a report to the Police Chief on those persons who have paid such parking citation penalties. The Police Chief shall be the administrative official responsible for certifying, in writing, any contest of a parking violation to the Caroline General

District Court; and the Police Chief shall cause complaints, summonses or warrants to be issued for delinquent parking citations.
(g) Proof that the vehicle described in the parking ticket citation was parked in violation of this Ordinance or a Town of Bowling Green Parking Regulation, together with proof that the defendant was at the time of issuance of the citation the registered owner of the vehicle shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

Section 4-414. Removal or Immobilization of Vehicles for Outstanding Parking Violations.
(a) Any motor vehicle parked on the streets or public grounds of the Town of Bowling Green against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed to a place within such Town or an adjacent locality designated by the Bowling Green Police Chief for the temporary storage of the vehicle, or the vehicle may be immobilized in a manner which will prevent its removal or operation except authorized by the Police Chief.
(b) The Bowling Green Police Chief or his designee shall inform as soon as practicable the owner of the removed or immobilized vehicle of the nature and circumstances of the prior unsettled parking violation notices for which the vehicle was removed or immobilized. In any case involving immobilization of a vehicle pursuant to Section 4-514, there shall be placed on the vehicle, in a conspicuous manner, a notice warning that the vehicle has been immobilized and that any attempt to move the vehicle might damage it.
(c) The owner of an immobilized vehicle, or other person acting on his behalf, shall be allowed at least twenty-four hours from the time of immobilization to repossess or secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that time period may result in the removal of the vehicle to a storage area for safekeeping under the direction of a member of the Bowling Green Police Department.
(d) The owner of the removed or immobilized motor vehicle, or other person acting on his behalf, shall be permitted to repossess or to secure the release of the vehicle by payment of the outstanding parking violation notices for which the vehicle was removed or immobilized and payment of all costs incidental to the immobilization, removal and storage of the vehicle, and the efforts to locate the owner of the vehicle. If the owner fails or refuses to pay such fines and costs, or should the identity or whereabouts of the owner be unknown and unascertainable, the motor vehicle may be sold in accordance with the procedures set forth in § 46.2-1213 of the Code of Virginia, 1950, as amended.

Division 3 Vehicles – Abandoned, Unattended, Immobile, Inoperative

Section 4-420. Definitions.
"Abandoned" - a motor vehicle is abandoned if it (i) lacks a current license plate; or a current county, city or Town license plate or sticker; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four days without being moved.
"Commissioner" means the Commissioner of the Virginia Department of Motor Vehicles.
"Department" means the Virginia Department of Motor Vehicles.
"Garage" means any commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises.
"Garage Keeper" means the operator of a garage.
"Law Enforcement" means the Police Department of the Town of Bowling Green.

Section 4-421. Abandoned.
The Town of Bowling Green may take any abandoned motor vehicle into custody. The Town may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities, or firms or corporations that may be independent contractors for removing, preserving, storing, and selling at public auction abandoned motor vehicles.

Section 4-422. Vehicles Abandoned in Garages.
Notwithstanding § 46.2-1200 of the Code of Virginia, 1950, as amended, any motor vehicle, trailer, semi trailer, or part thereof shall be considered abandoned and may be reported by the garage keeper to the Police if it has been left in a garage for more than ten days beyond the period the vehicle was to remain on the premises pursuant to a contract, after notice by registered or certified mail, return receipt requested, to the owner of record and all persons having security interests of record therein, to reclaim the vehicle within fifteen days of the notice. Any abandoned motor vehicle left in a garage may be taken into custody by the locality in accordance with § 46.2-1201 and shall be subject to the notice and sale provisions contained in §§ 46.2-1202 and 46.2-1203. If, however, the vehicle is reclaimed in accordance with § 46.2-1202, the person reclaiming it, in addition to the other charges required to be paid, shall pay the reasonable charges of the garage keeper, unless otherwise provided by contract or ordinance. If the vehicle is sold pursuant to § 46.2-1203, any garage keeper's charges shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs incurred pursuant to § 46.2-1202. Except as otherwise provided in this article, nothing in this section shall restrict any rights conferred on any person under §§ 43-32 through 43-36 of the Code of Virginia, 1950, as amended.

Section 4-423. Unattended or Immobile Vehicles.
No person shall leave any motor vehicle, trailer, semi trailer, or part or combination thereof immobilized or unattended on or adjacent to any roadway if it constitutes a hazard in the use of the roadway. No person shall leave any immobilized or unattended motor vehicle, trailer, semi trailer, or part or combination thereof longer than twenty-four hours on or adjacent to any roadway inside the corporate limits of the Town of Bowling Green. The Police may remove it or have it removed after twenty-four hours to a storage area for safekeeping and shall report the removal to the Department of Motor Vehicles and to the owner of the motor vehicle, trailer, semi trailer, or combination as promptly as possible. Vehicles posing an immediate hazard in the use of the roadway may be removed in less than twenty-four hours. Before obtaining possession of the motor vehicle, trailer, semi trailer, or combination, its owner or successor in interest to ownership shall pay to the parties entitled thereto all costs incidental to its removal or storage. In any violation of this section the owner of such motor vehicle, trailer, semi trailer or part or combination of a motor vehicle, trailer, or semi trailer, shall be presumed to be the person committing the violation; however, this presumption shall be rebuttable by competent evidence. When a motor vehicle, trailer, semi trailer, or part or combination of a motor vehicle, trailer, or semi trailer was stolen or illegally used by a person other than the owner of the vehicle at the time of the theft or used without his authorization, express or implied, it shall be forthwith returned to its owner or the owner's successor in interest, other than an insurance company, who shall be relieved of the payment of any costs charged by the towing operator or storage facility for its daily storage, towing, and recovery fees, provided that the owner removes the vehicle within five days following the owner's receipt of written notice by certified mail, return receipt requested. If the vehicle's owner fails to remove the vehicle within five days of receipt of such notice, the vehicle shall be released to the owner upon payment of the full costs of storage, towing and recovery fees, and the owner shall then be entitled to seek reimbursement from the state treasury from the appropriation for criminal charges. The owner shall produce a valid motor

vehicle registration or other proof of ownership to the employees of the facility wherein the motor vehicle, trailer, semi trailer or part or combination thereof is being stored. In any case in which the identity of the violator cannot be determined, or where it is found by a court that this section was not violated, the costs of daily storage, towing, and recovery fees of the vehicle shall be reimbursed to the towing and recovery operator and paid out of the state treasury from the appropriation for criminal charges.

Section 4-424. Removal and Disposition of Unattended or Immobile Vehicles.

(a) The Town may remove motor vehicles, trailers, semi trailers, or parts thereof to a storage area if:

(1) It is left unattended on a public highway or other public property and constitutes a traffic hazard;

(2) It is illegally parked;

(3) It is left unattended for more than ten days either on public property or on private property without the permission of the property owner, lessee, or occupant;

(4) It is immobilized on a public roadway by weather conditions or other emergency situation.

(b) Removal shall be carried out by or under the direction of a Town law enforcement officer. The Town shall not authorize removal of motor vehicles, trailers, semi trailers, and parts thereof from private property without the written request of the owner, lessee, or occupant of the premises. The person at whose request the motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer is removed from private property shall indemnify the Town against any loss or expense incurred by reason of removal, storage, or sale thereof. As promptly as possible, each removal shall be reported to the Police and to the owner of the motor vehicle, trailer, or semi trailer. Before obtaining possession of the motor vehicle, trailer, semi trailer, or part thereof, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the Department against the motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer, the vehicle shall be treated as an abandoned vehicle.

Section 4-425. Removal of motor vehicles obstructing movement; storage; payment of costs.

Whenever any motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer interferes with the free ingress, egress, or movement on any premises, driveway, or parking area, without the permission of the owner of that property, any law enforcement officer may remove it or have it removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the motor vehicle, trailer, semi trailer, or other vehicle as promptly as possible. Before obtaining the possession of his property, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage.

Section 4-426. Authority to provide for temporary removal and disposition of vehicles involved in accidents.

Whenever a motor vehicle, trailer, or semi trailer involved in an accident is so located as to impede the orderly flow of traffic, the police may (i) at no cost to the owner or operator remove the motor vehicle, trailer, or semi trailer to some point in the vicinity where it will not impede the flow of traffic or (ii) have the vehicle removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the vehicle as promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage.

Section 4-427. Leaving vehicles on private property prohibited; authority of Town to provide for removal and disposition; notice of disposition.

No person shall leave any motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer on the private property of any other person without his consent. On complaint of the owner of the property on which such motor vehicle, trailer, semi trailer, or part thereof has been left for more than seventy-two hours, that such motor vehicle, trailer, semi trailer, or part thereof, may be removed by or under the direction of a law enforcement officer to a storage area. The owners of private property which is normally open to the public for parking shall post or cause to be posted signs warning that vehicles left on the property for more than seventy-two hours will be towed or removed at their owners' expense. The person at whose request the vehicle, trailer, semi trailer, or part thereof is so removed shall indemnify the Town against any loss or expense incurred by reason of removal, storage, or sale thereof. In the case of the removal of a motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer from private property, when it cannot be readily sold, the motor vehicle, trailer, semi trailer, or part may be disposed of in whatever manner the Town may provide. In all other respects, the provisions of §§ 46.2-1213 and 46.2-1217 shall apply to these removals. Disposal of a motor vehicle, trailer, or semi trailer may at the option of the Town be carried out under either the provisions of § 46.2-1213, or under the provisions of this section after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the Department against the motor vehicle, trailer, or semi trailer, and after the motor vehicle, trailer, or semi trailer has been held at least sixty days.

Section 4-428. Notice to owner of vehicle taken into custody.

(a) The Town shall, within fifteen days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record that it has been taken into custody. The notice shall (i) state the year, make, model, and serial number of the abandoned motor vehicle; (ii) set forth the location of the facility where it is being held; and (iii) inform the owner and any persons having security interests of their right to reclaim it within fifteen days after the date of the notice after payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons having any security interests of all right, title, and interest in the vehicle and (ii) consent to the sale of the abandoned motor vehicle at a public auction.

(b) If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be notified pursuant to the foregoing provisions of this section. Notice by publication may contain multiple listings of abandoned motor vehicles. Any notice of this kind shall be within the time requirements prescribed by this section for notice by mail and shall have the same contents required for a notice by mail. The consequences of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section.

Section 4-429. Sale of vehicle at public auction; disposition of proceeds.

If an abandoned motor vehicle is not reclaimed as provided for in § 46.2-1202, the Town or its authorized agent shall, notwithstanding the provisions of § 46.2-617, sell it at public auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt at the auction, and shall be entitled to apply to and

receive from the Department a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary; however, such demolisher shall provide the Department acceptable documentation indicating that the vehicle has been demolished. From the proceeds of the sale of an abandoned motor vehicle the locality or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving, and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to § 46.2-1202. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interests may appear, for 90 days, and then be deposited into the treasury of the locality in which the abandoned motor vehicle was abandoned.

Section 4-430. Sale of personal property found in unattended or immobile or abandoned vehicles.

Any personal property found in any unattended or abandoned motor vehicle, trailer, or semi trailer may be sold incident to the sale of the vehicle as authorized in this article.

Section 4-431. Disposition of unattended or immobile or abandoned vehicles.

Notwithstanding any other provisions of this article, any unattended or immobile or abandoned motor vehicle, trailer, semi trailer, or part of a motor vehicle, trailer, or semi trailer which has been taken into custody pursuant to other provisions of this article may be disposed of to a demolisher, without the title and without the notification procedures, by the person or Town on whose property or in whose possession the motor vehicle, trailer, or semi trailer is found. The demolisher, on taking custody of the unattended or immobile or abandoned motor vehicle shall notify the Department on forms and in the manner prescribed by the Commissioner. Notwithstanding any other provision of law, no other report or notice shall be required in this instance.

Section 4-432. Certification of disposal; reimbursement of Town by Commissioner.

The Town shall certify on forms provided by the Department that an abandoned motor vehicle left on property within the Town has been disposed of as provided in the Code of Virginia or that an unattended or immobile motor vehicle has been removed from the vehicle owner's property and disposed of by the Town or its authorized agent for reimbursement of fifty dollars for each such motor vehicle disposed of at the expense of the Town as provided in the Code of Virginia.

Section 4-433. Inoperable Motor Vehicles - Definitions

As used in this article, the following words shall have the meanings herein ascribed to them, respectively. The masculine gender is used for convenience only; a word importing such gender may extend and be applied to females, and other persons, as well as males. Consistent with the context, words used in the singular contemplate and include the plural, and words used in the plural contemplate and include the singular.

"Administrator" shall mean the Zoning Administrator so designated by the Bowling Green Town Council.

"Council" shall mean the governing body of the Town, the Bowling Green Town Council.

"Town Manager" shall mean the person so designated by the Bowling Green Town Council.

"Inoperative motor vehicles" shall mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which

there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

"Motor vehicle" shall mean every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, upon, or by which any person or property is or can be transported or drawn upon a highway, except devices moved by human or animal power and devices used exclusively upon stationary rails or tracks

"Shielded" or "screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located

"Owner" shall mean any person having any individual, firm, copartnership, cooperative, corporation, association, estate, trust, trustee in bankruptcy, receiver, club, society or other entity or combination acting as a unit.

Section 4-434. Storage and Exemptions.

It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperative. The number of inoperative motor vehicles, trailers or semitrailers which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by fences, walls, or hedges shall be one (1).

Section 4-435. Failure to Comply and Removal by Town.

(a) In the event that any person, firm or corporation fails to comply with Section 4-434, the Town may designate a date by which the property owner shall remove or fully enclose within a building or structure any such motor vehicle, trailer or semi-trailer. Notice of the date specified shall be given by newspaper publication, certified mail or by delivery of written notice to the owner of the land on which such motor vehicle, trailer or semi-trailer is located. Upon failure of any property owner to remove or fully enclose such motor vehicle, trailer or semi-trailer in compliance with the notice, the Administrator shall have such motor vehicle, trailer, or semi-trailer removed at the expense of the property owner.

(b) Notwithstanding the other provisions of this section, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

Section 4-436. Disposal by Town and Costs for Removal and Disposal.

In the event that the Zoning Administrator shall have any such motor vehicle, trailer or semi-trailer removed, he shall dispose of the same after giving notice to the owner thereof by newspaper publication, certified mail or by delivery of written notice to the owner of the motor vehicle, trailer or semi-trailer. The costs of any removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the Town as taxes and levies are collected. Every cost authorized by this section in which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed; the lien to continue until actual payment of such costs has been made to the Town.

Section 4-437. Civil Penalty

Violations of this ordinance shall be subject to a civil penalty under the Code of the Town of Bowling Green.

Division 4 Vehicle License Tax

Section 4-445. Imposition of tax.
A tax, in the form of an annual license fee, is hereby imposed on every motor vehicle, trailer and semitrailer intended to be operated upon the streets, highways and roads within the Town of Bowling Green, which is subject to the general requirements of annual registration licensing and the payment of fees therefore under the laws of the Commonwealth of Virginia and which is not by law prohibited to be taxed by Towns.

Section 4-446. License year.
The license year shall commence on April 1 of each year, beginning April 1, 2002, and shall expire at 11:59 p.m. on March 31 of the next succeeding year and each and every year thereafter.

Section 4-447. Applicability.
The taxes or fees hereby imposed shall be applicable to all motor vehicles, trailers or semitrailers normally garaged, stored or parked within the Town of Bowling Green unless expressly excepted elsewhere in Chapter 4, Article IV, Division 4 or by state or federal law: provided, however, that for any vehicle which would otherwise become subject to the provisions of Chapter 4, Article IV, Division 4 after the first day of a license year and which bears a then currently valid decal or license issued by any other Town, city or county of this commonwealth, such taxes or fees shall not be required until such currently valid decal or license shall expire.

Section 4-448. License plate or decal required.
No motor vehicle, trailer or semitrailer subject to the tax imposed by Chapter 4, Article IV, Division 4 shall be operated on the highways, streets or roads within the Town of Bowling Green on or after the effective date of Chapter 4, Article IV, Division 4 unless a license plate or decal evidencing payment of the proper license fee for such vehicle for the current license year has been issued for such vehicle and is displayed thereon in accordance with Chapter 4, Article IV, Division 4, provided that if any vehicle becomes subject to the taxes and fees required by Chapter 4, Article IV, Division 4 after the first day of a license year, such vehicle may be operated without displaying a decal or license for up to 30 days after becoming subject to Chapter 4, Article IV, Division 4.

Section 4-449. Application.
The owner of a motor vehicle, trailer or semitrailer for which a license plate or decal is required shall make application therefore to the Treasurer of the Town of Bowling Green on a form to be prescribed by him and approved by the Town Council. The applicant shall submit with such application satisfactory evidence that all personal property taxes upon the motor vehicle, trailer or semitrailer to be licensed have been paid which have been properly assessed or are assessable against the applicant by the Town of Bowling Green.

Section 4-450. Issuance; proof of entitlement.
Upon the filing of a properly executed application and submission of evidence as to the payment of personal property taxes as provided in the preceding section and the payment of the fee chargeable for the motor vehicle, trailer or semitrailer for which such application is made, the Treasurer shall issue the proper license plate or decal for such vehicle. The applicant bears the burden of proof that the vehicle for which a license or decal is sought is entitled by weight, design and use to be registered at the fee tendered by the applicant. All fees based upon the weight of a vehicle shall be computed upon the manufacturer's shipping weight or scale weight, as applicable.

Section 4-451. Display and attachment.
(a) The license plate or decal issued for a motor vehicle, trailer or semitrailer shall be displayed on said vehicle at all times during the current license year; provided, however, that a license plate or decal issued for a succeeding license year may be used without penalty on or after March 15 of the calendar year in which such license year begins.
(b) When a license plate is issued, the same shall be securely attached to the front of passenger cars, trucks or truck-tractors in such manner as to be clearly visible, and for all other vehicles the license plates shall be similarly attached to the rear of such other vehicles.
(c) When a decal is issued, the same shall be affixed to the front windshield of all vehicles having a front windshield at a position of not more than three inches in height from the base of such windshield and to the passenger side of such windshield. When no front windshield exists, such decal shall be affixed to the left side of the vehicle at the front and at a height of not more than five feet from the surface of the roadway.

Section 4-452. Duplicate license plate or decal.
A duplicate license plate or decal shall be issued to a person entitled thereto upon application to the Treasurer and payment to him of a fee of $1 and submission of satisfactory evidence as to the destruction, mutilation or loss of the license plate or decal originally issued to the applicant.

Section 4-453. Fees.
The license fees or taxes imposed by Chapter 4, Article IV, Division 4 are as stated on Schedule A attached hereto as a part hereof and which is incorporated herein by reference except that only 1/2 of the annual fee prescribed by Chapter 4, Article IV, Division 4 and set forth in Section 4-462 shall be collected whenever any license plate or decal is issued during the period beginning October 1 in any license year and ending on January 15 of the same license year, and only 1/3 of such fee shall be collected whenever any license plate or decal for the current license year is issued between January 16 and the end of the same license year.

Section 4-454. Transferability.
Upon application to the Treasurer by a person to whom a license plate or decal has been issued and payment of a transfer fee of $1, such license plate or decal may be transferred from the vehicle for which originally issued to another vehicle in the name of such owner, provided that if the vehicle to which the license plate or decal is to be transferred comes within a category upon which a higher tax is imposed than that of the vehicle from which the transfer is to be made, the person making application for the transfer shall pay the difference between the two tax rates to the Treasurer before making such transfer.

Section 4-455. Unauthorized transfer or use prohibited.
Except as provided in the preceding section, no person shall display a license plate or decal on any vehicle other than the vehicle for which such license plate or decal was originally issued, and no owner to whom a license plate or decal has been issued shall give, lend, rent, sell, assign or otherwise transfer such license plate or decal to any other person, and no person not entitled thereto shall display or otherwise use any such license plate or decal.

Section 4-456. Fictitious or altered plates or decals.
No person shall display or otherwise use any license plate or decal knowing the same to be fictitious or altered.

Section 4-457. Failure to display required license plate or decal; removal of expired license plate or decal; penalty.

(a) It shall be unlawful for the owner or operator of a motor vehicle, trailer or semitrailer to fail to obtain and display upon such motor vehicle, trailer or semitrailer any required license plate or decal of the Town of Bowling Green or to display upon a motor vehicle, trailer or semitrailer any required license plate or decal of the Town of Bowling Green after the expiration date of such license plate or decal. In the case of a motor vehicle, trailer or semitrailer registered to a resident of the Town of Bowling Green, local law enforcement officers may issue citations, summonses, parking tickets or uniform traffic summonses for violations.

(b) Violation of this section shall be a misdemeanor, punishable by a fine of not less than $100, not more than $250.

(c) A violation of this section by the registered owner of the vehicle, trailer or semitrailer shall not be discharged by the payment of a fine except upon presentation of satisfactory evidence that the required license plate or decal has been obtained.

Section 4-458. Taxation by more than one jurisdiction.

No vehicle shall be subject to taxation under Chapter 4, Article IV, Division 4 in more than one jurisdiction.

Section 4-459. Exceptions.

The taxes or fees hereby imposed shall not be applicable to any motor vehicle, trailer or semitrailer when:

(a) The motor vehicle, trailer or semitrailer is owned by a nonresident of the Town of Bowling Green and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in Section 4-459(b).

(b) The motor vehicle, trailer or semitrailer is owned by a nonresident and is used for transporting into and within the Town of Bowling Green for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream or eggs produced or grown by him and not purchased by him for sale.

(c) The motor vehicle, trailer or semitrailer is owned by an officer or employee of the Commonwealth of Virginia who is a nonresident of the Town of Bowling Green and who uses the vehicle in the performance of his duties for the commonwealth under an agreement for such use.

(d) The motor vehicle, trailer or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration.

(e) The motor vehicle, trailer or semitrailer is operated by a common carrier of persons or property operating between cities and Towns in this state and not in intracity transportation or between cities and Towns on the one hand and points and places without cities and Towns on the other and not in intracity transportation.

(f) The motor vehicle is owned and used personally by a disabled veteran, and such vehicle bears special license plates issued in accordance with § 46.2-739, Code of Virginia 1950, as amended.

(g) The motor vehicle is owned by a person who has been a prisoner of war, and such vehicle bears special license plates issued in accordance with § 46.2-746, Code of Virginia 1950, as amended.

(h) The motor vehicle is owned by a person who has been awarded the Medal of Honor, and such vehicle bears special license plates issued in accordance with § 46.2-745, Code of Virginia 1950, as amended.

(i) The motor vehicle, trailer or semi trailer is owned by the Commonwealth of Virginia or counties, cities or Towns thereof and used purely for state, county and municipal purposes.

(j) The motor vehicle is owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments who are nationals of the state by which they are appointed and their families and their employees who are not citizens of the United States.

(k) Member of volunteer fire department or volunteer rescue squad.

(1) The motor vehicle is registered or leased to a member of a volunteer fire department or volunteer rescue squad organized to serve the residents of Caroline County and the member meets the following requirements:

[a] Must hold a valid driver's license.

[b] Must present satisfactory evidence of meeting the active status requirement for the respective department or squad of which he or she is a member.

[c] Who, on January 1 of the year the application for the exemption is requested, was 18 years of age and had one full calendar year of active service with a department or squad organized in Caroline County.

[d] Whose vehicle is the primary vehicle used by the member in response to emergency calls.

[e] Who is not delinquent in taxes due to the Town of Bowling Green.

(2) Only one decal will be issued free of charge.

(l) Former member of volunteer fire department or volunteer rescue squad.

(1) The motor vehicle is registered or leased to a former member of a volunteer fire department or volunteer rescue squad organized to serve the residents of Caroline County and the member meets the following requirements:

[a] Must hold a valid driver's license.

[b] Who presents satisfactory evidence of having had 10 years of active service with a department or squad organized to serve the residents of Caroline County.

[c] Who is not delinquent in taxes due to the Town of Bowling Green.

(2) Only one decal will be issued free of charge.

Section 4-460. Violations and penalties.

It shall be unlawful for any person to violate any of the provisions of Chapter 4, Article IV, Division 4. Except as provided in Section 4-447, every person convicted of a violation of Chapter 4, Article IV, Division 4 shall be guilty of a Class 2 misdemeanor and shall be punished in accordance with the applicable provisions of § 18.2-11, Code of Virginia 1950, as amended. Each day upon which a violation of Chapter 4, Article IV, Division 4 continues shall be treated as a separate offense to be punished as a separate offense.

Section 4-461. Definitions.

(a) As used in Chapter 4, Article IV, Division 4, the following terms shall have the meanings indicated:

"Decal" - A device to be attached to a vehicle by adhesive as visible evidence that the proper taxes or fees as required by Chapter 4, Article IV, Division 4 have been paid.

"License Plate" - A metal device containing letters, numerals or a combination of both, attached to a motor vehicle, trailer or semitrailer as visible evidence that the proper taxes or fees as required by Chapter 4, Article IV, Division 4 have been paid.

(b) All other items, words and phrases, unless otherwise defined in Chapter 4, Article IV, Division 4, shall be defined in the same manner as set forth in Title 46.2, Code of Virginia 1950, as amended.

Section 4-462. Schedule of Fees

Description	Fee
Each private passenger car or motor home, provided that such passenger car or motor home is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Each private motor vehicle with a normal seating capacity of more than 10 adult persons, including the driver if such vehicle is not used for the transportation of passengers for compensation and is not operated under a lease without a chauffeur	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Each public or private school bus	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Each trailer or semitrailer designated for use as living quarters for human beings	$23.00
Each motor vehicle, trailer or semitrailer used as a common carrier of passengers, operating either intrastate or interstate, unless licensed under § 46.2-694A6, Code of Virginia 1950, as amended	$10.00 up to 2,000 pounds of vehicle weight; $16.00 if vehicle weight exceeds 2,000 pounds but is not over 4,000 pounds; $27.00 if vehicle weight exceeds 4,000 pounds
Each motor vehicle, trailer or semitrailer used as a common carrier of interstate passengers licensed under § 46.2-694A6, Code of Virginia 1950, as amended	An amount equal to the state registration fee or the amount set forth in the immediately preceding subsection, whichever is less
Each motor vehicle, trailer or semitrailer kept or used for	$10.00 up to 2,000 pounds of vehicle weight; $26.00 if

rent or for hire or operated under a lease without a chauffeur for the transportation of passengers, except common carriers	vehicle weight exceeds 2,000 pounds but is not over 4,000 pounds; $47.00 if vehicle weight exceeds 4,000 pounds
Each taxicab or other vehicle kept for rent or hire, operated with a chauffeur for the transportation of passengers, which operates or should operate under permits issued by the State Corporation Commission as required by law, except common carriers	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Each motorcycle, with or without a sidecar	$18.00
Each bus used exclusively for transportation to and from Sunday School or church, for the purpose of divine worship	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Other passenger carrying vehicles, each	$10.00
Each pickup or panel truck	$23.00 up to 4,000 pounds of vehicle weight; $28.00 if vehicle weight exceeds 4,000 pounds
Each passenger vehicle, pickup truck or panel truck bearing special license plates issued to a member of the Virginia National Guard in accordance with § 46.2-744, Code of Virginia 1950, as amended	1/2 of the fee otherwise provided for herein
Each motor vehicle having gross weight of 7,500 pounds or more, registered for exclusive farm use	$15.00
Each trailer, 1- or 2-wheel, of a cradle, flatbed or open pickup type, pulled or towed by a passenger car, pickup or panel truck having an actual gross	$6.50

weight not exceeding 5,000 pounds, which trailer is no wider than such towing vehicle, and designated to carry property not exceeding 1,500 pounds	
Each trailer designed exclusively to transport boats	$6.50
Each motor vehicle, trailer or semitrailer upon which well-drilling machinery is attached and which is used solely for transporting such machinery	$15.00
Specialized mobile equipment, as defined in § 46.2-700, Code of Virginia 1950, as amended	$15.00
Each vehicle or combination of vehicles not designed for transportation of passengers, except as otherwise herein provided:	$22.00 if gross weight exceeds 4,000 pounds
Trailer or semitrailer	$17.00 up to 4,000 pounds gross weight
Truck or tractor	$10.00 up to 10,000 pounds of vehicle and trailer or semitrailer weight combined: $41.00 if combined gross weight exceeds 10,000 pounds

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CHAPTER 5: PUBLIC FACILITES

Article I Public Utilities

Division 1 Sewer Regulations

General Provisions

Section 5-100. Purpose.
The purpose of these regulations is to provide for the maximum possible beneficial public use of the Bowling Green treatment works through regulation of sewer construction, sewer use and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; to require connection to the system by all residences and facilities and to provide procedures for complying with the requirements contained herein.

Section 5-101. Scope.
These provisions shall apply to the discharge of all wastewater to treatment works of the Town. These provisions provide for use of the Town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions and penalties and other procedures for enforcement of these requirements.

Section 5-102. Administration.
Except as otherwise provided herein, the Bowling Green Town Manager or his designee administer, implement and enforce these regulations.

Section 5-103. Rates and billings.
(a) Sewage disposal rates shall be as follows:
(1) In-Town rates.
[a] Each customer within the corporate limits of the Town who is served by the sewage disposal system of the Town, shall be charged Two Hundred Sixty-One percent (261%) of the total water consumption charge for each residential customer and Two Hundred Eight-Two percent (282%) of the total water consumption charge for each commercial customer.
[b]Each customer within the corporate limits of the Town that must perform pump and haul operations will be charged $.0124 per gallon of wastewater delivered to the wastewater treatment plant.
(2) Out-of-Town rates.
[a] Each customer outside the corporate limits of the Town who is served by the sewage system, of the Town shall be charged Two Hundred Ninety-Five percent (295%) of the water consumption charge before the surtax for residential customers and Three Hundred Thirty-Nine percent (339%) of the water consumption charge before the surtax for commercial customers.
[b] Each customer outside the corporate limits of the Town that must perform pump and haul operations will be charged $.0250 per gallon of wastewater delivered to the wastewater treatment plant.
(b) All fees and charges payable are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to a service charge of 5% of the unpaid amount.
(c) Deposits.
(1) A deposit of $100 shall be required from all customers located in the Town of Bowling Green and of $150 from all customers located outside the Town when first obtaining service from the sewage disposal system, except that any such user who is also a user of the Town waterworks shall pay only one deposit.
(2) Any customer performing pump and haul operations and delivering their wastewater to the wastewater treatment plant shall pay a deposit equal to the cost total of estimated gallons to be delivered in one billing cycle (60 days). This deposit will be held in escrow until pump and haul operations cease and the last bill is satisfied.
(d) Statements for charges shall be computed at the same time as statements for water charges. A combined statement for water and sewage charges shall be sent to all users of both services as soon as practicable after each water meter reading. Each statement shall be considered the correct assessment unless a correction is requested of the Town Manager within 10 days after the mailing date. The Town Manager may adjust any erroneous assessment of sewerage charges or may refer complaints thereof to the Town Council.
(e) Sewer rates for residential and commercial irrigation.
(1) Utility customers, located in-Town and outside of Town with an in-ground, installed irrigation system used solely for irrigation purposes shall be eligible for relief from payment of sewer and sewage treatment charges for water used for irrigation.
(2) Application must be made annually at Town Hall for such relief and such application must be filed on or before March 1 of each year, unless a new irrigation system is being installed at a later

date; and such application shall only be made for, and such program shall only apply to in-ground, installed irrigation systems; and such application shall carry a $25 annual administrative fee.

(3) The relief granted from sewer and sewage treatment charges during periods of irrigation shall be calculated based on an averaging of water use on the property for which relief is being sought during the billing periods November-December, January-February and March-April preceding a March 1 application; and such modified billing shall only be applied to the May-June, July-August, and September-October billing periods.

(4) For the installation of an irrigation system on property connected to the Town's water system, appropriate Building and Plumbing Permits are required to be secured from the Caroline County Building Inspection Department and proof of issuance of such permits must be presented at Town Hall when applying for billing relief; For each installed irrigation system, an approved "Backflow Prevention Device" and an approved "System Isolation Shut-off Valve" must be installed, inspected, and re-inspected each year at the expense of the property owner in accordance with Town Code. All work on such irrigation system including its installation must be coordinated by the property owner and must be accomplished by personnel as required under Virginia State Code § 54.1-1103-C.

Section 5-104. Inspections.

(a) The Town Manager or authorized state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of these provisions.

(b) The Town Manager, bearing proper credentials and identification, shall be permitted to enter all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any of the Town's treatment works lying within the easement. All entry and any subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties, the Town Manager shall observe all reasonable safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

Section 5-105. Vandalism; violations and penalties.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Town's treatment works. Any person who violates this section shall be guilty of a Class I misdemeanor.

Section 5-106. Severability.

If any provision of these regulations or the application of any provision of these regulations to any person or circumstances is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.

Definitions

Section 5-107. Specific definitions and word usage.

(a) Unless the context of usage indicates otherwise, the meanings of specific terms in these provisions shall be as follows:

"Act" means the Federal Water Pollution Control Act (also known as the "Clean Water Act"), 33 U.S.C. § 1251 et seq.

"Approval Authority" means the Executive Director or Director of the State Water Control Board.

"ASTM" means the American Society for Testing and Materials.

"Authorized Representative of Industrial User" means:

(1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or

(3) A duly authorized representative of the individual designated in (1) or (2) of this definition, above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the Town Manager prior to or together with any reports to be signed by the "authorized representative."

"Building Sewer" means the extension from a building wastewater plumbing facility to the treatment works.

"Categorical Pretreatment Standard" or "Categorical Standard" means any regulation containing pollutant discharge limits promulgated by the United States EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

"Combined Sewer" means a sewer intended to receive both wastewater and storm or surface water.

"Day" means the twenty-four-hour period beginning at 12:01 a.m.

"Discharger" means a person or persons, firm, company, industry or other similar sources of wastewater who or which introduces such into the POTW.

"Director" means the Director of Public Works and Utilities

"Easement" means an acquired legal right for the specific use of land owned by others.

"EPA" means the United States Environmental Protection Agency.

"Establishment" means any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel and each and every other industry or plant or works, the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

"Garbage" means the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking and serving of foods.

"Groundwater" means any water beneath the land surface in the zone of saturation.

"Industrial Process Water" means any water used by an industrial user, other than sewage, which is discharged to the POTW.

"Industrial User" or "Significant Discharger" means a source of indirect discharge or a nondomestic discharge to a treatment works.

"Interference" means an inhibition or disruption of the POTW, its treatment processes or operations or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of

sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

"Municipality" means a city, county, Town, district, association, authority or other public body created by or pursuant to state law and under the law and having jurisdiction over disposal of sewage, industrial wastes or other wastes.

"Natural Outlet" means any outlet into a watercourse, pond, ditch, lake or any other body of surface or ground water.

"New Source" means:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

[a] The building, structure, facility or installation is constructed at a site at which no other source is located;

[b] The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

[c] The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a "new source" if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a "new source" as defined under this subsection has commenced if the owner or operator has:

[a] Begun or caused to begin as part of a continuous on-site construction program the following:

[1] Any placement, assembly or installation of facilities or equipment.

[2] Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities, which is necessary for the placement, assembly or installation of new source facilities or equipment.

[b] Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

"Nonprofit Facility" means a facility owned by an organization recognized as tax exempt by the United States Internal Revenue Service (churches, civic groups, clubs, etc.), used solely for meetings/gatherings of their members. Government offices and facilities used for income-producing purposes are not included within the definition of "nonprofit facilities."

"NPDES" means the National Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

"O&M" means Operations and Maintenance of a treatment works.

"Owner" means the commonwealth or any of its political subdivisions, including but not limited to sanitation district commissions and authorities, and public or private institutions, corporations,

associations, firms or companies organized or existing under the laws of this or any other state or country or any person or group of persons acting individually or as a group.

"Person" means any individual, firm, company, association, society, partnership, corporation, municipality, state, commission or political subdivision of a state or any interstate body or other similar organization, agency or group.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural wastes and the characteristics of the wastewater, i.e., pH, temperature, TSS (total suspended solids), turbidity, color, BOD, chemical oxygen demand (COD), total nitrogen and loading, toxicity and odor.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Town treatment works.

"Pretreatment Requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

"Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Parts 403.3j and 403.5.

"Properly Shredded Garbage" means garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than one-half (1/2) inch in any dimension.

"Publicly Owned Treatment Works" or "POTW" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes or other conveyances are included in this definition only if they convey wastewater to a "POTW" providing treatment.

"Residential User (Class I)" means all premises used only for human residency and which are connected to the treatment works.

"Sanitary Wastewater" means wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants or institutions.

"Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.).

"Sewer" means any object used to convey sanitary wastewater.

"Significant Industrial User" means:

(1) One who discharges an average of 25,000 gallons a day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater).

(2) One who contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW.

(3) One who is subject to Categorical Pretreatment Standards.

(4) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.

(5) One who is designated by the Control Authority as defined in 40 CFR 403.12(a) if the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(6) One who has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

"Standard Industrial Classification Code" or "SIC Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

"State" means the Commonwealth of Virginia.

"Storm Sewer" means a sewer for conveying storm, surface and other waters which are not intended to be transported to a treatment works.

"Stormwater" means any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

"Surface Runoff" means precipitation which does not infiltrate into the soil.

"Surface Water" means:

(1) All waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) All interstate waters, including interstate wetlands.

(3) All other waters such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce, including any such of the following waters:

[a] Those which are or could be used by interstate or foreign travelers for recreational or other purposes;

[b] Those from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

[c] Those which are used or could be used for industrial purposes by industries in interstate commerce.

(4) All impoundments of waters otherwise defined as "surface water" under this definition.

(5) Tributaries of waters identified in (1) through (4) of this definition.

(6) The territorial sea.

(7) Wetlands adjacent to waters, other than waters that are themselves wetlands, identified in (1) through (6) of this definition.

"Toxics" mean any of the pollutants designated by federal regulations pursuant to Section 307(a) (1) of the Act.

"Town" means the Town of Bowling Green, Virginia.

"Town Manager" means the Town Manager of the Town of Bowling Green, Virginia or an authorized designee.

"Treatment Facility" means only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

"Treatment Works" means any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions or alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, departing or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

"User" means a source of wastewater discharge into a POTW.

"User Permit" means a document issued by the POTW to the user that permits the connection and/or introduction of wastes into the treatment works under the provisions of these provisions.

"Wastewater" means a combination of liquid and water-carried wastes from residences, commercial buildings, industries and institutions, together with any groundwater, surface water or stormwater that may be present.

"WPCF" means the Water Pollution Control Federation.

(b) Word usage. The word "may" is permissive and the word "shall" is mandatory.

Section 5-108. General definitions.

Unless the context of usage indicates otherwise, the meanings of terms and not defined herein shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association and Water Pollution Control Federation.

Use of Treatment Works and Facility

Section 5-109. Waste disposal.

It shall be unlawful for any person to place, deposit or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the Town of Bowling Green, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage or other objectionable waste.

Section 5-110. Wastewater discharges.

It shall be unlawful under state and federal law to discharge wastewater without a VPDES permit to any natural outlet within the Town of Bowling Green or in any area under its jurisdiction. Wastewater discharges to the Town's treatment works are not authorized unless permitted by the Town Manager in accordance with the provisions herein.

Section 5-111. Wastewater disposal.

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater inside the Town.

Section 5-112. Connection to treatment works required.

(a) The owner of any house, building or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley or right-of-way in which there is or may be located a sewer connected to the treatment works of the Town, is required at the owner's expense to install suitable toilet facilities therein and connect such facilities directly to the public sewer in accordance with the provisions herein, within 180 days after notice that sewer is available within 150 feet of the property line. The aforementioned shall not apply to an existing building now having a serviceable septic tank. However, before such tanks are reserviced, permission must be obtained from the Town Council, and if sewer lines are available to the property, the owner may be required to connect as prescribed herein. This section shall not apply to any person served by a privately constructed, owned, operated and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provision herein and applicable state and federal laws.

(b) The owners of all new buildings intended for human occupancy within the Town shall be required to connect such premises with a public sewer line, provided that such connection will not require a private sewer line over 150 feet in length. In the event that the private sewer line would

exceed 150 feet in length, the property owner shall be required to have a serviceable septic tank or the like that meets with the approval of the State Health Department.
(c) All connections to the sewer mains for providing sewer service for any purpose whatsoever shall be made only at the discretion and under the supervision of a Town official designated for the purpose and shall conform in all respects to the specifications prescribed by the Town.
(d) Each residential unit of a multifamily dwelling or complex shall constitute a dwelling unit, and each unit of a shopping center or commercial facility designed so as to allow operation of independent businesses or commercial activities in each such unit shall constitute an independent commercial unit.
(e) If an additional sewer system connection is desired by a property or building owner for a building or unit within a building for which a similar connection was previously made, there shall be no charge for the additional connection, provided that any such connection to a building addition which creates additional dwelling units or independent commercial units shall be treated as new connections, and the appropriate charge shall apply.

Building Sewers and Connections

Section 5-113. Generally.
(a) Section 5-113 through Section 5-124 set out the sewer service initiation fees required for the connection of new or altered services to the sewerage works owned, operated and maintained by the Town. Sewer service initiation fees shall consist of availability fees and connection fees. The amount of these fees is based upon the fees in effect on the date of issuance of a valid permit for the new or altered service.
(b) No person shall uncover, make any connections with, use, alter or disturb any wastewater sewer without first obtaining a written permit from the Town Manager, except that out-of-Town connections shall require approval of the Town Council.

Section 5-114. Sewer availability fees.
(a) A sewer availability fee based on the water meter sizing for each new or altered sewer service shall be paid to the Town as follows:

(1) For single-family detached residential dwellings and commercial units the sewer service availability fee shall be based upon water meter sizing as follows:

Nominal Meter Size – Inches	Sewer Availability Fee
5/8”	$6,000
1”	$12,000
1 ½”	$19,000
2”	$25,000
3”	$31,000
4”	$36,000
6”	$43,000
8”	$49,000

(2) For each new residential dwelling and/or commercial unit served by Town water, the service availability fee shall be based on the meter size and the table given in Section 5-114(a)(1) above; provided, however, that a minimum sewer service availability fee equal to the sewer service

availability fee charged for a 5/8 inch to 3/4 inch meter shall be paid for each individual dwelling unit, apartment or mobile home.

Section 5-115. Connection fees.

(a) For new or altered service requiring the installation of a new sewer lateral, the Town shall charge a sewer connection fee to recover the costs of making the connection to the existing sewer, extending a sewer service line to the easement line or property line of the premises to be served and installing a clean-out at the easement line or property line of the premises to be served.

(b) The costs and expenses incidental to the building sewer installation and connection to the Town's treatment works shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) In all connections, the property owner connecting such property with the sewer system shall pay the entire cost of installing all pipes and construction necessary to connect with the main line of the system.

(d) For each new connection to the Town's treatment works, there shall be a charge to be paid by the owner of the building or property being connected, which charge shall be collected before connection to the treatment works.

(e) The charge shall be $750 or 125% of the actual costs for material and labor of sewer installation and connection with the main line, whichever is greater.

(f) The owner or occupant of any building being supplied with pure and wholesome water from other than the Town waterworks may be permitted to connect with the sewage disposal system of the Town. All water entering the sewer system shall have passed through a meter in the private water system, furnished by the Town but installed at the expense of the property owner. Persons occupying residences not using the water supply of the Town but connected to the sewer system of the Town shall be charged at the same rate prescribed herein.

(g) All user fees, penalties and charges collected under this section (and the Treatment Works User Charge Ordinance) shall be used for the sole purpose of constructing, operating or maintaining the waterworks and treatment works of the Town or the retirement of debt incurred for the same.

(h) Approved applications shall become void without further action by the Town six months following the date of approval if the owner has failed to pay the connection fees, exclusive of labor and material costs, to the Town within said six-month period. If any owner shall fail to connect to the water and sewer mains within one year following approval of his application, such owner shall be required to pay to the Town the connection fee required by this section at the time actual connection is made less the fees previously paid.

(i) "New connection," as used in this section, shall mean any connection to the Town sewage disposal system at a point thereon where no connection had previously been made or any reconnection at an existing connection point which has not been used to provide sewer service, as applicable, for more than five years and from which property the water meter has been removed.

Section 5-116. Separate connections required; exception.

A separate and independent building sewer connection shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. Each building may be billed as a separate customer. The Town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer that serves two buildings.

Section 5-117. Existing building sewers.
Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the Director, to meet the requirements of these regulations.

Section 5-118. Building sewer design.
The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the Building and Plumbing Code, the Town's Water and Sewer Standards or other applicable requirements of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

Section 5-119. Building sewer elevation.
Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the Town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the Town sewer.

Section 5-120. Surface runoff and groundwater drains.
No person shall connect roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains to any sewer that is connected to the Town of Bowling Green treatment works.

Section 5-121. Conformance to applicable codes; variations.
The connection of a building sewer into a treatment works shall conform to the requirements of the Building and Plumbing Code, The Town of Bowling Green Design Standards for Water and Sewer Facilities, Volumes I and II as amended by the Town of Bowling Green, Virginia or other applicable requirements of the Town or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia and American Society for Testing and Materials. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Town Manager before installation.

Section 5-122. Connection inspection.
The applicant for a building sewer or other drainage connection permit shall notify the Director when such sewer or drainage connection is ready for inspection prior to its connection to the Town's treatment works. Such connection inspections and testing as deemed necessary by the Town Manager shall be made by the Director.

Section 5-123. Excavation guards and property restoration.
Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

Section 5-124. Protection of capacity for existing users.
The Town Manager shall not issue a permit for any class of connection to the Town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users,

in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Town Manager may permit such a connection if there are legally binding commitments to provide the needed capacity.

Conditions to Use Treatment Works

Section 5-125. Special uses; discharge of untreated waters.
All discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges. Any connection, drain or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of the provisions herein.

Section 5-126. Pollutants prohibited.
A user shall not introduce any pollutants into the Town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

Section 5-127. Restricted discharges.
(a) No person shall discharge or cause to be discharged to any of the Town's treatment works any substances, materials, waters or wastes in such quantities or concentrations which do or are likely to:

(1) Create a fire or explosion hazard in the POTW, including but not limited to gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, gas or wastestreams with a closed cup flashpoint greater than 140° F. or 60° C. using test methods specified in 40 CFR 261.21.

(2) Cause corrosive damage or hazard to structures, equipment or personnel of the wastewater facilities, but in no case discharges having a pH lower than five point zero (5.0) or greater than eleven point zero (11.0).

(3) Cause obstruction to the flow in sewers or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials.

(4) Constitute a rate of discharge or substantial deviation from normal rates of discharge and/or pollutant concentration, sufficient to cause interference in the operation and performance of the treatment facilities.

(5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Town wastewater sewer to exceed 65° C. (150° F.) or the temperature of the influent to the treatment facilities to exceed 40° C. (104° F.) unless the facilities can accommodate such heat and the Town has obtained prior approval from the approval authority.

(6) Contain petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(7) Contain floatable oils, fat or grease.

(8) Contain or cause in the POTW noxious, malodorous toxic gases, vapors or fumes or substances which are present in quantities that create a public nuisance or a hazard to human or animal life or that may cause acute worker health and safety problems.

(9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations.

(10) Contain any garbage that has not been properly shredded.

(11) Contain any odor- or color-producing substances exceeding concentration limits which may be established by the Town Manager for purposes of meeting the Town's VPDES permit.
(12) Contain trucked or hauled pollutants, except at discharge points designated by the POTW.
(13) Contain any trucked or hauled hazardous wastes.

(b) If, in establishing discharge restrictions, discharge limits or pretreatment standards, the Town Manager establishes concentration limits to be met by a user, the Town Manager, in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user. Upon approval by the state, such limits should become pretreatment standards.

(c) Each property owner or occupant shall be responsible for clearing any obstruction in the private sewer line up to the point it connects to the main line of the Town sewer system.

Section 5-128. Categorical Pretreatment Standards.

(a) No person shall discharge or cause to be discharged to any treatment works wastewater containing substances subject to an applicable Categorical Pretreatment Standard promulgated by the EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within three years of the date the standard is promulgated; provided, however, that compliance with a Categorical Pretreatment Standard for new sources shall be required upon commencement of discharge to the treatment works.

(b) The Town Manager shall notify any industrial user affected by the provisions of this section and establish an enforceable compliance schedule for each.

Section 5-129. Special agreements between Town and user.

Nothing in Section 5-125 through Section 5-133 shall be construed as preventing any agreement or arrangement between the Town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character for BOD and/or suspended solids and total nitrogen/nitrogen loading is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.

Section 5-130. Water and energy conservation.

The conservation of water and energy shall be encouraged by the Town Manager. In establishing discharge restrictions upon users, the Town Manager shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Town Manager, each user will provide the Town Manager with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the Town Manager, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

Section 5-131. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the Town or state.

Section 5-132. Accidental discharges.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by these provisions. Facilities to prevent accidental discharge of prohibited

materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review and shall be approved by the Town before construction of the facility. No user who commences contribution to the POTW shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of these provisions. In the case of an accidental discharge, it is the responsibility of the user to immediately notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

(b) Within five days following an accidental discharge, the user shall submit to the Town Manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Section 5-133. Pump and haul operations.

(a) Pump and haul operations will be allowed only in an emergency except in areas where there are currently no sewer lines to connect to the wastewater treatment plant and the residence/business has an existing system that needs replacing/repairing and permanent pump and haul operations are required.

(b) Application for a pump and haul permit and a letter explaining why permanent pump and haul operations are necessary must be submitted to the Town Council. All pump and haul operations must be approved by Town Council.

(c) A performance bond will be required for all approved pump and haul operations.

Industrial Dischargers

Section 5-134. Information requirements.

(a) All industrial dischargers shall file with the Town wastewater information deemed necessary by the Town Manager for determination of compliance with these provisions, the Town's VPDES permit conditions and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the Town Manager and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in these provisions.

(b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Town Manager.

(c) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to

demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
(d) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these provisions, the Virginia Pollutant Discharge Elimination System (VPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
(e) Information accepted by the Town as confidential shall not be transmitted to any governmental agency or to the general public by the Town until and unless a ten-day notification is given to the user.

Section 5-135. User permits.
(a) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within 180 days after the effective date of these provisions.
(b) Significant industrial users required to obtain a permit shall complete and file with the Town an application in the form prescribed by the Town and accompanied by a fee of $500. Existing significant industrial users shall apply for a permit within 30 days after the effective date of these provisions, and proposed new significant industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment works.

(1) In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

[a] Name, address and location (if different from address).

[b] The SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended.

[c] Wastewater constituents and characteristics, including but not limited to those mentioned in Sections 5-107 and 5-108 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended.

[d] Time and duration of contribution.

[e] Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

[f] Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.

[g] Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.

[h] The nature and concentration of any pollutants in the discharge. A statement shall be submitted identifying the applicable pretreatment standards and requirements and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

[i] If additional pretreatment and/or O&M will be required to meet the pretreatment standards and the shortest schedule by which the user will provide such additional pretreatment. The

completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

[1] The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

[2] No increment referred to in Section 5-135(b)(1)(i)[1] shall exceed nine months.

[3] Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Town Manager, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay; and the steps being taken by the user to return the construction to the schedule established. In no event shall more than one year elapse between such progress reports to the Town Manager.

[j] Each product produced by type, amount, process or processes and the rate of production.

[k] Type and amount of raw materials processed (average and maximum per day).

[l] Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

[m] Any other information as may be deemed by the Town to be necessary to evaluate the user permit application.

(2) The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a user permit subject to terms and conditions provided herein.

(c) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the user permit of users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than local limits developed by the POTW within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a user permit as required by Section 5-135(b), the user shall apply for a user permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing user permit shall submit to the Town Manager within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by Section 5-135(b)(1)(h) and (i).

(d) Permit conditions. User permits shall be expressly subject to all provisions of these provisions and all other applicable regulations, user charges and fees established by the Town. Permits shall contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

(2) Limits on the average and maximum wastewater constituents and characteristics.

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(4) Requirements for installation and maintenance of inspection and sampling facilities.

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

(6) Compliance schedules.

(7) Requirements for submission of technical reports or discharge reports;

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town and affording the Town access thereto.

(9) Requirements for notification of the Town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works.

(10) Requirements for immediate notification of slug discharges.

(11) Other conditions as deemed appropriate by the Town to ensure compliance with these provisions.

(12) Statement of applicable remedies.

(e) User permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements as identified in this section are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises or a new or changed operation without the approval of the Town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

Section 5-136. Reporting requirements for permittee.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the Town Manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as required herein. This statement shall be signed by an authorized representative of the user and certified to by a qualified professional.

(b) Required information; samples.

(1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the Town Manager during the months of June and December, unless required more frequently in the pretreatment standard or by the Town Manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported. At the discretion of the Town Manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Town Manager may agree to alter the months during which the above reports are to be submitted.

(2) The Town Manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate. In many cases, the report required by Section 5-136(b)(1) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the Town Manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, and amendments thereto or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. All samples analyzed by this method shall be reported. (NOTE: Where 40 CFR Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by EPA.)

Section 5-137. Monitoring.

(a) When required by the Town Manager, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Town Manager. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(b) The Town Manager shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(c) Where the Town Manager determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable or cost effective, the Town Manager may specify alternative methods of determining the characteristics of the wastewater's discharge which will, in the Town Manager's judgment, provide a reasonably reliable measurement of such characteristics.

(d) Measurements, tests and analyses of the characteristics of wastewater required by these provisions shall conform to 40 CFR Part 136 and be performed by a qualified laboratory.

Section 5-138. Costs of damage.

If the drainage or discharge from any establishment causes a deposit, obstruction or damage to any of the Town's treatment works or treatment facility, the Town Manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor and supervision, shall be borne by the person causing such deposit, obstruction or damage.

Pretreatment

Section 5-139. Wastewaters with special characteristics.

(a) While the Town Manager should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or

treatment facilities, processes, equipment or receiving waters or constitutes a public nuisance or hazard is discharged or is proposed for discharge to the wastewater sewers, the Town Manager may require any or all of the following:

(1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works.

(2) Control over the quantities and rates of discharge.

(3) The development of compliance schedules to meet any applicable pretreatment requirements.

(4) The submission of reports necessary to assure compliance with applicable pretreatment requirements.

(5) Inspection, surveillance and monitoring necessary to determine compliance with applicable pretreatment requirements.

(6) Remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Section 5-150 through Section 5-155 or appropriate criminal penalties.

(7) Rejection of the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works, treatment facilities, treatment personnel or POTW discharge.

(b) When considering the above alternatives, the Town Manager shall assure that conditions of the Town's permit are met. The Town Manager shall also take into consideration cost effectiveness, the economic impact of the alternatives and the willful noncompliance of the discharger. If the Town Manager allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Town Manager shall review and recommend any appropriate changes to the program within 30 days of submittal.

(c) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

Section 5-140. Compliance with pretreatment requirements.

Persons required to pretreat wastewater in accordance with Section 5-139 shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance is required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Town Manager as described in Section 5-134 through Section 5-138 and Section 5-135(b)(1)(i). The plan (including schedules) shall be consistent with applicable conditions of the Town's permit and other local, state or federal laws.

Section 5-141. Monitoring requirements.

Discharges of wastewater to the Town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the user permit.

Section 5-142. Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede the applicable sections of these provisions if they are more stringent.

Section 5-143. Permit applications.
All wastewater discharge permit applications and industrial user reports must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

Wastewater Service Charges and Industrial Cost Recovery

Section 5-144. Wastewater service charges.
Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system or contractual obligations for a level of use in excess of current actual use.

Section 5-145. Industrial cost recovery.
Users of the Town's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law.

Section 5-146. Determination of system use.
(a) Determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used, whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by Section 5-146(b).
(b) The Town Manager, when determining actual use of the Town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the Town Manager.

Extension of Sewer Lines

Section 5-147. Policy; easement for utility purposes.
(a) The policy within the corporate limits of the Town shall be to extend the sewer lines in an orderly and cost effective manner which is in general conformance with the Comprehensive Plan and Capital Improvement Program of the Town. A deposit of the connection fees, in advance, and a guaranty of a connection to be made may be required by the Town from all or a portion of the owners of property to be served by the extension of the sewer lines.
(b) The expense of all excavating to locate a sewer tap previously installed by the Town at the property owner's line shall be borne by the property owner.
(c) When an area or street cannot be reasonably served by a sewer line being run on a dedicated street or a street to be dedicated, due to gravity flow, the area or street may be served by obtaining an easement of right-of-way to be used for utility purposes only.

Section 5-148. Extensions within Town.
(a) Where the owner of property within the corporate limits desires connection of an area to be developed and it is necessary to extend the lines of the sewer system into the new area to be served,

such cost of extension to the standards specified by the Town Council shall be borne by the builder or developer.
(b) The builder or developer shall submit detailed plans for the sewer lines to be constructed under this section which shall be located in compliance with the requirements of the Town of Bowling Green Comprehensive Plan and other ordinances and regulations as applicable. All lines to be constructed shall be laid on a dedicated street or a street to be dedicated to the Town or an easement or right-of-way.
(c) All such extensions of sewer lines shall be deeded to the Town after construction has been completed. Whenever such lines are not laid upon a dedicated street or street to be dedicated to the Town, an easement or right-of-way for access to such lines shall also be deeded to the Town.

Section 5-149. Extensions outside of Town.
(a) Subdividers or builders outside of the corporate limits who desire to connect properties to the Town sewage disposal system after having received permission to do so shall bear the cost of all construction and shall retain ownership of the extensions and be responsible for the maintenance to the point of connection with the Town system; however, permission for such connection shall only be granted upon written agreement that if, at any future date, the area should be annexed to the Town, such sewer lines shall be deeded to the Town.
(b) The subdividers or builders are required to submit detailed plans for the sewer lines to be constructed under Section 5-147 through Section 5-149. These plans must be inspected and approved in advance of construction by the Town Council.
(c) All sewer lines shall be constructed on gravity feed whenever possible.

Enforcement

Section 5-150. Harmful contributions.
(a) The Town may suspend the wastewater treatment service and/or a user permit when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of any person or to the environment, causes interference to the treatment facilities or causes the Town to violate any condition of its VPDES permit.
(b) Any person notified of a suspension of the wastewater treatment service and/or the user permit shall immediately stop or eliminate the harmful contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the Circuit Court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The Town shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Town within five days of the date of occurrence.

Section 5-151. Revocation of permit.
(a) Any user who violates the following conditions of these provisions or applicable state and federal regulations is subject to having his permit revoked for the following:
(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
(4) Violation of conditions of the permit.

Section 5-152. Notification of violation.
Whenever the Town finds that any user has violated or is violating these provisions, a user permit or any prohibition or limitation of requirements contained herein, the Town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the user.

Section 5-153. Legal action.
If any person discharges sewage, industrial wastes or other wastes into the Town's treatment works contrary to the provisions of these provisions, applicable federal or state pretreatment requirements or any order of the Town or if any industrial user refuses access to the Town Manager for purposes of inspection, the Town Manager may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

Section 5-154. Violations and penalties.
(a) The Town Manager shall have the authority to assess on any user who is found to have violated an order of the Town Manager or who failed to comply with any provision of these provisions and the orders, rules, regulations and permits issued hereunder a penalty of $1,000 per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
(b) Violation of the provisions of Division 1, Sewer Regulations, shall constitute a Class I misdemeanor unless otherwise specified herein.

Section 5-155. Falsifying information.
Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these provisions or user permit or who falsifies any monitoring device or method required under these provisions shall, upon conviction, be guilty of a Class I misdemeanor.

Division 2 Water Regulations

General Provisions

Section 5-159. Administration.
Except as otherwise provided herein, the Town Manager of the Town's waterworks shall administer, implement and enforce these provisions.

Section 5-160. Size standards.
(a) Unless otherwise provided for in the Water Standards for the Town of Bowling Green, standard sizes are defined herein. The Town reserves the right to designate the size of a water main in any given area.
(1) A standard water main shall not be less than six inches in diameter.

(2) A standard water meter shall be a five-eighths-inch meter and shall include a box and top.
(3) A three-fourths-inch tap and line shall be the standard water connection.

Section 5-161. Water meters.
(a) All Town water to pass through meters. All water furnished by the Town shall be, wherever practicable, measured by meters furnished, located and installed by the Town for that purpose. All water meters through which water is supplied to customers shall remain the property of the Town.
(b) Taking of unmetered water prohibited. It shall be unlawful for any person to take water from the Town waterworks except through a meter as provided for or from any fire hydrant or any premises without permission of Town Council or authorized Town official.
(c) Tampering with meter. No person other than an authorized representative of the Town shall at any time remove, tamper with, undertake to repair or in any way interfere with any meter connected to the Town waterworks.
(d) Inspection of meters. Each meter installed for the measurement of water supplied by the Town shall at all times be subject to control and inspection by the Town, and where any meter is located on private property, building or premises, the Town shall have the right to enter thereon at all reasonable hours for the purpose of inspection, repairing, replacing or removing such meter or to take meter readings.
(e) Defective meters. If at any time it is found that a meter installed for the measurement of water supplied by the Town has been tampered with or for any reason fails to register or shall be found defective in registering since the previous reading, the water consumption for such period shall be estimated from other similar readings and the average taken of such readings for the same period or from past readings or from a like installation.

Section 5-162. Responsibility to remove obstructions from around meters; failure to comply.
It shall be the responsibility of each property owner or occupant to assist in the clearing of all weeds, shrubbery, bushes and trees a reasonable distance from the water meter located on such property. If the property owner or occupant does not comply with keeping the meter free from obstruction, the Town shall remove any shrubbery, bushes, trees or limbs thereof which interfere with the reading, replacing or repairing of such meter.

Section 5-163. Air conditioning.
(a) Relative to the control of air-conditioning installations for the purpose of conserving the water supply in the Town, the following regulations shall be adhered to:
(1) All individual or collective air-conditioning systems in any premises and using Town water shall be equipped with a water conserving device such as an economizer, evaporative condenser, water-cooling tower or other similar apparatus.
(2) Approval shall be obtained from the Town Manager or his designee for the installation of an air-conditioning system using Town water as a cooling agent.
(3) A Town official shall have right of entry to the premises for the purpose of making inspection to determine if the provisions of Section 5-163(1) are being complied with.

Section 5-164. Leaks in waterline on customer's property.
When it is ascertained that there is a leak in a waterline on the property of a customer of water, it shall be the responsibility of the owner or occupant of such property to locate and repair such leak immediately. During the time such leak existed, the amount of water wasted shall be paid by the owner or occupant.

Section 5-165. Right of Town to cut off water supply to make repairs.
(a) In case of a breakage, replacing of meters or repairs in the waterworks, the Town reserves the right to cut off the water supply of any or all customers without notice. In the exercise of such rights, the Town shall not be liable:

(1) For any damages or inconvenience suffered by any customer.

(2) For any claim against the Town at any time for discontinuing the supply of water for any cause.

(3) For interruption of services supplying water for any cause.

(4) For lessening the supply of water or for furnishing a substandard quality of water for any cause.

Section 5-166. Interference with waterworks; violations and penalties.
No unauthorized person shall willfully break, injure, connect, disconnect, damage, destroy, uncover, deface or otherwise tamper with any pipe, hydrant, valve, meter, manhole or any structure or equipment which is a part of the Town's waterworks or remove or interfere with any light or barricade or other device installed in the construction, maintenance or repair of any part of said waterworks. Any violator of this section shall, upon conviction, be assessed and pay the cost of any damage incurred, in addition to any fine which may be imposed.

Water Connections

Section 5-167. Application for connection.
The owner of each new building or occupied house within the Town desiring to connect such property to the waterworks shall submit to the Town a written request therefore. The owner of each new building or occupied house outside the Town desiring to connect to the waterworks shall submit to the Town Council a written request therefore, and the request shall not be granted until after giving consideration to the primary needs of the Town, and then only if excess water capacity is available. In all cases, no connection of any kind shall be made without having first obtained a written request from the owner desiring the connection.

Section 5-168. Connection and plumbing specifications.
(a) All connections to the waterworks for providing water and for any purpose whatsoever shall be made only at the discretion and under the supervision of a Town official designated for the purpose and shall conform in all respects to the specifications prescribed by the Town Council in The Town of Bowling Green Design Standards for Water and Sewer Facilities, Volumes I and II as amended by the Town of Bowling Green, Virginia with regard to size, depth and materials of lines.
(b) All plumbing shall conform to the usual and nationally recognized and accepted code requirements for sanitation, efficiency and workmanship; and compliance with the applicable provisions of the Southern Standard Building Code, Part III, Plumbing, current edition, adopted by the Southern Building Code Congress, shall be prima facie evidence of conformity with usual and nationally recognized code requirements for sanitation, efficiency and workmanship.

Section 5-169. Separate connection and meter required; responsibility for payment of bills.
(a) Each individual residence or property shall be required to have a separate connection and meter unless otherwise authorized by the Town Council or an authorized Town official.
(b) There shall be a separate water meter for each residence or commercial establishment.

(c) When water is supplied by the Town through a single service line on which there is only one meter and such meter serves a building used in whole or in part for apartment or multiple-occupancy purposes, the owner shall file with the Town Clerk a written agreement stating to be responsible for the water rates incurred in connection with such building. Where separate service lines and meters are installed to apartments, Townhouse complexes or multiple-occupancy buildings, the Town may require the property owner or lessee to be responsible for the water bills.

Section 5-170. Water availability fees

(a) A water availability fee based on meter sizing for each new or altered water service shall be paid to the Town as follows:

(1) For single-family detached residential dwellings and commercial units, the water service availability fee shall be based upon meter sizing as follows:

Nominal Meter Size – Inches	Water Availability Fee
5/8”	$6,000
1”	$12,000
1 ½”	$19,000
2”	$25,000
3”	$31,000
4”	$36,000
6”	$43,000
8”	$49,000

(2) A minimum service availability fee equal to the water service availability fee charged for a 5/8” meter shall be paid for each individual dwelling unit, apartment or mobile home.

Section 5-171. Meter size determination for water availability fees.

(a) Most single-family residential dwellings and small commercial units will have a standard 5/8 inch or 3/4 inch meter installed and no meter size calculations will be required. When it is determined by the Director that a larger size may be required the following procedures will accomplished prior to issuance of a permit:

(1) The meter sizing shall be determined by the owner, or his designated representative, using AWWA's M22 - Sizing Water Service Lines and Meters.

(2) A copy of the figures and calculations used to determine the meter size will be attached to the application for a permit. This data will be reviewed by the Town Engineer before approval of the application.

Section 5-172. Connection charges.

(a) For each new connection to the Town waterworks, there shall be a charge to be paid by the owner of the building or property being connected, which charge shall be collected before water service shall be provided by the Town through any such connection.

(b) For new or altered services requiring the installation of a new water service, a water connection fee to recover the costs of making the connection to an existing water main, extending a water service line to the water meter setting, installing the water meter and providing the meter shall be the sum of $750 or 125% of the actual cost of labor and materials, whichever is greater.

(c) For purposes of this section, each residential unit of a multifamily dwelling or complex shall constitute a dwelling unit, and each unit of a shopping center or commercial facility designed so as to allow operation of independent businesses or commercial activities in each such unit shall constitute an independent commercial unit.
(d) If an additional waterworks connection is desired by a property or building owner for a building or unit within a building for which a similar connection was previously made, there shall be a charge for the additional connection, which charge shall be the actual cost of labor and material in making the additional connection, including the cost of any construction relative thereto, provided that any such connection to a building addition which creates additional dwelling units or independent commercial units shall be treated as new connections, and the charge therefore shall be as set forth herein.
(e) Each owner shall make application for water connections on a form to be supplied by the Town. Approval of applications for water connections within the bounds of the Town may be made by the Town Manager. Approval of applications for such connections outside the bounds of the Town shall be made only by the Town Council. The signature of the approving authority and date of approval shall be affixed to each approved application, and the applicant shall be furnished timely notice of the approval, together with a statement of fees owed, exclusive of costs. No work shall be commenced by the Town to establish the connections until the fee, exclusive of costs for labor and materials, is paid. Costs for labor and material shall be billed to the applicant upon completion of the project by the Town.
(f) Approved applications shall become void without further action by the Town six months following the date of approval if the owner has failed to pay the connection fees, exclusive of labor and material costs, to the Town within said six-month period. If any owner shall fail to connect to the water main within one year following approval of his application, such owner shall be required to pay to the Town the connection fee required by this section at the time actual connection is made, less the fees previously paid.
(g) For each connection to a second or subsequent building on the same property, a charge shall be made for that connection in accordance with Section 5-172(a) through (f), just as if the building were the only building on that property for which a connection were being made.
(h) "New connection," as used in Section 5-172, shall mean any connection to the Town water system at a point thereon where no connection had previously been made or any reconnection at an existing connection point which has not been used to provide water service for more than five years and from which property the water meter has been removed.

Extension of Waterlines

Section 5-173. Policy; costs of excavation; easement for utility purposes.
(a) The policy within the corporate limits of the Town shall be to extend the waterlines in an orderly and cost effective manner which is in general conformance with the Comprehensive Plan and Capital Improvement Program of the Town. A deposit of the connection fees, in advance, and a guaranty of a connection to be made may be required by the Town from all or a portion of the owners of property to be served by the extension of the waterlines.
(b) The expense of all excavating to locate a waterline tap previously installed by the Town at the property owner's line shall be borne by the property owner; however, in the event that the water connection is not located as designated by the Town, then the Town shall locate the connection at the Town's expense and thus reimburse the property owner for his cost in attempting to locate the connection.

Section 5-174. Extensions within Town.
(a) Where the owner of property within the corporate limits desires connection of an area to be developed and it is necessary to extend the lines of the waterworks into the new area to be served, such cost of extension, to the standards specified by the Town Council, shall be borne by the builder or developer.
(b) The builder or developer shall submit detailed plans for the waterlines to be constructed under Section 5-174. These plans must be approved in advance of construction.
(c) All lines to be constructed shall be laid on a dedicated street or a street to be dedicated to the Town or an easement or right-of-way.
(d) All such extensions of waterlines shall be deeded to the Town after construction has been completed. Whenever such lines are not laid upon a dedicated street or street to be dedicated to the Town, an easement of right-of-way for access to such lines shall also be deeded to the Town.

Section 5-175. Extensions outside of Town.
(a) Subdividers or builders outside of the corporate limits who desire to connect properties to the Town waterworks after having received permission to do so shall bear the cost of all construction and shall retain ownership of the extensions and be responsible for the maintenance to the point of connection with the Town system; however, permission for such connection shall only be granted upon written agreement that if, at any future date, the area should be annexed to the Town, such waterlines shall be deeded to the Town.
(b) The subdividers or builders are required to submit detailed plans for the waterlines to be constructed under this Article. These plans must be inspected and approved in advance of construction by the Town Council.

Rates and Billings

Section 5-176. Deposit.
A deposit of $100 shall be required of all customers located in the Town of Bowling Green and of $150 from all customers located outside the Town when first obtaining service from the waterworks.

Section 5-177. Rates for service within Town.
(a) Water rates for services within the Town shall be as follows:
(1) Water customers within the Town who are served by the waterworks of the Town shall be charged for water consumed between each bimonthly meter reading at the rate of $24.80 for 5,000 gallons or less, plus the following rates for consumption per 1,000 gallons or fraction thereof in excess of 5,000 gallons:

Gallons of Water	**Rate**
[a] Residential Patrons:	
5,001 to 10,000	$1.26
10,001 to 20,000	$1.32
20,001 to 30,000	$1.38
Over 30,000	$1.43

[b] Commercial Patrons:

5,001 to 10,000	$1.38
10,001 to 20,000	$1.43
20,001 to 30,000	$1.48
30,001 to 40,000	$1.54
40,001 to 50,000	$1.60
50,001 to 100,000	$1.65
Over 100,000	$1.70

(2) Multiple-unit facilities. Water rates for multifamily dwellings and commercial facilities designed for occupancy by more than one business or commercial activity having fewer than one meter per unit shall be determined as if each dwelling unit or independent commercial unit therein receiving water service constituted a separate customer, regardless of the number of connections or meters serving such buildings or complex of buildings. The water rate for such buildings or complex of buildings not having separate water meters for each unit receiving water service shall be $24.80 multiplied by the number of residential or independent commercial units served by each meter plus the applicable residential or commercial rate for each 1,000 gallons or fraction thereof for each unit over the total of 5,000 gallons.

(3) All unmetered water must be purchased at the Town Business Office during regular working hours. Payment must be by cash, check or money order payable at the time of purchase. Special payment terms may be arranged for extended purchases at the discretion of the Town Manager or his designee. Water must be drawn from the hydrant at Town Hall unless expressly authorized by the Town Manager or his agent to draw from another location. For other locations, the customer must pay a fifty-dollar deposit and provide a hydrant meter acceptable to the Town and installed under the supervision of an authorized Town official.

[a] Rates based on a flat per-truckload basis are as follows:

Truck Size	**Rate**
Small (1 to 2,200 Gallons)	$33.08
Medium (2,201 to 4,400 Gallons)	$66.15
Large (4,401 to 7,000 Gallons)	$99.23

[b] Town residents may purchase bulk unmetered water by special arrangement at the prevailing in-Town residential rates upon approval by the Town Manager or his designee. Fire and rescue units shall be exempt from the fee requirements of this section.

(4) Nonprofit facilities will be charged residential water and sewer rates.

Section 5-178. Rates for service outside Town limits.

Water customers outside the corporate limits of the Town shall be charged at the same rates as for those within the Town, plus an additional charge of 100% thereof.

Section 5-179. Statement of charges.
All statements for Town water service shall be computed by the Town Clerk on a bimonthly basis, and meters shall be read bimonthly. Such statements shall be rendered to the customer as soon as practicable after bimonthly readings. This statement shall be considered the correct assessment unless a correction is requested of the Town Clerk within 10 days after the mailing date.

Section 5-180. Penalty for nonpayment; discontinuance of service; reestablishment.
(a) In the event that any person shall not pay the amount owed, as set forth on a statement rendered him as provided in Section 5-179, on or before the date specified for payment of such amount, a service charge of 5% of the unpaid amount shall be assessed.
(b) If the amount owed, including service charge, remains unpaid for more than 10 days following the date specified for payment of the bill, the Town Clerk may cause the water service to the premises served by the water connection for which the amount is delinquent to be disconnected.
(c) A fee of $25 shall be charged each user to reestablish water service which has been discontinued for nonpayment of the amount due for such service.

Section 5-181. Complaints.
Any customer of water service having a complaint in connection with the assessment of charges shall report the same to the Town Manager, who shall adjust the same or refer the complaint to the Town Council.

Division 3 Waterworks

Cross-Connection and Backflow Prevention

Section 5-185. Adoption of standards.
The Town Council of the Town of Bowling Green hereby adopts by reference and incorporates herein, Section 6, Cross-Connection and Backflow Prevention Control in Waterworks, Commonwealth of Virginia Waterworks Regulations.

Section 5-186. Definitions.
(a) The following definitions are hereby adopted:
"Air Gap Separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.
"Auxiliary Water System" means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks; or water from sources such as wells, lakes or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.
"Backflow" means the flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases or nonpotable waters into any part of a waterworks.
"Backflow Prevention Device" means any approved device, method or type of construction intended to prevent backflow into a waterworks.
"Customer" means the owner or person in control of any premises supplied by or in any manner connected to a waterworks.

"Customer's Water System" means any water system located on the customer's premises supplied by or in any manner connected to a waterworks.

"Contamination" means any introduction into pure water of micro-organisms, wastes, wastewater, undesirable chemicals or gases.

"Cross-Connection" means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

"Degree of Hazard" means a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

"Double Gate – Double Check Valve Assembly" means an approved assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

"Health Hazard" means any condition, device or practice in a waterworks or its operation that creates or may create a danger to the health and well-being of the water customer.

"Interchangeable Connection" means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.

"Pollution" means the presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

"Pollution Hazard" means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a customer's water system.

"Process Fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted, which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes but is not limited to:

(1) Polluted or contaminated waters.

(2) Process waters.

(3) Used waters originating from the waterworks which may have deteriorated in sanitary quality.

(4) Cooling waters.

(5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems.

(6) Chemicals in solution or suspension.

(7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes or for fire-fighting purposes.

"Pure Water" or "Potable Water" means water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons served.

"Reduced-Pressure-Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

"Service Connection" means the terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the "service connection" means the downstream end of the meter.

"System Hazard" means a condition posing an actual, or threat of, damage to the physical properties of the waterworks or a customer's water system.

"Used Water" means any water supplied by a water purveyor from waterworks to a customer's water system after it has passed through the service connection.

"Water Purveyor" means an individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county or authority which supplies water to any person within this state from or by means of any waterworks.

"Waterworks" means all structures and appliances used in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential customers as set forth in Title 62.1, Chapter 4, § 62.1-45a, Code of Virginia 1950, as amended.

Section 5-187. Inspections.

It shall be the duty of the Council of the Town of Bowling Green to cause inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be established by the Town of Bowling Green, as water purveyor, by duly approved motion of the Council of the Town of Bowling Green and as approved by the Virginia Department of Health.

Section 5-188. Right of entry; furnishing information.

(a) The representative of the Town's Public Works and Utilities shall have the right to enter at any reasonable time properties served by a connection to the waterworks of the Town of Bowling Green for the purpose of inspecting the piping system or systems for cross-connections.

(b) Upon request, the owner or occupants of property served shall furnish to the inspection agency pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

Section 5-189. Cross-connection.

(a) No person shall install or maintain a water service connection to any premises where cross-connections to the Town's waterworks or a customer's water system may exist unless such cross-connections are abated or controlled to the satisfaction of the Town.

(b) No person shall install or maintain any connection whereby water from an auxiliary water system may enter the Town's or customer's water system unless the auxiliary water system and the method of connection and use of such system shall have been approved by the Town.

Section 5-190. Where protection is required.

(a) An approved backflow prevention device shall be installed on each service line to a customer's water system where, in the judgment of the Town, a health, pollutional or system hazard to the water system exists.

(b) An approved backflow prevention device shall be installed on each service line to a customer's water system serving premises where the following conditions exist, except as noted in Section 5-190(b)(7) below:

(1) Premises having an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Town.
(2) Premises on which any substance is handled in such a manner as to create an actual or potential hazard to the water system (including premises having sources or systems containing process fluids or water originating from a waterworks which are not under the control of the Town).
(3) Premises having internal cross-connections that, in the judgment of the Director, may not be easily correctable or intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist.
(4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
(5) Premises having a repeated history of cross-connections being established or reestablished.
(6) Premises having fire protection systems utilizing combinations of sprinklers, fire loops, storage tanks, pumps, antifreeze protection or auxiliary water, except that fire loops and sprinkler systems with openings not subject to flooding, containing no antifreeze or other chemicals and with no storage or auxiliary sources will not normally require backflow prevention.
(7) Premises having booster pumps connected to the waterworks shall be equipped with a low-pressure or flow switch cutoff device to shut off the booster pump when the pressure in the waterworks drops to a minimum of 10 psi gauge.
(8) Other premises specified by the Town when cause can be shown that a potential cross-connection hazard exists.

(c) An approved backflow prevention device shall be installed on each service line to a customer's water system serving the following types of facilities:
(1) Hospitals, mortuaries, clinics and nursing homes.
(2) Laboratories.
(3) Piers, docks and waterfront facilities.
(4) Sewage treatment plants, sewage pumping stations or stormwater pumping stations.
(5) Food and beverage processing plants.
(6) Chemical plants and dyeing plants.
(7) Metal plating industries.
(8) Petroleum processing or storage plants.
(9) Radioactive materials processing plants and nuclear reactors.
(10) Car washes.
(11) Lawn sprinkler systems and irrigations systems.
(12) Slaughterhouses and poultry processing plants.
(13) Farms where the water is used for other than household purposes.
(14) Others specified by the Town of Bowling Green where potential backflow or cross-connection hazard can be shown.

Section 5-191. Backflow-prevention device required; failure to install.

Where a cross-connection is found to exist, a backflow-prevention device, approved by the Town Manager, shall be installed at the expense of the water customer. If a cross-connection is found on which no backflow prevention device has been installed or if a device has been removed or bypassed or if the pressure in the waterworks is lowered below 10 pounds per square inch gauge, the Town of Bowling Green, as water purveyor, shall take positive action to ensure that the waterworks is adequately protected at all times. As a protective measure, the Town of Bowling Green may discontinue water service to the premises of any customer if any of the aforesaid conditions are

found. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with Commonwealth of Virginia Waterworks Regulations, to the satisfaction of the water purveyor.

Section 5-192. Installation and maintenance of devices.
Approval of backflow prevention devices and the type of protection required shall be in accordance with the requirements and standards provided in Section 6.04 and Section 6.05 of the Virginia Department of Health Waterworks Regulations.

Section 5-193. Annual testing and inspection of devices.
The customer shall have annual inspections and operational tests performed at the customer's sole expense on all backflow prevention devices or low-pressure cutoff devices, depending on their pollutional hazard potential as determined by the Director, by a licensed plumber certified in cross-connection device testing. A written certification of approval shall be furnished to the Town, by the testing individual, upon completion of the work at the customer's sole expense.

Section 5-194. Protection of potable water.
The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of the provisions herein and the Caroline County Plumbing Code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "Water Unsafe for Drinking" in a conspicuous manner.

Section 5-195. Violations and penalties.
Any person or customer found guilty of violating any of these provisions or any written order of the Town of Bowling Green in pursuance thereof shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of $ 100 for each violation. Each day upon which a violation of the provisions of these provisions shall occur shall be deemed a separate and additional violation.

Article II Brush, Grass and Weeds

Section 5-200. Cutting of grass, weeds and brush required; failure to comply.
(a) It shall be unlawful for any owner, lessee or occupant of any lot, acreage or subdivision of land within the Town, abutting a street, sidewalk or public place, whether such land or premises is improved by buildings or otherwise, to permit weeds or brush over 15 inches high to grow upon the premises or upon the sidewalk abutting the premises within 125 feet from the sidewalk, street or public place. Every such owner, lessee or occupant shall cut down and destroy or remove from the premises and from the sidewalk abutting thereon all such weeds and brush upon receipt of notice from the Town so to do. Failure to comply with such notice within the time stated therein shall be unlawful, and each day's violation of such notice shall constitute a separate offense. Upon failure to comply with such notice, the Town Maintenance Supervisor may have such weeds and brush removed at the expense of such owner, lessee or occupant.
(b) Every owner of vacant real property within any area zoned for residential, business, commercial or industrial use in the Town of Bowling Green shall maintain such property free of high grass, weeds or other foreign growth. In the event that the property owner shall fail to cut the grass, weeds or other foreign growth on such vacant property when such growth shall attain or exceed 15 inches

in height, the Town Council may designate a date by which the property owner shall cut and remove such grass, weeds or other foreign growth. Notice of the date specified shall be given by newspaper publication, mail or by delivery of written notice to such owner. Upon failure of any owner to cut and remove such grass, weeds or other foreign growth in compliance with the notice, the Town Maintenance Supervisor shall have such grass, weeds or other foreign growth cut and removed at the expense of the property owner.

(c) In such event, the Town Treasurer shall mail or deliver to the owner of the property on which the services were performed a bill for the costs thereof. The Treasurer shall collect said bill as if it were taxes or levies. The Town shall have a lien on the real property upon which the services were performed in the amount of said bill, plus interest, said lien to continue in effect until such amount, together with interest thereon, is paid. A copy of the bill or a notation thereof shall be maintained with the records of unpaid real estate taxes until such time as said bill shall be paid.

Article III Garbage, Rubbish and Refuse.

Division 1 Prohibited Disposal; Maintenance of Premises

Section 5-300. Prohibited disposal.

It shall be unlawful for any person to dispose of any garbage, trash, junk or waste matter of any kind or description upon any street, sidewalk or public place in the Town or upon the property of another without the knowledge and consent of the owner or occupant of such property or in any well, cistern, spring or watercourse within the Town or which provides a supply of water for any of the inhabitants of the Town.

Section 5-301. Maintenance of premises; abatement of nuisances.

(a) Whenever any person shall allow or permit his lot or property or sidewalk adjacent thereto to become cluttered with rubbish, papers, trash, junk, refuse or any other debris or offensive or unwholesome matter, it shall be the duty of the Town Manager to serve notice on the person who placed the matter or created the nuisance or, if he cannot be ascertained, upon the occupant or, if unoccupied, owner thereof to cause such nuisance to be abated or such matter to be removed from such land or premises within 48 hours or such action will be taken by the Town at the expense of such person or of the occupant or of the owner, as the case may be. When such land or premises is unoccupied, such notice shall be served upon the owner thereof if a resident of the Town, and, if not, then upon the owner's agent in charge thereof, or upon the owner by publication as hereinafter provided. Any such person creating or any such occupant or the owner of such land or premises, if unoccupied, who shall fail to cause such abatement or the removal of such matter within the time specified in such notice shall be guilty of an offense, and each day that such nuisance or matter shall be permitted to remain upon such land or premises after the expiration of the time specified in such notice shall be deemed to constitute a separate offense under this section.

(b) If such nuisance or matter remains on any such land or premises after the expiration of the time specified in the notice as above provided, the Town Manager shall cause such nuisance or matter to be abated or removed therefrom at the expense of such person or of the occupant or owner of such land or premises, as the case may be, and if done at the expense of the owner, the expense of such abatement or removal shall be a lien upon such land or premises and shall be reported by the Town Manager to the Treasurer, who shall collect such expense in the manner in which Town taxes levied upon real estate are authorized to be collected.

(c) Such expense shall be docketed in a book or books kept for the purpose in the office of the Treasurer and indexed in the name of the person or persons owning such estate or land at the time the lien accrued.
(d) If the owner of such unoccupied land or premises is not a resident of the Town and does not have an agent in the Town upon whom such notice may be served, the notice hereinabove required may be given by publication by posting a notice thereof in not fewer than two public places within the Town and by mailing a copy thereof by registered mail to the owner's last known address, and the cost of such publication, if any, shall be collected as part of the expense of making such removal.

Division 2 Collection

Section 5-310. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Commercial Unit" - A building or portion thereof designed for occupancy by or occupied by separate commercial enterprises which has an outlet for Town water located within the unit.

"Dwelling Unit" - One or more rooms in a building designed for living or sleeping purposes, having at least one kitchen and one bathroom, and separate from living or commercial areas in the same building.

"Patron" - An individual, partnership, business, church, club, fraternal organization, public or private corporation, rescue squad building and Caroline County offices or other entity located within the corporate limits of the Town.

"Premises" - Both public and private property located within the corporate limits of the Town.

"Receptacles" - Containers, trash and garbage cans

"Refuse" - Includes garbage, trash, debris, tin cans, glass, ashes, small dead animals, rubbish, paper of all kinds, tree and garden trimmings and all other forms of waste.

Section 5-311. Collection schedule.

(a) Residential. Single-family residence, multifamily and apartment building collection will be made each week on days specified by the Council.
(b) Commercial. Commercial establishment collection will be made each week on days specified by the Council.
(c) Heavy commercial. There shall be no collection of refuse by the Town from heavy users.

Section 5-312. Place of pickup.

(a) Residential. Collection will be made on ground level, outside, from a point easily reached by collectors, to be within 10 feet of the street.
(b) Commercial and other patron. Collection will be made on ground level, outside, from the rear or side of the premises. Collection will also be made from the front of the premises when the refuse receptacles are placed at the curb by the patron.
(c) General provisions. Under no circumstance shall any operating personnel of the Town enter a residence, apartment, commercial establishment, porch, garage or a building of any kind, except sheds used exclusively for the storage of refuse, to collect or assist in the collection of refuse. The operating personnel are further prohibited from accepting tips for any service rendered to the patrons.

Section 5-313. Refuse acceptable for collection.

The following unseparated refuse shall be considered acceptable for collection by the Town when properly stored and placed in accordance with other sections and provisions of this article:

(a) Garbage: wastes resulting from the processing, handling, preparation, cooking or consumption of foods, including decomposed animal and vegetable matters.

(b) Refuse other than garbage: refuse such as tin cans, bottles, crockery, paper (scrap paper of all descriptions), rags, rugs, linoleum, rubber and leather goods, toys and items of metal, wood and plastic.

(c) Bulk matter: in addition to being acceptable as unseparated refuse, newspapers, magazines, cardboard boxes, yard and garden trimmings will be acceptable in bulk as provided herein:

(1) Newspapers and magazines, in bulk, shall be bound in bundles not exceeding 75 pounds each in weight. The string, rope or wire used for binding shall be of sufficient strength to permit the bundle to be picked up by it.

(2) Cardboard boxes. Empty cardboard boxes shall be acceptable if placed at the point of pickup on the premises.

(3) Yard and garden trimmings. Dead flowers shall be acceptable if placed in regulation trash cans.

Section 5-314. Unacceptable refuse.

The following refuse shall be considered unacceptable and will not be collected by the Town:

(a) Rejected building materials, tree cuttings and cleanup debris: the residue from excavation, construction, building and remodeling cleanup, such as dirt, rocks, brick, concrete or cinder block, wallboard, metal roofing, asbestos and asphalt shingles, electrical or plumbing materials or fixtures, tree stumps, laps and limbs.

(b) Ashes and dirt shall be considered unacceptable and will not be collected by the Town, except for paper ashes in proper containers.

(c) Residential or commercial junk: wood or metal furniture, bed springs and mattresses; large household appliances such as stoves, refrigerators, washing machines, dryers and sewing machines; and automotive parts such as tires, batteries, cushions, wheels, springs, running gears, fenders, etc.

(d) Animal carcasses and offal shall be considered unacceptable and will not be collected by the Town.

(e) Dangerous substances: such items as poisons, acids, caustics, explosives and containers of flammable liquids.

(f) Human and animal wastes: all forms of human or animal wastes.

Section 5-315. Receptacles.

(a) General regulations.

(1) All receptacles shall be standard trash and garbage cans.

(2) All receptacles shall be metal or plastic, watertight, with handles and covers. The covers shall be tight-fitting so as to prevent spilling, the scattering of refuse by dogs or varmints, the escape of odors and the attraction of flies or other insects.

(3) The size of the receptacles shall be not less than 10 gallons or more than 32 gallons.

(4) The weight of the receptacles, when full, shall not exceed 75 pounds.

(5) There shall be no limit to the number of standard receptacles that may be used by a patron.

(6) Light-gauge metal receptacles, although acceptable, are not recommended. Heavy-gauge galvanized-dipped with riveted top and bottom rim cans are recommended.

(7) Reasonable care will be taken in handling receptacles by the Town operating personnel, and all covers will be replaced when the cans are emptied.

(8) Receptacles with covers which do not fit tightly or with bottoms that have rusted out will be tagged by the Town employees as notice to the patron that the receptacle is no longer serviceable and not acceptable for use. Any such receptacles still in use two weeks after being tagged will not be emptied.

(b) Unacceptable receptacles.

(1) Receptacles made of any of the following materials or substances shall be considered unacceptable: fiberboard, wood, paper or cardboard or burlap or canvas bags.

(2) Receptacles such as oil, grease or chemical drums; oil, grease or paint buckets; tubs; wire hampers; and metal boxes shall be considered unacceptable.

(c) Provision and protection of receptacles.

(1) In addition to the requirements prescribed for standard receptacles, it shall be the responsibility of each patron to provide such number of cans as may be necessary for the convenient and sanitary storage of all refuse on his premises.

(2) Each patron shall be responsible for the protection of the receptacles on his premises and for such refuse that may become spilled or scattered.

Section 5-316. Loose or overflowing materials; Christmas trees.

(a) No bulk or loose refuse, piles of debris or materials which may overflow from the receptacles will be collected by the Town and as further provided in this section.

(b) Beginning the first operating day following Christmas, and for two weeks from that day, the Town will collect, in connection with the regular scheduled pickups, Christmas trees when placed on the premises at points or places of regular pickups.

Section 5-317. Rules and regulations; enforcement.

The Town Council shall have authority to provide for the systematic collection and disposal of garbage, waste and trash from the streets, public places or private premises in the Town and to promulgate and enforce proper regulations for the placement thereof for collection; to provide and enforce penalties for the failure of any person to observe such regulations; to prohibit and control and regulate the scattering of litter in the Town; and to provide and enforce penalties for violations of the provisions of this article or any parts thereof.

Section 5-318. Noncompliance; violations and penalties.

(a) As provided in preceding sections of this article, Town trucks will not haul away anything unless placed in suitable containers, and any matter set out for collection which does not comply with the provisions of this article will not be collected by the Town but must be removed by the patron.

(b) The existence of any condition in violation of this article upon the premises of any person shall be prima facie evidence of such violation, and the Town may decline to collect and haul away all refuse. For such violation existing after two weeks' interruption of collection, and notice sent such person, penalties will be enforced as follows:

(1) Any individual, partnership or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any section or provision of this article, upon conviction thereof, shall be fined not less than $10 nor more than $50 for the first offense.

(2) Upon conviction of a second offense and each subsequent offense, the fine shall be not less than $50 and not more than $500.

Section 5-319. Fees for collection.

(a) Every person, firm or corporation within the Town receiving refuse collection services shall pay a fee for refuse collection service for each water meter billed in the name of that person, firm or corporation or, if no water service is provided by the Town, then for each dwelling or commercial unit owned and/or occupied by such person, firm or corporation, depending on the user classification as set forth in this article.

(1) Each refuse collection customer will be classified as either a residential or commercial customer. The rate for each classification will be as adopted by the Town Council.

(2) There shall be no collection of refuse by the Town from heavy users, as defined in Section 5-319(b), and no fee shall be charged by the Town for refuse collection from such heavy users.

(3) Commercial patrons and authorized representatives of apartment buildings in Residential District R-3 or higher density may request, in writing, to discontinue receiving refuse collection services provided by the Town. Approval of such requests may be given by the Town Council, provided that the request explains how adequate refuse collection will be provided for the premises. Upon approval of the request, no fee for refuse collection shall be charged to the patron; provided, however that the approval may be revoked at any time upon determination by the Town Council that adequate refuse collection is not being provided for the premises.

(4) Residential patrons with dwellings located more than 300 feet from a collection point near the public right-of-way or that have a driveway with a severe slope or are within 1/2 of a mile from the active county landfill or can document a public safety problem may request, in writing, to discontinue receiving refuse collection services provided by the Town. Approval of such requests may be given by the Town Council, provided that the request explains how adequate refuse collection will be provided for the premises. Upon approval of the request, no fee for refuse collection shall be charged to the patron; provided, however, that the approval may be revoked at any time upon determination by the Town Council that adequate refuse collection is not being provided for the premises.

(b) A heavy user of refuse collection services shall be any person, firm or corporation who or which, on the average, generates for collection at each pickup sufficient volume to fill at least six standard thirty-two-gallon receptacles.

(c) Refuse collection rates for multifamily dwellings and commercial facilities designed for occupancy by more than one business or commercial activity having fewer than one water meter per unit shall be determined as if each dwelling unit or independent commercial unit therein receiving refuse collection service constituted a separate consumer, regardless of the number of connections or meters serving such buildings or complex of buildings. The monthly rate for such units shall be the applicable residential or commercial rate per month multiplied by the number of units served by each water meter. In the event that refuse collection is provided to multifamily dwellings or commercial facilities not served by Town water, the monthly rate shall be the applicable residential or commercial rate multiplied by the number of dwelling units and commercial units located on the property.

(d) Notwithstanding any other provision of this section, no fee shall be required for refuse collection services from the governing body of the County of Caroline or from any organization recognized as tax exempt by the United States Internal Revenue Service unless refuse collection service is actually furnished. Any organization seeking exemption from payment of refuse collection fees under this subsection shall have the burden of proving entitlement to such exemption.

Division 3 Weed and Trash Abatement

Section 5-330. Definitions.

"Costs" means the cost to the Town to abate a weed or trash nuisance, including but not limited to the cost of delivering the notice, labor, equipment, tipping fees, contractor's fees, and any other cost directly associated with the action taken to abate the nuisance.

"Occupant" means any person age eighteen (18) or older who resides in a single family dwelling, duplex or Townhouse, whether or not the person is the lessor. "Occupant" means any person who possesses and uses commercial or other property, with permission of or by contract or lease with the owner.

"Owner" means the owner of record of real property.

"Owner's agent" shall mean any person appointed or employed by the owner for the purpose of managing the owner's real estate.

"Reasonable time" means a time period not less than forty-eight (48) hours and not more than ten (10) calendar days, which will afford the owner a fair opportunity to abate the violation, given the time of year, type of violation, amount of weeds or trash, and other relevant factors, while achieving the goal of eradicating the public nuisance. The term "reasonable time" with respect to a property with repeat notices of violation within any twelve-month time period shall mean a time period not less than twenty-four (24) hours and not more than ten (10) calendar days, with due consideration to the factors listed above.

"Trash" means abandoned personal property, garbage, refuse, litter or debris openly lying on any parcel, which might endanger the health of residents of the Town.

"Weed" or "Weeds" means any plant, grass or other vegetation over ten (10) inches in height growing upon private property within the Town of Bowling Green. The term includes any sage brush, poison oak, poison ivy, Ailanthus Altissima (commonly called Tree of Heaven or Paradise Tree), ragweed, dandelions, milkweed, Canada thistle, and any other undesirable growth. The term excludes trees, ornamental shrubbery, vegetable and flower gardens, purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance. The term excludes cultivated crops, or undisturbed woodland not otherwise in violation. Ground cover purposefully planted for bank stabilization is not included. The term excludes cultivated crops, hay grown, mown, and stored for animal feed, or undisturbed woodland.

Section 5-331. Accumulation of trash or weeds prohibited; duty of owner and occupant.

(a) Weeds growing or trash lying on any parcel shall constitute a public nuisance. It shall be unlawful for the owner or occupant of real property to permit the accumulation thereon of any trash or weeds. It shall be the joint and several duty of the owner and occupant of any parcel to immediately cut, remove or destroy any and all weeds and to remove trash from his or her parcel.

(b) The owner and the occupant of property shall also cut weeds along public sidewalks, curb lines within streets and within tree wells.

(c) Each seven (7) day period that such weeds or trash shall remain uncut or unremoved shall be deemed to constitute a separate misdemeanor offense under this section.

Section 5-332. Notice to remove weeds or trash.

(a) When the Town manager determines that a violation of this article exists with respect to any parcel, the manager shall deliver written notice to the owner, via one (1) or more of the following methods:

(1) Mail written notice thereof to the owner, at the owner's address as determined from public records, via certified mail;

(2) Mail written notice thereof to the occupant, at the address where the violation is observed, via certified mail;

(3) Hand-deliver written notice to the owner, the owner's agent, or occupant personally, noting the date, time and place of personal delivery.

(b) The notice shall:

(1) Set forth the alleged violation of this article;

(2) Describe the parcel of real property by street address or reasonable alternative means;

(3) Demand the removal of the weeds or trash;

(4) Advise that if the weeds or trash are not removed within a specified reasonable time of the delivery of the notice, the Town will proceed to remove them, with the costs thereof together with an administrative fee authorized by this article being specially assessed against the owner and the parcel;

(5) Advise that the Town's costs together with the administrative fee will constitute a lien against the property in favor of the Town, and a personal liability of the owner or occupant;

(6) Afford the owner or occupant an opportunity to meet with the Town manager for a hearing on the alleged violation, the proposed action and the consequences thereof.

(c) The owner or occupant may request a hearing with the Town manager, in writing, within the reasonable time period set forth in the notice. In the event the owner or occupant requests a hearing, the Town manager shall set a hearing and notify the owner of the time and location of the hearing, to be held within five (5) days from the date of the manager's receipt of the request for a hearing. The Town will postpone any enforcement action until after the date and time set for the hearing.

Section 5-333. Town action to abate the violation.

If the owner or occupant shall fail to complete the abatement of the weeds or trash within the reasonable time specified in the written notice, the Town manager may direct that Town forces abate or complete the abatement of the violation. In the alternative, the Town manager may contract for this work to be done by a private contractor.

Section 5-334. Costs of Town action constitute lien on property; administrative fee authorized.

In any case where the Town has delivered written notice to the owner, the costs of any Town action to abate a weeds or trash violation shall constitute a lien against the parcel. In addition, an administrative fee of one hundred fifty dollars ($150.00) or twenty-five (25) percent of the cost, whichever is less, but in no event less than twenty-five dollars ($25.00), is hereby ordained to be assessed against the owner. The costs plus the administrative fee shall constitute a lien against the parcel, ranking on parity with liens for unpaid local taxes, and are enforceable in the same manner. Such liens may be waived in order to facilitate the sale of the property, and 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.

Section 5-335. Exemptions.

The requirement to cut, remove, or destroy any and all weeds, shall not apply to any property which meets the following conditions:

(a) The parcel is vacant, greater than five (5) acres in size, and is located in a residential zoning district; or

(b) The parcel is open space (or equivalent) designated as such as a zoning proffer, on a subdivision plat, or as a conservation easement; the parcel is not used for active recreation; and the designation contemplates that the area is set aside to remain in a natural state; or
(c) The parcel is a public area set aside by the Town to remain in a natural state on a temporary or permanent basis.
(d) The parcel is free from the accumulation of trash.
(e) The owner or occupant mows a buffer swath at the perimeter of the property, ten (10) feet in width where the property line adjoins public or private property in residential, civic, commercial, office, or industrial use; and five (5) feet in width where the property line adjoins a public right-of-way. The vegetation in this buffer area shall not exceed ten (10) inches in height.

State law references: Code of Virginia, §§ 15.2-900, 15.2-1115, 15.2-901, 15.2-1429.

Article IV Streets, Sidewalks and Public Places

Division 1 Streets

Section 5-400. Certain ordinances relating to streets not affected by Code.
Nothing in this Code or the ordinance adopting this Code shall affect any ordinance opening, relocating, closing, altering or naming any streets or alleys, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Section 5-401. Street names.
The names of the streets, as shown on a street index map maintained by the Town Manager and/or his designee shall be the true names of the streets of the Town.
State law references: Code of Virginia, § 15.2-2019.

Section 5-402. General design and construction standards for streets.
All public streets and roads constructed in the Town shall be designed and constructed in accordance with the standards and specifications of the Town's Subdivision Ordinance. This requirement shall apply to all phases of road and street construction. All entrances constructed from a new or existing street or road shall be in accordance with the standards and specifications set forth in the Town's Subdivision Ordinance.

Section 5-403. Street construction plans.
A certified professional engineer or certified land surveyor licensed by the state shall prepare plans for all public streets and roads to be constructed within the jurisdiction of the Town. Such engineer or surveyor shall provide a space on the first sheet of such plans for the written approval of the Town engineer and Town planner. No construction may begin until this written approval has been received. These plans shall also contain a certificate, signed by the engineer or surveyor, that the plans have been prepared in accordance with the design standards and specifications of the Town as contained in the subdivision ordinance. On completion and approval of the street, the plan shall be constructed to an "as built" drawing and filed with the engineering and GIS department on reproducible mylar paper.

Section 5-404. Grade, alignment of streets and curbs.
(a) When a street line, grade of centerline or curb of any street shall be established by the Town council or it's duly appointed committee or by a Town officer duly designated for such purpose, such grade and alignment shall be official. No person shall change such grade or alignment so fixed.
(b) The situation, range, height, width and pitch of the curb and gutter and pavements shall be established and determined by the Town council or its duly appointed committee or by a Town officer duly designated for such purpose.

Section 5-405. Structures to conform to street line and grade.
No person shall be permitted to erect any structure or other permanent improvement on any street where the property line and grade line have been officially established, without having first ascertained the true street line and grade, and such structure or other improvement shall be erected so as to conform therewith.

Section 5-406. Construction of pavement crossings.
Whenever it is necessary to cross the pavement, such crossing shall be constructed by the Town with material suitable for the purpose. The cost of such crossing, over and above the ordinary cost of the pavement, shall be paid by the property owner.

Section 5-407. Street trees.
The Town manager, subject to policy established by the Town council or its duly authorized committee, shall have control over the planting and removal of trees on the streets and in the public places of the Town.

Section 5-408. Barbed and electric wire fencing prohibited on or along street or sidewalk.
No person shall erect or maintain barbed wire or electric fencing along or on any street or sidewalk of the Town, except in areas zoned for agriculture uses or those in which an agricultural use has nonconforming status under the zoning ordinance.

Section 5-409. Removal of paving, curbing or improvement.
(a) No person shall remove any paving, curbing or other improvement on any street or sidewalk, without a written permit from the Town manager or an officer designated by him for such purpose.
(b) Any person obtaining a permit to remove the paving, curbing or other improvement shall agree to restore the street or sidewalk to a condition as good, in the opinion of the Town Manager as before such removal. In making this decision, the Town Manager shall be guided by the standards contained in "Road and Bridge Standards" of the Virginia Department of Transportation, or later version thereof. If the street or sidewalk is not properly restored, the Town manager may require the street force personnel of the Town to restore the street or sidewalk to its former condition and charge the actual cost of such work to the person who obtained the permit. Such charge shall be collected in the same manner as Town taxes.

Section 5-410. Deposit of injurious or hazardous material on street and removal of same therefrom.
(a) No person shall throw or deposit or cause to be deposited upon any street or highway any glass bottle, glass, nail, tack, wire, can or any other substance likely to injure any person or animal, or damage any vehicle upon such street or highway, nor shall any person throw or deposit or cause to

be deposited upon any street or highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public.
(b) Any person who drops, or permits to be dropped or thrown, upon any street or highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed.
(c) Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the street or highway from such vehicle.
State law references: Code of Virginia, § 18.2-324.

Section 5-411. Duty of property owners to keep sidewalk clean.
Property owners shall keep the sidewalks abutting their property clean and free from weeds, filth, shrubbery and vines.

Section 5-412. Duty of property owners and tenants to remove snow from sidewalks.
Within twenty-four (24) hours after a snowfall, each property owner shall remove the snow from the paved sidewalk in front of his or her property. If the property is rented, the tenant shall remove the snow.
State law references: Code of Virginia, § 15.2-1115.

Section 5-413. Fee for processing application to vacate street or other public way.
There is hereby prescribed and shall be charged an application fee of one hundred dollars ($100.00) for processing an application for closing or vacating any street, alley, easement or other public way. Such fee shall accompany each such application.
State law references: Code of Virginia, § 15.2-2007.

Section 5-414. Purchase by applicant as condition to vacation of street or other public way.
(a) No application for the vacation of a public street, alley, easement for public passage, or other public way shall be accepted by the Town council unless it conforms to the following requirements:

(1) One or more persons owning property abutting the public street, alley, easement for public passage, or other public way to be vacated shall join in and sign the application, listing their names and addresses.

(2) Written documentation or written verification that the applicant or applicants have notified all other property owners abutting the public street, alley, easement for public passage, or other public way to be vacated, of the application and afforded them the opportunity to join in or file separate applications for vacation. The notice shall be in writing, mailed or delivered to the last known address of such owners, and be provided at least fourteen (14) days prior to the Town's processing of the application.

(3) The application shall contain a certification that, if Town council affects the vacation, the applicants, or any one (1) or other number of them, shall pay to the Town for its interest in the area vacated, the value of such interest. The price shall be no greater than the fair market value of the land vacated or its contributory value to the abutting property, whichever is greater, or the amount agreed to by the applicant or applicants and the Town. A valuation shall be based on a fee simple ownership interest and shall be determined as provided in subsection (b) below. No such vacation shall be concluded until the agreed price has been paid. If any abutting property owner does not make such payment for such owner's fractional portion within one (1) year, or other period made a condition of the vacation, the vacation shall be void as to any such property owner.

(4) The application shall contain a certification that the applicants agree as to the value of the interest so determined and agree to pay such purchase price to the Town upon the Town's delivery to them, or any one (1) or other number of them, of a quit-claim deed, on such form approved by the Town attorney, conveying the Town's interest to the applicant or applicants who shall have been designated in the application. It is the applicant's responsibility to ascertain what interest, if any, the Town may have in the area vacated and to satisfy him or herself of the Town's title to this interest. Town shall make no warranties of title, or any other warranties, with respect to any interest of Town sold under this section.

(5) The application shall contain a designation as to which applicants should be grantees in any quit-claim deed of the Town's interest in the street. In the absence of agreement among the applicants as to the division of the public street, alley, easement for public passage, or other public way, the Town council shall allocate to each abutting landowner applying for the vacation the Town's interest, if any, in that portion of the area, adjacent to the applicant's land and extended to the center line of the area vacated.

(b) On request of the applicants prior to the filing of the application, the Town manager shall compute the value of the street by comparison with the assessed value of land abutting or comparable to the street, making any necessary prorations; and adjustments fairly to represent the value of the street.

State law references: Code of Virginia, § 15.2-2008.

Division 2 Street Numbers for Buildings

Section 5-420. Number plan.

(a) Houses and other buildings located on streets in the Town shall be numbered according to the centenary and quadrant plan. Beginning at the axis of reference and moving therefrom, the buildings and lots upon any particular street shall be numbered from one hundred (100) upwards, allowing (generally) one (1) number for each twenty-five (25) feet. A new hundred shall be begun whenever the particular street is crossed by another street. From the intersection of Roanoke and Main Streets in any direction to the corporate limits, odd numbers shall be placed upon the left side and even numbers on the right side of any such street.

(b) The north-south aids of reference shall be Main Street and the east-west reference shall be Roanoke Street. The quadrant shall be designated NE, SE, NW and SW, respectively.

Section 5-421. Assignment of numbers; map to be kept.

The Town manager shall assign or reassign the proper numbers for houses, units and other buildings and shall keep a map showing such numbers.

Section 5-422. Affixing number.

Each property owner shall affix the assigned house or building number on the structure itself or on a separate placard, post, or other support associated with the structure, or on both. The number shall be readily visible either in the day or night from the street. In the case of the original assignment of a house, unit or building number, the owner shall post the number prior to the issuance of a certificate of occupancy. In the case of a reassigned or new number, the owner or person in charge of the premises shall post the new number within sixty (60) days of the date of written notice of the new number. Any person who shall refuse to number a house, unit or structure according to this section, or shall interfere with the execution or maintenance of such numbering, shall be guilty of a Class 4 misdemeanor.

State law references: Code of Virginia, § 15.2-2024.

Division 3 Obstructions and Encroachments

Section 5-430. Obstructions generally.

(a) No obstructions shall be allowed to remain upon the sidewalks or streets, unless authorized as provided for in this article. If an obstruction is not removed within a reasonable time after delivery of notice as provided for below, the Town may proceed to remove it, with the costs thereof being charged to the owner. The removal costs may be collected in any manner provided by law for the collection of state or local taxes.

(b) When the Town manager determines that an obstruction exists that constitutes a violation of this article, the manager shall deliver written notice to the owner, via one (1) or more of the following methods:

(1) Written notice thereof to the owner, at the owner's address as determined from public records, via certified mail;

(2) Written notice thereof to the occupant, at the address where the obstruction is observed, via certified mail; or

(3) Hand-delivered written notice to the owner or occupant personally, noting the date, time and place of personal delivery.

(c) The notice shall contain the following:

(1) A description of the obstruction;

(2) The address of the real property where the obstruction exists (street address or reasonable alternative description);

(3) A demand for the removal of the obstruction; and

(4) Notice that if the obstruction is not removed within a specified reasonable time of the delivery of the notice, the Town will proceed to remove it, with the costs thereof being charged to the owner.

(d) The owner or occupant may request a hearing with the Town manager concerning the alleged obstruction. The request shall be made by filing with the Town manager's office, within the time period set forth in the notice, a written request for a hearing. In the event the owner or occupant requests a hearing, the Town manager shall set a hearing and notify the owner or occupant of the time and location of the hearing, which shall be held within five (5) days from the date of the manager's receipt of the request for a hearing. The Town will postpone any enforcement action until after the date and time set for the hearing, unless, in the judgment of the manager, public safety requires immediate enforcement action.

State law references: Code of Virginia, §§ 15.2-2009, 15.2-2012.

Section 5-431. Encroachments and projections generally.
(a) Improvements generally. No house, porch, bay window, fence, steps or any other improvement to private property shall be allowed to encroach upon the public streets, pavements, sidewalks or public places.
(b) Projecting eaves, air conditioning units, etc. All buildings and structures built so that the eaves thereof project over the sidewalks or other ways, and all air conditioning units and other devices whatsoever which project from buildings or structures over the sidewalks or other ways shall be provided with gutters or downspouts so that no water or other fluid shall flow or drip upon any sidewalk or way. Such gutters and downspouts shall at all times be maintained in good repair and shall be constructed so as to discharge water or other fluid, where practicable, under the sidewalk or way in a suitable pipe.
(c) Signs, figures and ornaments. Signs, figures, ornaments or other objects projecting over a pavement or sidewalk in the Town must be securely attached to a wall or doorway, must be at least eight (8) feet above such pavement or sidewalk and shall not project more than eighteen (18) inches over the pavement or sidewalk. The Town council may, at its discretion and by resolution, exact fees for such use of public streets.
(d) Swinging awnings. Swinging awnings shall be securely attached to the building, must be at least seven (7) feet above the sidewalk and must not extend beyond the curbline.
(e) Cellar doors and openings into cellars. Openings into cellars and other places, which openings are not enclosed, shall be guarded in such manner as to protect the public from accidents. A cellar door in any sidewalk shall be, as nearly as possible, level and of even grade therewith. Cellar doors in streets shall be closed at dark and kept closed at night.
(f) Tree limbs overhanging from private property. It shall be the duty of property owners to maintain trees growing on their property in such a manner that no limbs thereof project over any street at a height of less than fourteen (14) feet, or sidewalk at a height of less than eighty (80) inches.
State law references: Code of Virginia, § 15.2-2011.

Section 5-432. Nonconforming structures, obstructions; additions thereto.
No additions shall be made to any structure or other obstruction not in compliance with the provisions of this article on the date of its enactment which increases or prolongs its noncompliance. When any such obstruction shall be demolished or more than fifty (50) percent damaged or destroyed by fire, wind, storm or any other disaster, said condition shall not be repaired or reconstructed, except in a manner which complies with Sections 5-433 and 5-434 of this article.

Section 5-433. Sight triangles established; obstructions therein prohibited.
At all street intersections, sight obstructions that create a traffic hazard, as determined by the Town manager, shall be prohibited. No obstructions within a site triangle, except for buildings existing at the date of passage of this article, shall be permitted at more than three and one-half (3 1/2) feet in height measured from the level of the street at the edge of the pavement on which the obstruction lies. The Town manager, however, may determine, in accordance with standard engineering practices, that a site obstruction exists outside the site triangle thus creating a traffic hazard.

Section 5-434. Obstruction by vegetative material, fences, walls or structures unlawful.
It shall be unlawful for any landowner, tenant, firm or corporation to own or maintain, either on private property or a public street right-of-way, vegetative material, wire, fences, walls or similar

structures which create a sight obstruction in violation of Section 5-433. Any such obstruction may be removed by the Town through the process established in Section 5-430.

Section 5-435. Obstruction by unloading operations.
No person shall unload any merchandise or other material in such manner as to block traffic on the streets or sidewalks of the Town, except by permission of the chief of police.

Section 5-436. Obstruction of water in street, gutter or drain.
No person shall obstruct or impede the flow of water in any street, gutter or drain.

Section 5-437. Dispersal of crowds obstructing use of street or sidewalk.
Whenever the free passage of any street or sidewalk in the Town shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.

Section 5-438. Placement of building material on streets.
(a) Contractors or builders may, for a reasonable time, place building material upon one-half (1/2) of the street in front of premises upon which a building or wall is being erected. If buildings or walls are being erected on premises on opposite sides of the street at the same time, the material must be so placed as to leave one-half (1/2) of the street unobstructed.
(b) When sand, mortar or other like building material shall be placed on the streets for use for building purposes, the contractor or builder shall provide suitable receptacles for such materials.

Section 5-439. Investigation and correction of violations.
The Town manager, or his or her designated representative, shall investigate all alleged violations of this article and shall determine if an obstruction to the view exists as set out in this article. The Town manager, or his or her designated representatives, shall notify the violator, in writing, of the violation and allow for one (1) week from the date of the letter for compliance. If compliance is not obtained within the time specified, it shall constitute a misdemeanor and shall be a separate offense for each and every day that such violation is continued. Such violation shall be punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00).

Division 4 Use of Streets by Private Persons for Civic and Commercial Purposes

Section 5-445. In general.
The public streets of this Town are designed to serve the public's need for efficient, safe, and convenient vehicular, pedestrian, and bicycle transportation. Yet, at times, these streets may be temporarily used for private interests under terms and conditions imposed by the Town. During such use, the streets shall maintain their character as public rights-of-way, except as otherwise provided in this division.

Section 5-446. Block parties.
(a) On application in writing to the Town, the Town manager may authorize the blocking-off of a street or part of a street for up to twelve (12) hours to enable citizens living near or on the street the opportunity to conduct a block party, neighborhood gathering, or neighborhood festival. In making the decision as to whether or not to authorize such a use, the Town manager shall consider, among

any other relevant factors, the safety of the traveling public and the participants in the proposed event, the magnitude of use, the importance of the route to be blocked off, and the availability or not of alternate routes of travel.
(b) The Town manager should only disapprove an application for a block party, neighborhood gathering or neighborhood festival, where there exists as a basis for the disapproval a clear and present health, safety or transportation reason for doing so.
(c) After the authorization to block off the street for this purpose, the Town manager shall cause barricades, signs and any other safety devices as appropriate and necessary to be erected with respect to the blocking off of the street.

Section 5-447. Street festivals.
(a) The Town council, on written application to the Town, by resolution may permit the temporary use of streets for street festivals or other such uses involving other than public purposes. These uses shall be confined to streets in the downTown commercial zoning district. The council may close such streets connected with such festivals or other such uses to public uses and travel during the period of such temporary use; provided no matter advertising any thing or business shall be displayed in or on the street in connection with such temporary use, and the person so permitted to use the street furnishes a public liability and property damage insurance contract insuring the liability of such person for personal injury or death and damages to property resulting from such temporary use. The Town council in each case shall establish the levels of such insurance coverage and the Town shall be named as an additional insured in the contract of insurance. When any Town street that is an extension of the state highway system is so closed, the Town manager shall make adequate provision to detour through traffic.
(b) In determining whether or not to grant the application for the festival or other such use, the council shall consider the nature and purpose of the event and the character of its sponsor, it being council's general policy to afford private use of streets only where there exists a direct public benefit to be derived from such use; the safety of the festival participants and patrons; the effect on traffic circulation; and the effect on existing residential and commercial uses in the vicinity.
(c) Should the council determine to grant the application, it shall adopt as conditions attached to the application measures to assure the safety of the participants and the traveling public, the dates and hours of the event, the hours of its operation, availability of sanitary facilities and the means to dispose of solid waste, in addition to any other measures which the Town manager may prescribe.
(d) Upon approval of the application, the Town clerk shall complete the application with the appropriate conditions; and this application shall serve as a permit for this use of the streets. There shall be no charge for this permit.
(e) Violations of the term of any permit shall be unlawful and constitute a Class 4 misdemeanor.
(f) It shall be unlawful and constitute a Class 3 misdemeanor for any person to drive a motor vehicle (except service vehicles related to the event), ride a bicycle, skateboard, moped or similar device within the parts of the streets designated for the festival or other use; and to possess or bring into such area any pet, reptile, bird, or other animal, (except animals that are a part of an exhibition or element of the festival) such being deemed to cause injury and annoyance and to be dangerous, offensive, or unhealthy with respect to the event.
(g) If any person shall take a drink of alcoholic beverage or shall tender a drink thereof to another, whether accepted or not, on parts of the streets designated for the festival or other use during such festival or other use, such person shall be guilty of a Class 4 misdemeanor.

Section 5-448. Moveable street encroachments.
It shall be unlawful and constitute a Class 4 misdemeanor for any person, without written permission from the Town manager, or his or her designee, to use the public streets for commercial purposes, including but not limited to (i) buying, selling or displaying any goods or (ii) offering or providing any services. This section shall supplement the provisions of Sections 5-446 and 5-447.

Section 5-449. Adoption of public rights-of-way use fee.
The Town adopts the public rights-of-way use fee as set forth in Code of Virginia (1950) § 56-468.1, as amended. Beginning July 1, 2002, any certificated provider of local exchange telephone service within the Town shall collect and remit the fee in accordance with the provisions of Code of Virginia (1950) § 56-468.1.

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CHAPTER 6: SPECIAL EVENTS AND ACTIVITIES

Article I Parades, Demonstrations, Open Air Concerts and Similar Entertainment

Division 1 Parades and Demonstrations

Section 6-100. Purpose.

(a) The Town council enacts this article for the purpose of regulating the time, place and manner of parades and demonstrations in order to accommodate competing demands for the public use of streets, sidewalks and public places. Regulation is necessary to preserve the public peace and safety, to permit free expression on issues of public concern, to protect persons and property, to maintain acceptable conditions of traffic flow upon the streets and sidewalks and to prevent, control or eliminate any illegal, injurious or dangerous effects of this lawful activity.

(b) The Town council does not enact this article, or seek through its enforcement, to deny or abridge any person's rights of assembly and free speech or the opportunity for communication of thought and discussion of public questions in public places.

State law references: Code of Virginia, § 15.2-1102.

Section 6-101. Definitions.

For the purposes of this article, the following words and phrases shall have these meanings:

"Demonstration" means a group of seven (7) or more persons assembled and acting in concert to call the public's attention to their opposition to, support of or position with respect to any subject. This term shall not include persons lawfully engaged in picketing.

"Event" means a parade or demonstration, or both.

"Parade" means a mobile gathering, march or other procession of seven (7) or more persons for the purpose of attracting the public's attention.

"Person" means an individual, corporation, partnership, association, organization or other entity.

"Picketing" means to assemble as a group in front of or near a business, factory, building or other site as a form of protest against or communication about that business, factory, building or site.

"Spontaneous parade or demonstration" means an unplanned or unannounced coming together of persons, animals or vehicles consisting of a parade or demonstration which may occur in response to unforeseen circumstances or events of immediate and obvious importance that allows no opportunity for application to the Town council.

"Street" means a public street, sidewalk or Public place in the Town.

Section 6-102. Permit-Required.

(a) It shall be unlawful for any person to organize, direct, lead or participate in any parade or demonstration upon any street within the Town unless the Town council or Town manager, as appropriate, has first granted a permit for this activity.

(b) This section shall not apply to any component of the armed forces of the United States or of this commonwealth, any governmental agency or organization, any funeral, religious or wedding procession, or to any group of persons lawfully engaged in picketing under Article I of this Chapter.

(c) If a parade or demonstration is conducted without a permit, the Town manager shall not disperse the event unless it is or becomes an unlawful assembly or riot as defined in this Code. In the latter case, the Town manager shall follow the procedures established for unlawful assemblies and riots. The Town manager, however, may seek the prosecution by the Town attorney of any person violating any provisions of this article.

Section 6-103. Permit-Application generally.

(a) Any person proposing to organize, participate in or lead a parade or demonstration upon or in any street within the Town shall file an application for a parade or demonstration with the Town clerk at least five (5) working days prior to the next council meeting before the parade or demonstration. The application shall set forth:

(1) The name, address and telephone number of the person requesting the permit;

(2) The name(s), home and work addresses and telephone number(s) of the person(s) in charge of the parade or demonstration;

(3) The name(s) and addresses of the sponsor(s) of the parade or demonstration and all participating organizations;

(4) The date, hour and place for the assembly of the participants in the parade or demonstration and the expected duration of the event;

(5) A map showing the streets, sidewalks and public places upon which the parade or demonstration is to occur;

(6) Whether the parade or demonstration is to be conducted on foot, with animals, with vehicles or any combination thereof and the number of individuals, vehicles and animals expected to participate;

(7) An estimate of the anticipated attendance;

(8) The purpose of the parade or demonstration; and

(9) Any other information that may be required by the Town manager.

(b) Each application for a parade or demonstration permit shall be signed by the person named in the application as the person in charge of such parade or demonstration.

Section 6-104. Permit-Council action on application.

(a) Upon the filing of a complete application for a parade or demonstration permit, the Town clerk shall promptly transmit copies to the Town council. The Town council shall consider and act on the application, hearing the applicant on request and other persons the council deems necessary.

(b) The Town council shall grant an application for a parade or demonstration permit and may impose limitations on the time, place and manner of the conduct of the event to prevent conditions that would be detrimental to the public peace and safety and would cause a physically dangerous or unworkable traffic condition upon streets. In determining such conditions, the council may consider the following factors:

(1) The number of persons who would be seriously inconvenienced by the event;

(2) The effect of the event on the movement of vehicular traffic, pedestrian passage, access to buildings or parking, commercial and domestic activity in the Town; and,
(3) The likelihood of injury, death or property damage.

(c) It shall be unlawful for any person, corporation, partner-ship, association or organization covered by the permit to violate or fail to comply with any such limitation.

Section 6-105. Contents.

(a) Each parade permit shall state the following information, if applicable:
(1) Assembly time.
(2) Starting time.
(3) Minimum speed.
(4) Maximum speed.
(5) Maximum interval of space to be maintained between the units of the parade.
(6) The portions of the streets to be traversed that may be occupied by the parade.
(7) The maximum length, in miles or fractions thereof, of the parade.
(8) The assembly and termination areas.
(9) Such other information as the Town manager shall find necessary to enforce this article.

Section 6-106. Contents-Priority of scheduling applications for conflicting activities.

If the Town manager receives more than one (1) application for a parade or demonstration to be held at the same time or in the same place, the application filed first in time shall take precedence. In that case, the Town council shall provide for an alternative site or time for the second or subsequent parade or demonstration.

Section 6-107. Contents-Spontaneous parades and demonstrations.

(a) Upon the occurrence of conditions leading to a spontaneous parade or demonstration (as determined by the Town manager), the Town manager may immediately grant the permit for the parade or demonstration under the same standards and procedures, with necessary changes, as set out in this article for Town council action. The Town manager shall promptly report such action to the Town council.

(b) Due to the spontaneous nature of such event and in order to maintain safe or passable traffic conditions in the Town, spontaneous parades and demonstrations shall be held on those public streets or parts thereof where the chance of unsafe or impassable traffic would be minimized.

Section 6-108. Participants carrying dangerous weapons.

No person parading or demonstrating shall carry a dangerous weapon. This prohibition shall not apply to members of color guards, drill teams, military units, lodges and other persons by whom the display of weapons upon the occasion of the parade or demonstration would not constitute a threat to the maintenance of law and order and the preservation of the public peace.

Section 6-109. Participation by dangerous animals.

No person parading or demonstrating shall cause or allow any vicious or apparently vicious animal to participate in or accompany the parade or demonstration. This prohibition shall not apply to circus parades and similar events.

Section 6-110. Insulting, harassing or interfering with participants.
It shall be unlawful for any person willfully to harass or interfere with any person lawfully parading or demonstrating pursuant to a permit issued under the provisions of this article. It shall be unlawful for a participant in an event to address bystanders using abusive or threatening language which would tend to provoke him or others to a breach of the peace.

Section 6-111. Revocation of permit.
The Town manager may revoke any permit issued pursuant to this article if any person shall violate any prohibition, condition, restriction or limitation of the permit.

Section 6-112. Penalty.
Any person violating any provision of this article shall be guilty of a Class I misdemeanor.

Division 2 Open Air Concerts and Similar Entertainment

Section 6-120. Permit required; exception.
(a) No person shall sponsor, organize or conduct within the Town any open-air concert, music festival or other similar entertainment, for which an admission fee is charged or other consideration given for attendance thereat, except pursuant to a permit issued by the Town council.
(b) It shall be unlawful for any owner, person in charge, lessee or tenant of any property to permit the use of such property for any purpose for which a permit is required under this section, unless such permit has been granted by the Town council.

Section 6-121. Application for permit.
Each application for a permit under this division shall be in writing, signed and sworn to by the person who shall be in charge of the activity for which the permit is sought, and shall set forth the name and address of the applicant, the place and date for the holding of the activity, the number of persons expected to attend, arrangements to be provided by the applicant for the accommodation of the persons expected to attend, and such other information as may be required by the Town council.

Section 6-122. Appearance of applicant before council.
Prior to issuance of a permit under this division, the Town council may require the applicant to appear before the council, in open meeting, and answer such questions relative to the activity for which the permit is sought as may be deemed necessary by the members of the council, to enable them to determine whether or not a permit should be granted.

Section 6-123. Issuance or denial of permit-Generally.
(a) Subject to the provisions of Section 6-104, the Town council may, in its discretion, issue a permit applied for under this division; provided, however, if upon due consideration the council shall find reasonable likelihood of any of the following, the permit shall be denied:

(1) That adequate measures to preserve law and order, or to prevent the illegal use of drugs, narcotics, intoxicating liquor or marijuana, will not be provided by the applicant.

(2) That the number of persons or vehicles expected to attend the activity for which a permit is sought would impose an undue burden on the streets and parking places of the Town or the public ways entering the Town.

(3) That adequate sanitary facilities would not be provided for the persons expected to attend the activity for which the permit is sought.

(4) That adequate facilities for providing food or lodging to those in attendance at the activity for which the permit is sought would not be available.
(5) That the holding of the activity for which the permit is sought would be contrary to the peace, good order, comfort, convenience or general welfare of the Town and its inhabitants.

Section 6-124. Payment of license tax prerequisite to issuance of permit.
No permit shall be granted under this division until the license tax, if any, provided for in Chapter 7, Article VII of the Town Code, has been paid.

Section 6-125. Contents of permit.
A permit issued under this division shall prescribe the time during which the activity is to be conducted and any other conditions or restrictions which the council deems necessary or desirable.

Article II Mass Outdoor Social Gathering

Section 6-200. Purpose.
(a) The Town council enacts this article for the purpose of obtaining advance notification of mass outdoor social gatherings in order to assess the impact on the public use of streets, sidewalks and public places. Advance notification is necessary to preserve the public peace and safety, to protect persons and property, to maintain acceptable conditions of traffic flow upon the streets and sidewalks and to prevent, control or eliminate any illegal, injurious or dangerous effects of this lawful activity.
(b) The Town council does not enact this article, or seek through its enforcement, to deny or abridge any person's rights of assembly and free speech in public or private places.

Section 6-201. Definitions.
The following words, when used in this article, shall have the following respective meanings, unless the context clearly indicates a different meaning:
"Excessive noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in this article.
"Mass outdoor social gathering" means a social event conducted outside or in a partially enclosed structure, on public or private land in the Town, to which one hundred (100) or more people are invited or expected to attend, as licensees, invitees, or trespassers, or as people who happen to show up, or at which one hundred (100) or more people are actually in attendance. This term may also be referred to as *"the event."*
"Motor vehicle" means a vehicle defined as a motor vehicle by § 46.2-100, Code of Virginia (1950), as amended.
"Owner" means the person owning, controlling, or possessing land, premises, or personalty.
"Person" means any individual, partnership, corporation, association, society, club, group of people acting in concert, or organization. This term shall not include the federal, state, county, Town, city, or local government, or any agency or institution thereof.
"Public property" means any real property owned or controlled by the Town or any other governmental entity or institution.
"Plainly audible" means any sound that can be heard clearly by a person using his or her unaided hearing faculties. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley.

"Real property boundary" means the property line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person.

"Residential" refers to single-unit, two-unit, and multi-unit dwellings, and residential areas of planned residential zoning district classifications, as set forth in the Town of Bowling Green Zoning Ordinance, as amended.

"Sound" means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

"Sound amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

"Sponsor" means a person or persons who organizes, supports, specifically benefits from, or is in charge of a mass outdoor social gathering.

"Town Manager" means the Manager or his or her designee.

Section 6-202. Notification to the Town.

(a) Persons who are the sponsors of a proposed mass outdoor social gathering under this article shall file a written application with the Town manager at least 30 days prior to the event giving the information required in this section.

(b) The following information, hereby ordained as substantive requirements of this article:

(1) Evidence of plans to mitigate and limit the sound from the mass outdoor social gathering, so that the effects of the excessive noise are minimized or eliminated;

(2) The name, address, and telephone number of the owner or owners of the site for the event;

(3) The name, address, and telephone number of the sponsor or sponsors;

(4) The name, address, and telephone number of a contact person representing the sponsor or owner, or both, who shall be available at the provided telephone number during the event and authorized to address problems related to the event that affect private citizens;

(5) The proposed location of the event; the boundaries of the event site; and the land use characteristics of the area surrounding the site;

(6) The expected number of persons to attend the event;

(7) The date and beginning and ending times for the use of amplified sound, and the beginning and ending times of the event, which in both cases shall not precede 10:30 a.m. or exceed 10:00 p.m. of any day.

(8) An indication that plans and provisions for the following have been addressed: provision of at least one toilet facility per 50 people; sufficient refuse containers; and provision of ample, designated parking areas, or arrangement for transporting attendees to and from a remote parking area, or both, including if applicable, copies of written permission to use private property, not that of the owner of the site of the event or sponsor, for parking;

(9) Evidence that all Town and state parking laws, and all Town noise control laws, will be complied with;

(10) Evidence of plans to clean up the event site and surrounding area after the event;

(11) Evidence that notice of the event, and names, telephone numbers, and addresses of the owner, sponsor and contact person, have been given to representatives of any residential area that might be impacted by the mass outdoor social gathering.

(12) Evidence that the owner or sponsor has arranged for the presence during the mass outdoor social gathering of a sufficient (as determined by the Town manager) number of monitors. The monitors shall aid the owner or sponsor in the resolution of any problems created by the event, including the conduct of objectionable activities by participants, and may report to the Town police any violations of the law that may take place during the event. Nothing in this subparagraph shall afford the monitors Town or other police powers or create an agency relationship between the Town and the monitors. Monitors shall be acting for the owner or sponsor of the mass outdoor social gathering.

(c) Upon receipt of a substantially completed application form, as determined by the Town manager, using the standards of this article, the Town manager shall immediately accept in writing the application.

(d) The Town manager may negotiate with the applicant to lessen, adjust, or accommodate to the peculiarities of the situation, but not increase, the requirements of this article, in order to achieve the goals and meet the standards of public safety, comfort, convenience, and welfare, by reducing or limiting excessive noise and other adverse effects from the mass outdoor social gathering. To this end, with the Town manager's permission, the applicant may amend the applicant's application up to three days prior to the event.

(e) Upon the Town manager's satisfaction that the applicant for the permit has met the standards of this article, the Town manager on behalf of the Town shall issue a written permit called for under this section to the applicant and shall send a copy of the permit to the Town clerk for filing.

(f) The applicant shall comply with the permit and with the terms of this article in the conduct of the mass outdoor social gathering and in the use of amplified sound for a mass outdoor social gathering. The permittee shall keep the permit in the permittee's possession during the mass outdoor social gathering and shall promptly display it to any police officer on request.

(g) In case of emergency, or other circumstance calling for the immediate conduct of a mass outdoor social gathering, so that the 30-day deadline set out in Section 6-202(a) cannot be met, the Town manager may waive the deadline using the following standards, as applicable: the intensity or immediacy of the emergency or circumstance; lack of alternate means of applicant's accomplishing these same goals by complying with the deadline; and avoidance of nullifying the deadline by a repeated course of conduct. The waiver shall be in writing, shall address these standards as applicable, and shall be filed in the office of the Town clerk.

Article III Fireworks

Section 6-300. Purpose.

The regulations contained in this article are hereby adopted to provide for the issuance of permits to fair associations, amusement parks and other organizations and groups of individuals for the display of fireworks and to regulate the use and display of fireworks upon the granting of permits.

Section 6-301. Definitions.

For the purpose of this article, unless otherwise required by the context, the following terms shall have the meanings indicated:

"Common Fireworks" mean any small firework device designed primarily to produce visible effects by combustion and which must comply with the construction, chemical composition and

labeling regulations of the United States Consumer Products Safety Commission, as set forth in Title 16, Code of Federal Regulations, Parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive composition and aerial devices containing 130 mg or less of explosive composition.

"Fireworks" mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation and that meets the definition of "common" or "special" fireworks as set forth in the United States Department of Transportation (DOT) Hazardous Materials Regulations, Title 49, Code of Federal Regulations, Parts 173.88 and 173.100.

Section 6-302. Compliance required.

It shall be unlawful for any person to store, possess, sell, offer to sell, expose for sale or explode within the Town any firecrackers, torpedoes, skyrockets, roman candles or other substance or thing, of whatever form or construction, intended for or commonly known as "fireworks," except as provided in this article.

Section 6-303. Application for permit.

(a) Written application for a permit to display fireworks shall be made to the Town Council through the Town Manager at least 60 days prior to the event. The application will contain, at a minimum, the following information:

(1) The name, and phone number, of the individual, group or organization sponsoring the outdoor fireworks display, together with the name(s), and phone number, of the person(s) actually in charge of the firing of the display.

(2) The date and time of day at which the outdoor fireworks display is to be held.

(3) The exact location planned for the outdoor fireworks display.

(4) Confirmation of the license of the operator and the number of assistants that will be present.

(5) The approximate number and kinds of fireworks to be discharged.

(6) The manner and place of storage of such fireworks prior to delivery to the outdoor fireworks display site.

(7) A diagram of the grounds on which the outdoor fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, the location of other possible overhead obstructions and the location of fire and rescue equipment.

(8) A certificate of liability insurance in the amount of no less than $1,000,000, with the Town of Bowling Green named as additional insured.

Section 6-304. Approval of application; issuance of permit.

Upon approval of an application by Town Council, a fireworks permit will be issued by the Town Manager. The permit allows for the display of the outdoor fireworks on the date requested and storage of such fireworks for a period of two days prior to the event.

Section 6-305. Disposition of copies of approved application.

One copy of a permit to display fireworks shall be kept on file by the Town Clerk until after the date the fireworks are displayed, and two copies shall be returned to the applicant, who shall keep one copy on file for 60 days after displaying such fireworks, and one copy shall be in possession of the person in charge of displaying the fireworks at the time and place they are being displayed.

Section 6-306. Persons authorized to conduct display.
All operators shall be at least 21 years old and licensed by a pyrotechnics school. All assistants shall be at least 18 years of age.

Section 6-307. Storage.
Prior to the use of fireworks pursuant to a permit, they shall be stored in a metal container in a building of masonry construction so that members of the public cannot have access to them, and such fireworks shall not be stored in this Town for a period in excess of two consecutive days.

Section 6-308. Minimum safety distance.
The site for the outdoor display shall have at least a seventy-foot (22 m) radius per inch of internal mortar diameter of the largest aerial shell to be fired. No spectators, dwellings or spectator parking areas shall be located within the display site.

Section 6-309. Exemptions.
This article shall have no application to any officer or member of the Armed Forces of this state or of the United States while acting within the scope of his authority and duties as such nor to any offer of sale or sale of fireworks to any authorized agent of such Armed Forces; nor shall it be applicable to the sale or use of materials or equipment otherwise prohibited by this article when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any railroad train or other vehicle for the transportation of persons or property.

Section 6-310. Applicability.
This article shall not apply to sparklers, fountains, Pharaoh's serpents or caps for pistols, nor shall it apply to pinwheels commonly known as "whirligigs" or "spinning jennies," when used, ignited or exploded on private property with the consent of the owner of such property.

Section 6-311. Violations and penalties.
Any person, firm or corporation committing an offense against any provision of this article shall, upon conviction thereof, be punishable as a Class 1 Misdemeanor.

Article IV Farmers' Market

Section 6-400. Definitions.
As used in this article, the following terms shall have the meanings indicated:

"*Domestic Products"* mean processed, cooked, dried canned or preserved foodstuffs and other agricultural products meant for human consumption, to include but not to be limited to jellies, pickles, herbs, smoked meats, baked goods, candies, canned foods and other prepared edibles.

"Farmers' Market" means a collection of two (2) or more vendors, selling farm or domestic products, garden produce or nursery products, ornamental or otherwise, which have been grown or produced by the vendor offering the same for sale, in an open-air setting or with temporary or partially enclosed structures.

Section 6-401. Exemption Certificate Required.
Every vendor who is engaged in the sale of products at a Farmers' Market shall sign an affidavit and obtain an exemption certificate from the Town Treasurer. Vendors selling farm or domestic

products or nursery products, ornamental or otherwise, or planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of the town, provided such products are grown or produced by the person offering them for sale shall not be required to obtain a business license.

Section 6-402. Compliance with Zoning Requirements.
All Farmers' Markets shall be conducted in accordance with the requirements of special permits issued under the Town Zoning Ordinance. No special permit shall be issued, and if issued shall be revoked, if any of the vendors at the Farmers' Market site are engaged in the sale of goods, wares or services other than farm or domestic products, garden produce or nursery products, ornamental or otherwise.

Section 6-403. Health Standards.
All Farmers' Market sites shall be swept clean, hosed down and/or picked clean daily. No foodstuff or debris shall be permitted to remain upon the site overnight. Foodstuffs must be displayed under sanitary conditions in compliance with all Health Department and/or Virginia Department of Agriculture standards. Failure to so comply will be cause for revocation of the special permit to conduct the farmers' market.

Section 6-404. Violations and Penalties.
Any person, firm or corporation who violates any provisions of this article shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of Chapter 1, Article I, Section 1-110 of the Code of the Town of Bowling Green, Virginia.

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CHAPTER 7: TAXATION

Article I Utility Services Tax

Section 7-100. Definitions.
As used in this article, the following terms shall have the meanings indicated:

"Affiliated Group" shall have the meaning ascribed to it in Subdivision C 10 of § 58.1-3703, except, for all purposes of this article, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.

"Bad Debts" means any portion of a debt related to a sale of utility services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that.

"Consumer" means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of utility service in this jurisdiction.

"Enhanced Services" means services that employ computer-processing applications to act on the format, code or protocol or similar aspects of the information transmitted; provide additional, different or restructured information; or involve interaction with stored information.

"Gross Charges" means subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services. However, gross charges shall not include the following:

(a) Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.

(b) Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.

(c) Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges.

(d) Charges or amounts paid for special features that are not subject to taxation under § 4251 of the Internal Revenue Code of 1986, as amended.

(e) Charges or amounts paid that are the tax imposed by § 4251 of the Internal Revenue Code of 1986, as amended or any other tax or surcharge imposed by statute, ordinance or regulatory authority.

(f) Bad debts.

"Kilowatt hours delivered" means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kwh supplied from the electric grid to such customer-generators, minus the kwh generated and fed back to the electric grid by such customer-generators.

"Local telephone service" means subject to the exclusions stated in this section, includes any service subject to federal taxation as local telephone service as that term is defined in § 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute.

"Person" means any individual, corporation, company or other entity.

"Residential consumer" means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

"Service provider" means the person who delivers electricity, local telephone service and/or gas service to a consumer.

"Used Primarily" means relates to larger portion of use for which electric utility service is furnished.

Section 7-101. Electric utility consumer tax.

(a) In accordance with Virginia Code § 58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) Residential consumers: Such tax shall be $1.40 plus the rate of $0.015094 on each kwh delivered monthly to residential consumers by a service provider, not to exceed $3 monthly.

(2) Nonresidential consumers: Such tax on nonresidential consumers shall be at the rates per month for the classes of nonresidential consumers as set forth below:

[a] Commercial consumers: Such tax shall be $2.29 plus the rate of $0.014597 on each kwh delivered monthly to commercial consumers, not to exceed $10 monthly.

[b] Industrial consumers: Such tax shall be $2.29 plus the rate of $0.014597 on each kwh delivered monthly to industrial consumers, not to exceed $10 monthly.

(3) The conversion of tax pursuant to this article to monthly kwh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

Section 7-102. Local telecommunication service tax.

(a) In accordance with Virginia Code § 58.1-3812, there is hereby imposed and levied a monthly tax on each purchase of local telecommunication services delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) Local telecommunication service: Such tax shall be at the rates per month for the classes of consumers as set forth below:

[a] Residential consumers: Such tax shall be 20% of the charge made by the provider against the consumer, not to exceed $3 monthly.

[b] Commercial consumers: Such tax shall be 20% of the charge made by the provider against the consumer, not to exceed $10 monthly.

Section 7-103. Exemptions.

(a) The following consumers are exempt from the tax imposed by this article:

(1) Any public safety agency as defined in Virginia Code § 58.1-3813.

(2) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Title 58.1 of the Code of Virginia (§ 58.1-3650 et seq.)

(3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

Section 7-104. Billing, collection and remittance of tax.

(a) The service provider shall bill the utility consumer tax to all users who are subject to the tax and to whom it delivers the service and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code § 58.1-3814, Subdivisions F and G, Virginia Code § 58.1-3812, Subdivisions F and G, and Virginia Code § 58.1-2901. If any consumer receives and pays for utility service but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and, upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for service and the tax and remit the tax portion to this jurisdiction.

(b) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

Section 7-105. Computation of electricity bills not on monthly basis.
(a) Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year or approximately one each month.
(b) Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(1) The kwh will be divided by two;
(2) A monthly tax will be calculated using the rates set forth above;
(3) The tax determined by Section 7-105(b)(2) above shall be multiplied by two;
(4) The tax in Section 7-105(b)(3) above may not exceed twice the monthly maximum tax.

Section 7-106. Penalties.
Any consumer of utility service failing, refusing or neglecting to pay the tax imposed and levied under this article, and any officer, agent or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than $100. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

Article II Real Estate Tax

Section 7-200. Imposition of tax.
There is hereby imposed on all real estate subject to local taxation pursuant to Chapter 32 of Title 58.1, Code of Virginia, located within the Town of Bowling Green, Virginia, an annual tax in an amount to be established annually by the Town Council of the Town of Bowling Green.

Section 7-201. Determination of amount.
The tax imposed hereby shall be determined by multiplying the real estate tax rate adopted by the Town Council annually times the assessed value of the real property as established by the last general reassessment for Caroline County made prior to such year, subject to lawful changes.

Section 7-202. Payment.
The tax imposed hereby shall be paid to the Treasurer of the Town of Bowling Green on or before December 5 of each year by the person or persons in whose name(s) such real property is assessed as of January 1 of the same year by the Commissioner of the Revenue of Caroline County, Virginia.

Section 7-203. Proration; refund.
Any taxpayer whose land, or any portion thereof, is, in any year, acquired or taken in any manner by the United States, the Commonwealth of Virginia, a political subdivision or a church or religious body, which is exempt from taxation by Article X, § 6, of the Constitution of Virginia, shall be relieved from the payment of taxes and levies on such land from the date of divestment thereof for that portion of the year in which the property was taken or acquired. Any taxpayer whose lands are so taken and who has paid his taxes and levies for the whole year shall be entitled to recover such portion of the taxes as he would be relieved from paying by this section.

Section 7-204. Failure to pay; penalty and interest.
(a) If any taxpayer fails to pay the tax imposed hereby on or before December 5 of the year in which the tax is assessed, the taxpayer shall pay a penalty equal to 10% of the assessed tax or $10, whichever is greater, provided that if the tax is less than $10 the penalty will equal the amount of the tax.
(b) In addition to the penalty imposed by this section, such taxpayer shall also pay interest on such delinquent tax and penalty in the amount of 10% per annum from December 6 in the year in which the tax is assessed until paid.
(c) No penalty or interest for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the tax is due if the assessment is made thereafter through the fault of an official of the Town of Bowling Green or the County of Caroline, and if such assessment is paid within two weeks after notice thereof is mailed.
(d) In the event that a transfer of real property occurs after January 1 of the tax year and a real estate tax bill has been mailed by the Treasurer to the taxpayer of record as of January 1 of that year or to some other person entitled to receive such notice, upon ascertaining that a property transfer has occurred the Treasurer shall invalidate the prior bill and reissue the bill in the name of the new owner. No penalty or interest for failure to pay such tax shall be imposed if the tax is paid within two weeks after the notice of the tax is mailed.
(e) Penalty and interest for failure to pay the tax imposed hereby shall not be assessed if such failure was not the fault of the taxpayer. Determination of fault shall be made by the Treasurer.

Section 7-205. Treasurer to send bills.
The Treasurer shall, as soon as reasonably possible in each year, but not later than 14 days prior to the due date of the taxes, send by United States Mail to each taxpayer assessed with taxes and levies for that year as shown on the land book of Caroline County for that year, a bill or bills for such taxes and levies. The Treasurer shall be deemed in compliance with this section if, upon written request of the obligor upon any note or other instrument of indebtedness secured by a mortgage or deed of trust on such real estate or upon certification by the obligee that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, the Treasurer mails the bill for such taxes to said obligee. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer.

Section 7-206. Lien for delinquent taxes.
There shall be a lien on real estate for the payment of taxes and levies, including penalty and interest, assessed thereon, which lien shall be prior to any other lien or encumbrance. The lien shall continue to be such a prior lien until actual full payment thereof shall have been made to the Treasurer of the Town of Bowling Green.

Section 7-207. List of delinquent taxes.
On July 1 of the year following the date payment of real estate taxes was due, a list of delinquent real estate taxes shall be returned by the Treasurer of the Town of Bowling Green to the Treasurer of Caroline County for entry in a delinquent tax book provided by the Town and maintained by the Treasurer of Caroline County.

Section 7-208. Refund for erroneous assessment.
In the event that the Commissioner of the Revenue of Caroline County certifies to the Treasurer of the Town that an erroneous assessment has been made on any real estate for which a tax has been

paid to the Treasurer, the Treasurer shall refund the amount of the erroneous tax, together with any penalty and interest paid thereon, to the taxpayer upon application by the taxpayer. No refund shall be made of any tax, penalty or interest when application therefore was made more than three years after the last day of the tax year for which such tax was assessed.

Section 7-209. Partial exemption from taxation for certain persons.

(a) Notwithstanding any other provision of Chapter 7, Article II, to the contrary, real estate and manufactured homes owned by and occupied as the principal residence of persons who, on the first day of the tax year, are not less than 65 years of age or who are determined to be totally and permanently disabled are exempted in part from Town real estate taxes, subject to the following restrictions and conditions:

(1) That the total combined income during the calendar year immediately preceding the year to which such exemption is to apply, from all sources of the owners of the dwelling living therein and of the owners' relatives who live in the dwelling, shall not exceed $18,000, provided that the first $4,000 of income of each relative, other than the spouse, of the owner who is living in the dwelling shall not be included in such total, and provided, further, that if a person who has previously qualified for an exemption can prove by clear and convincing evidence that, after so qualifying, the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for that person, and, if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit.

(2) That the net combined financial worth, including the present value of all equitable interests, as of the 31st day of December of the immediately preceding calendar year, of the owners and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre upon which it is situated, does not exceed $60,000.

(b) Those persons who reside within the Town who are eligible for the partial exemption shall make application by filing with the Commissioner of the Revenue of Caroline County the form prescribed by the Commissioner for application for partial exemption from county real estate taxes. A determination that a resident of the Town is eligible for partial exemption from county real estate taxes on his or her residence shall constitute a finding that such person qualifies for partial exemption from Town real estate and mobile home taxes on his or her residence.

(c) The amount of the exemption shall be a percentage of the total tax based on a combination of annual household income after exclusions and the net combined financial worth of the owners and owners' spouses, if any, excluding the value of the dwelling and one acre of land. The percentage of exemption to which qualifying persons shall be entitled shall be as follows:

	Combined Net Worth Excluding Value of Residence and One Acre of Land	
Annual Household Income (after exclusions)	**$0 to $30,000**	**$30,001 to $60,000**
$0 to $8,000	75%	60%
$8,001 to $12,000	55%	40%
$12,001 to $16,000	35%	20%
$16,001 to $18,000	10%	5%

(d) Annually, after the first of January but not later than the first day of April, a person claiming an exemption under this section shall file with the Commissioner of the Revenue of Caroline County, on forms provided by the county for certification as to county real estate taxes, an affidavit setting forth names of all related persons occupying the real estate for which the exemption is claimed, their combined income from all sources during the immediately preceding year and the total combined net worth of the owners of the property living therein and their spouses. A determination by the Commissioner of the Revenue that a person is or is not eligible for continued partial exemption from county real estate taxes shall constitute a determination of eligibility or noneligibility for partial exemption from Town real estate and mobile home taxes under this section.
(e) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed under this section and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any exemption for the then-current taxable year and the taxable year immediately following; provided, however, that a change in ownership to a spouse less than 65 years of age which resulted solely from the death of his or her qualified spouse shall result in a prorated exemption for the then-current taxable year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption is the numerator and the number 12 is the denominator.

Section 7-210. Eligibility and requirements.
(a) Properties located within the Town of Bowling Green which are zoned Agricultural A-1 and which are assessed by the Commissioner of Revenue for Caroline County for use-value purposes shall be entitled to use-value assessment and taxation in the Town of Bowling Green.
(b) Land may be eligible for special valuation and assessment when it meets the following criteria:
(1) AGRICULTURE: When devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Service, or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. A minimum of 5 acres in agriculture use is required.
(2) HORTICULTURE: When devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts and berries: vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services, or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil conservation program under an agreement with an agency of the federal government. A minimum of 5 acres in horticulture is required.
(3) FOREST: When devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester. A minimum of 20 acres in forest use is required.
(4) OPEN SPACE: When so used as to be provided or preserved for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, or assisting in the shaping of the character, direction, and timing of community development or the public interest and consistent with the local-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation. A minimum of 5 acres in Open Space use is required unless otherwise specified by ordinance.

(c) Property owners must submit an application on the basis of a use assessment to the Commissioner of Revenue for Caroline County at least sixty-days preceding the tax year for which such taxation is sought.
(d) The applicant must furnish, upon request to the Commissioner of Revenue for Caroline County, proof of all prerequisites to use valuation and assessment, such as proof of ownership, description, areas, uses, and production.
(e) Whenever land which has qualified for the assessment and taxation according to use has been converted to a non-qualifying use or rezoned to a more intensive use at the request of the owner or his agent, that land is subject to the roll-back tax as provided in the Code of Virginia § 58.1-3237(D), as amended.
(f) In the event of a change in use, acreage, or zoning, the property owner must report such change to the Commissioner of Revenue for Caroline County within six days of said change.

Article III Personal Property Tax

Section 7-300. Imposition of tax.

There is hereby imposed on all tangible personal property subject to local taxation pursuant to Chapter 34 of Title 58.1, Code of Virginia, including machinery and tools, having a situs in the Town of Bowling Green, Virginia, an annual tax in an amount to be established annually by the Town Council of the Town of Bowling Green.

Section 7-301. Determination of amount.

The tax imposed hereby shall be determined by multiplying the tangible personal property tax rate adopted by the Town Council annually times the fair market value of such property as reported to the Town by the Commissioner of Revenue of Caroline County, Virginia.

Section 7-302. Purpose; definitions; relation to other provisions.

(a) The purpose of this Article is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998, Code of Virginia § 58.1-3523 et seq., ("PPTRA") effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
(b) Terms used in these sections that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Virginia Code § 58.1-3523, as amended.
(c) To the extent that the provisions of Chapter 7, Article III conflict with any other provision of the Code of the Town of Bowling Green, Chapter 7, Article III shall control.

Section 7-303. Method of computing and reflecting tax relief.

(a) For tax years commencing in 2006, the Town of Bowling Green adopts the provisions of Items 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due for PPTRA and the reporting of such specific dollar relief on the tax bill.
(b) The Town Council of the Town of Bowling Green shall set by ordinance, resolution or as part of the annual budget adopted pursuant to Chapter 25 of Title 15.2 of the Code of Virginia the rate of tax relief at such a level that is anticipated fully to exhaust PPTRA relief funds provided to Bowling Green by the Commonwealth.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

Section 7-304. Allocation of relief among taxpayers.
(a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the Town of Bowling Green's annual budget relating to PPTRA relief.
(b) Relief with respect to qualifying vehicles shall be provided at a rate, annually fixed by Council and applied to the first $20,000 in value of each such qualifying vehicle that is estimated fully to use all available state PPTRA relief. The rate shall be established by the Town Council annually by ordinance, resolution or as part of the annual budget adopted by the Town of Bowling Green.

Section 7-305. Exemptions.
The tax imposed hereby shall not apply to household goods and personal effects as defined in § 58.1-3504 of the Code of Virginia, as amended.

Section 7-306. Applicability.
Except as otherwise provided by law, the tax imposed hereby shall apply to all tangible personal property, including machinery and tools, unless specifically exempted herein, located in the Town of Bowling Green on January 1 of the tax year or, in the case of motor vehicles, travel trailers, boats and airplanes, normally garaged, docked or parked in the Town of Bowling Green.

Section 7-307. Payment.
The tax imposed hereby shall be paid to the Treasurer of the Town of Bowling Green on or before December 5 of each year by the owner of such property as of January 1 of that year or, in the case of such property subject to taxation leased from any agency or political subdivision of the federal or state or local governments for use in a business for profit, the lessee thereof.

Section 7-308. Failure to pay; penalty and interest.
(a) If any taxpayer fails to pay the tax imposed hereby on or before December 5 of the year in which the tax is assessed, the taxpayer shall pay a penalty equal to 10% of the assessed tax or $10, whichever is greater, provided that if the tax is less than $10, the penalty will equal the amount of the tax.
(b) In addition to the penalty imposed by this section, such taxpayer shall also pay interest on such delinquent tax and penalty in the amount of 10% per annum from December 6 in the year in which the tax is assessed, until paid.
(c) No penalty or interest for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the tax is due if the assessment is made thereafter through the fault of an official of the Town of Bowling Green or the County of Caroline and if such assessment is paid within two weeks after notice thereof is mailed.
(d) Penalty and interest for failure to pay the tax imposed hereby shall not be assessed if such failure was not the fault of the taxpayer. Determination of fault shall be made by the Treasurer.

Section 7-309. Treasurer to send bills.
The Treasurer shall, as soon as reasonably possible in each year, but not later than 14 days prior to the due date of the taxes, send by United States Mail to each taxpayer assessed with taxes and levies for that year, as shown by the Town's records, a bill or bills for such taxes and levies.

Section 7-310. Partial exemption for manufactured homes of certain persons.
Notwithstanding any other provisions to the contrary, manufactured homes which are the principal residence of persons who qualify for partial exemption for taxation of this Code shall be partially exempt from the tax imposed by this article to the same extent and in the same manner as real estate is exempted by Section 7-209**.** Anyone who would qualify for a partial real estate tax exemption pursuant to Section 7-209 but for the fact that such person lives in a manufactured home shall be eligible for an exemption from personal property taxes on the manufactured home to the same extent and in the same manner as provided for in Section 7-209 for real estate. Loss of qualification for such real estate exemption shall mean loss of qualification for partial exemption from taxes on such person's manufactured home.

Article IV Meals Tax

Section 7-400. Imposition of tax; amount.
There is hereby imposed and levied by the Town on each person a tax at the rate of 4% on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. Said tax shall be in addition to any sales and use taxes imposed by the Commonwealth of Virginia or the County of Caroline, but shall apply in lieu of the tax on prepared food and beverages or any similar tax imposed by the County of Caroline.

Section 7-401. Definitions.
For the purposes of this article, the following terms shall have the meanings indicated:

"Cater" means the furnishing of food, beverages, or both, on the premises of another for compensation.

"Collector" means the Treasurer or designee.

"Delicatessen" means an establishment, or portion of an establishment, such as a grocery store or supermarket, that sells prepared sandwiches or salads as well as ingredients for sandwiches or salads.

"Food" means all food, beverages, or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not, and without regard to the manner, time or place of service.

"Food Establishment" means any place in or from which food or food products are prepared, packaged, sold or distributed in the Town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge or other similar establishment, public or private, and shall include private property outside of and continuous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

"Meals" means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and which is ready for

immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name and without regard to the manner, time or place of service.

"Retail Sale" means sale other than for the purpose of resale.

"Town" means the Town of Bowling Green.

"Treasurer" means the Treasurer of the Town of Bowling Green and any duly designated deputies, assistants, inspector or other employees.

Section 7-402. Collection.

Every person receiving any payment for food with respect to which a tax is levied hereafter shall collect and remit the tax imposed under this article from the purchasers of meals at the time payment for such meal is made, whether in cash, on credit or by credit card; provided, however, that no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. The tax shall be added to the cost of the meals by the seller. Taxes collected by the seller shall be held in trust for the Town until paid.

Section 7-403. Records, reporting and payment.

(a) Every seller of meals shall maintain accurate records of the amount paid to the seller monthly for meals and the tax collected thereon.

(b) Every seller of meals shall file a monthly report with the Treasurer setting forth the amount collected by the seller for meals and the amount of tax collected thereon during the previous month. The tax collected shall be submitted to the Treasurer of the Town with the report. Reports and the tax proceeds shall be submitted to the Treasurer not later than the 20th day of the month next following the month of collection.

(c) Records shall be maintained by every seller of meals for a period of five years.

Section 7-404. Inspection of records; assessment of tax and penalties.

(a) The Treasurer shall have the power to examine records relating to the sale of meals and the taxes thereon and the purchase of ingredients for meals at reasonable times and without unreasonable interference with the businesses of sellers of meals for the purpose of administering and enforcing the provisions of this article.

(b) In the event that no report or tax is remitted as required herein or if the Treasurer has reason to believe that an incorrect report or incorrect amount of taxes has been submitted, the Treasurer may proceed in such manner as he or she may deem best to gather information on which to estimate the correct amount of the tax due. Based on such information, the Treasurer shall assess against the seller of meals such tax and penalties provided for in this article, and shall notify such seller of meals, by certified or registered mail sent to the seller's last-known address, of such tax and penalties. The total amount thereof shall be payable to the Treasurer within 10 days from the date of mailing of the notice.

Section 7-405. Violations and penalties.

(a) If any seller of meals whose duty it is to do so shall fail to file any report required by this article or remit to the Treasurer any tax imposed hereby within the time and in the amount specified herein, there shall be added to the tax due a penalty of 10% of the amount in default for unpaid taxes and

10% of the taxes collected as shown on any overdue report. An additional penalty of like amount shall be added to the tax for every additional month such report or tax is overdue, until a maximum penalty of 25% is imposed.
(b) In the event that a false report is submitted to the Treasurer with the intent to defraud the Town of any tax due under this article, in addition to any criminal penalties which may be imposed by law, the Treasurer shall impose a penalty of 50% of the tax due for each and every collection period for which a false report was filed.
(c) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, except that any person failing to file a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is $1,000 or less. Any person violating or failing to comply with any other provisions of this article shall be guilty of a Class 1 misdemeanor.
(d) Except as provided in Section 7-405(c) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for or pay the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay such tax or who willfully evades or attempts to evade such tax or payment thereof shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.
(e) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from payment, collection or remittance of the tax as provided in this article.

Section 7-406. Exclusions and exceptions.
(a) The tax imposed under this article shall be not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.

(2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature.

(3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(4) Alcoholic and nonalcoholic beverages sold in factory sealed containers.

(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants and Children.

(6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables and nonfactory sealed beverages. This subsection shall not affect provisions set forth in Section 7-406(c)(3), (4) and (5) herein below.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day-care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics or other extended care facility to patients or residents thereof.

(5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis (not exceeding six times per calendar year) by a nonprofit educational, charitable or benevolent organization, church or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

Section 7-407. Gratuities and service charges.

(a) Where a purchaser provides a gratuity for an employee of a seller and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided that in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

(b) An amount or percent, whether designated as a gratuity, tip or service charge that is added to the price of the food and beverages by the seller and required to be paid by the purchaser as part of the selling price of the food and beverage is subject to the tax imposed by this article.

Section 7-408. Deduction from tax due.

For the purpose of compensating sellers of meals for the collection of the tax imposed by this article, every seller of meals shall be allowed 3% of the amount of the tax due and accounted for in the form of a deduction from such seller's monthly tax payment, provided that the tax is not delinquent at the time of payment.

Article V Bank Franchise Tax

Section 7-500. Definitions.

As used in this article, the following terms shall have the meanings indicated:

"Bank" means any incorporated bank, banking association or trust company organized by or under the authority of the laws of the commonwealth and any bank or banking association organized by or under the authority of the laws of the United States, doing business or having an office in the Commonwealth or having a charter which designates any place within the commonwealth as the place of its principal office, and any bank which establishes and maintains a branch in the Commonwealth under Article 5.1 (§ 6.1-44.1 et seq.) of Title 6.1 or Article 5.2 (§ 6.1-44.15 et seq.) of Title 6.1, whether such bank or banking association is authorized to transact business as

a trust company or not, and any joint-stock land bank or any other bank organized by or under the authority of the laws of the United States upon which the commonwealth is authorized to impose a tax. The term shall exclude all corporations organized under the laws of other states and doing business in the commonwealth, corporations organized not as banks under the laws of the commonwealth and all natural persons and partnerships.

"Bank Holding Companies" means any corporation that is organized under the laws of Virginia, is doing business in the commonwealth and is a bank holding company under the provisions of the Federal Bank Holding Company Act of 1956.

Section 7-501. Franchise tax assessment.

Every bank or trust company with an office in the Town of Bowling Green shall pay an annual franchise tax measured by its net capital, as defined in the Code of Virginia.

Section 7-502. Rate of taxation.

The franchise tax shall be assessed at 80% of the amount of the bank franchise tax imposed by the Commonwealth of Virginia, subject to apportionment as set forth in the Code of Virginia.

Section 7-503. Date of payment.

Every bank subject to the tax imposed by this article shall pay the tax to the Treasurer of the Town on or before June 1 of each year.

Article VI Transient Lodging Tax

Section 7-600. Definitions.

For the purpose of this article, the following words shall have the meanings indicated:

"Consumer" means every person who shall pay to any hotel, motel, boardinghouse, campground or other facility offering guest rooms a charge for the occupancy of any room or space.

"Hotel" means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house or other lodging place within the Town offering lodging, as defined herein, for compensation, to any transient as defined herein.

"Lodging" means space or room furnished any transient, including the cost of all meals, food and other services when furnished with space or room for a unit price.

"Person" means an individual, firm, partnership or corporation and combinations of individuals or any other legal entity by whatever term customarily known.

"Seller" means every person who operates a hotel, motel, boardinghouse, campground or other facility within the Town providing rooms or spaces to any consumer for occupancy for a charge.

"Transient" means any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging at any hotel as defined herein.

Section 7-601. Imposition; exemptions.

(a) Imposition. There is hereby imposed and levied upon the consumer of services provided by hotels, motels, boarding houses, campgrounds and other facilities offering guest rooms for rent for fewer than 30 days within the Town a transient occupancy tax for general Town purposes equal to 5% of the amount of charge to the consumer for the occupancy of any room or space.

(b) Exemptions.

(1) The tax shall not apply to charges for meals, telephone services or any services other than the charge for occupancy of the room or space, unless such services are included in a unit price for the room or space.

(2) The tax shall not apply to rooms or spaces rented and continuously occupied by the same individual or group for 30 or more days.

(3) No tax shall be payable under this article on charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.

Section 7-602. Collection procedure.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under Section 7-602 shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Section 7-603. Reports and remittance of tax collected.

(a) It shall be the duty of every seller in acting as the tax collection medium or agency for the Town to collect from the consumer, for the use of the Town, the tax hereby imposed and levied at the time of collecting the purchase price charged for the lodging, and the tax collected during each calendar month shall be reported to the Treasurer and remitted by each seller to the Treasurer on or before the 20th day of the following calendar month. The taxes collected by the seller shall be deemed to be held in trust by the seller until they have been remitted to the Treasurer. The required report shall be in such form as may be prescribed by the Treasurer.

(b) Any seller collecting the tax on transactions exempt or not taxable under Chapter 7, Article VI shall transmit to the Treasurer such erroneously collected tax unless and until he can affirmatively show that the tax has been refunded to the consumer or credited to his account.

Section 7-604. Interest and penalties upon failure or refusal to remit tax.

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under Chapter 7, Article VI within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer a penalty in the amount of 10% thereof or the sum of $10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition, interest thereon, at the rate 10% per annum, shall be collected. Such interest shall be computed upon the taxes and penalty from the first day following the day such taxes are due and payable.

Section 7-605. Failure or refusal to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under Chapter 7, Article VI and to make, within the time provided in this article, the reports and remittances required in this article, the Treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Treasurer shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person the tax, penalty and interest as provided for in this article and shall notify such person by registered mail sent to his last known address of the

amount of such tax, interest and penalty, and the total amount thereof shall be payable within 10 days from the date of the mailing of such notice.

Section 7-606. Records to be kept by person liable for collection and payment of tax.
It shall be the duty of every person liable for the collection and payment to the Town of any tax imposed by Chapter 7, Article VI to keep and to preserve for a period of three years suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the Town. The Treasurer may inspect such records at all reasonable times.

Section 7-607. Tax immediately due and payable upon cessation of business.
Whenever any person required to collect and remit the tax imposed and levied by Chapter 7, Article VI shall go out of business, dispose of his business or otherwise cease to operate, all of such taxes collected and any tax payable under this article shall thereupon be reported and remitted to the Treasurer of the Town.

Section 7-608. Violations and penalties.
It shall be a misdemeanor to willfully fail or refuse to file the report at the time or times required in Chapter 7, Article VI or to make a false statement with the intent to defraud in such report.

Article VII Licensing, Business, Professional Occupational

Section 7-700. Applicability of provisions; conflicting legislation.
Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by the Town of Bowling Green, whether or not compiled in the Code of this jurisdiction, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment and collection of licenses required and taxes imposed on businesses, trades, professions, occupations and callings and upon the persons engaged therein within the Town.

Section 7-701. Definitions.
For the purposes of Chapter 7, Article VII, unless otherwise required by the context, the following terms shall have the meanings indicated:
"Affiliated Group" means:

(a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and the common parent corporation directly owns stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of at least one of the other includable corporations. As used in Section 7-701, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing at least 80% of the total combined voting power of all classes of stock entitled

to vote or at least 80% of the total value of shares of all classes of the stock of each corporation; and more than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation. When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this subsection, shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied and, ultimately, the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Assessor" or "Assessing Official" means the Treasurer of the Town of Bowling Green.

"Base Year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715, Code of Virginia.

"Broker" means an agent of a buyer or a seller who buys or sells stocks, bonds, commodities or services, usually on a commission basis.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: advertising or otherwise holding oneself out to the public as being engaged in a particular business; or filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Commodity" means staples such as wool, cotton etc., which are traded on a commodity exchange and on which there is trading in futures.

"Contractor" has the meaning prescribed in § 58.1-3714B, Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contractor subcontract.

"Dealer" means any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

"Definite Place of Business" means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

"Financial Services" means:

(a) the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities and other investments, and includes the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this Article.

(b) Those engaged in rendering financial services include, but without limitation, the following:

(1) Buying installment receivables,
(2) Chattel mortgage financing,
(3) Consumer financing,
(4) Credit card services,
(5) Credit unions,
(6) Factors,
(7) Financing accounts receivable,
(8) Industrial loan companies,
(9) Installment financing,
(10) Inventory financing,
(11) Loan or mortgage brokers,
(12) Loan or mortgage companies,
(13) Safety deposit box companies,
(14) Security and commodity brokers and services,
(15) Stockbroker,
(16) Working capital financing.

"Gross Receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37, Title 58.1, Code of Virginia.

"License Year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Person" means an individual, corporation, partnership, firm, limited liability company, organization, association or other entity.

"Personal Services" means rendering for compensation any repair, personal, business or other services not specifically classified as "financial, estate or professional service" under this article, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

"Professional Services" means services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701, Code of Virginia. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

"Real Estate Services" means rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in Chapter 7, Article VII, and such services include, but are not limited to, the following:

(a) Appraisers of real estate.
(b) Escrow agents, real estate.
(c) Fiduciaries, real estate.
(d) Lessors of real property.
(e) Real estate agents, brokers and managers.
(f) Real estate selling agents.
(g) Rental agents for real estate.

"Retailer or Retail Merchant" means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

"Security" has the same meaning as in the Securities Act (§ 13.1-501 et seq.) of the Code of Virginia or in similar laws of the United States regulating the sale of securities.

"Services" means things purchased by a customer which do not have physical characteristics or which are not goods, wares or merchandise.

"Wholesaler" or "Wholesale Merchant" means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which, because of the quantity, price or other terms, indicate that they are consistent with sales at wholesale.

Section 7-702. Compliance required; display of license.

It shall be unlawful for any person to engage in or to hold himself out as being engaged in any business, profession, trade, calling, occupation or activity for which a Town license is required or upon which a Town license tax is imposed without having a currently valid Town license therefore or without having paid the required license tax or fee. Each license shall be displayed at the licensee's regular place of business. Each licensee having or maintaining no regular place of business within the Town shall carry on his person or in his vehicle such license at all times while engaged in his business, trade, profession, occupation or calling. Every licensee shall promptly display his license to any police officer of the Town at any and all reasonable times upon request of such officer.

Section 7-703. License requirements.

(a) Every person engaging in any business, trade, profession, occupation or calling (collectively hereinafter "a business") in the Town of Bowling Green, as defined in Chapter 7, Article VII, unless otherwise exempted by law, shall obtain a license for each such business if such person maintains a definite place of business in this jurisdiction, such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this article

shall be deemed a definite place of business, or there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in § 58.1-3717, § 58.1-3718 or §58.1-3728, respectively, Code of Virginia, or is a contractor subject to § 58.1-3715, Code of Virginia, or is a public service corporation subject to § 58.1-3731, Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; all of the businesses or professions are subject to the same tax rate or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and the taxpayer agrees to supply such information as the Assessor may require concerning the nature of the several businesses and their gross receipts. Every person who changes the location of his business, trade, profession, occupation or calling shall notify the assessing official of his new location and the license shall be amended to the new location.

(b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of 10% of the portion paid after the due date.

(e) A penalty of 10% of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the Treasurer may impose a ten-percent late payment penalty. The penalties shall not be imposed or, if imposed, shall be abated by the official who assessed them if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control. "Acted responsibly" means that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred and promptly rectifying a failure once the impediment was removed or the failure discovered. "Events beyond the taxpayer's control" include but are not limited to the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's

reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest, at the rate of 10% annually, shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided that the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

Section 7-704. Situs of gross receipts.

(a) General rule. Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed or, if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715, Code of Virginia.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed

under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in § 58.1-3709, Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at or were controlled from such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) Agreements. The Assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100% of its gross receipts from all locations in the affected jurisdictions, the Assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

Section 7-705. Limitations and extensions.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903, Code of Virginia, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, Code of Virginia, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to the following Section 7-706(b) or (d) of this article, or two years after the final decision in a court application pursuant to § 58.1-3984, Code of Virginia, or similar law for which collection has been stayed, whichever is later.

Section 7-706. Appeals and rulings.

(a) Any person assessed with a licensing tax under Chapter 7, Article VII as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies and any other facts relevant to the taxpayer's contention. The Assessor may hold a conference with the taxpayer if requested by the taxpayer or require submission of additional information and documents, further audit or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The Assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(b) Provided that an application is made within 90 days of an assessment, collection activity shall be suspended until a final determination is issued by the Assessor, unless the Assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of Section 7-703(f) of this article, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous or that a taxpayer desires to depart quickly from the locality, to remove his property therefrom, to conceal himself or his property therein or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax for the period in question.

(c) Any person assessed with a license tax under Chapter 7, Article VII as a result of an audit may apply within ninety days of the determination by the assessing official on an application pursuant to Section 7-706(a) above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821, Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1-1822, Code of Virginia. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to § 58.1-3984, Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the Tax Commissioner under Section 7-706(c) above, the assessing official shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the Assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of Section 7-703(f) of this article, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in Section 7-706(b) above.

(e) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the Assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law or a court decision or if the Assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Section 7-707. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the Assessor to verify the correctness of the tax paid for the license years assessable and to enable the Assessor to ascertain the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the Assessor in order to allow the Assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The Assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are

maintained there. In the event that the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the Assessor's office upon demand.

Section 7-708. Exclusions and deductions from gross receipts.

(a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or Town for the Virginia retail sales or use tax or for any local sales tax or any local excise tax on cigarettes or for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services, shall not be considered a rebate or discount to the licensee but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity, provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

Section 7-709. License fee and tax.

Every person or business subject to licensure under this article shall be assessed and required to pay annually as follows:

(a) A fee for the issuance of such license in the amount of $30; except that businesses having gross receipts less than $5,000 from the previous year and those businesses taxed under Section 7-709(b) hereof shall be exempt from the fee.

(b) Except as may be otherwise provided in § 58.1-3712, § 58.1-3712.1 and § 58.1-3713, Code of Virginia, every person or business with annual gross receipts of more than $20,000 shall be assessed and required to pay annually a license tax on all the gross receipts of such person or business includable as provided in this article at a rate set forth below for the class of enterprise listed:

(1) Any contractor not having an office within the Town but doing business within the Town in excess of $25,000 in any year shall pay a license tax of $0.15 cents per $100 on all business done in the Town. (Code of Virginia, § 58.1-3715)

(2) For wholesalers, $0.05 per $100 of purchases. (Code of Virginia, § 58.1-3716)

(3) For carnivals, circuses and speedways, $100 for each day of performances held in the Town of Bowling Green, or $500 for each and every week performances are held, whichever is less. (Code of Virginia, § 58.1-3728)

(4) For fortune-tellers, clairvoyants and practitioners of palmistry, $500 per year. (Code of Virginia, § 58-3726)

(5) For massage parlors, $500 per year. (Code of Virginia, § 58.1-3706)

(6) For itinerant merchants or peddlers, $50 per year. For itinerant merchants or peddlers of ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products, not grown or produced by them, $25 per year. No fee will be charged to peddlers at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products, grown or produced by them and not purchased by them for sale. (Code of Virginia, § 58.1-3717 and § 58.1-3719)

(7) A photographer having no regularly established place of business in the commonwealth who provides services consisting of the taking of pictures or the making of pictorial reproductions in the commonwealth shall pay $10 per year. (Code of Virginia, § 58.1-3727)

(8) For savings and loan associations and credit unions, $50 per year. (Code of Virginia, § 58.1-3730)

(9) For direct sellers, as defined in § 58.1-3719.1, Code of Virginia, with total annual sales in excess of $4,000, $0.15 per $100 of total annual retail sales or $0.05 per $100 of total annual wholesale sales, whichever is applicable.

(10) For telephone, telegraph, water, heat, light or power companies, or any combination thereof, 1/2 of 1% of the gross receipts of such companies accruing from sales to the ultimate consumer in the Town of Bowling Green, subject to the limitations set forth in § 58.1-3731, Code of Virginia.

(11) For coin-operated amusement machines, subject to limitations set forth in § 58.1-3720 and § 58.1-3721, Code of Virginia, $20 per machine, up to a maximum of $200.

(12) For motor vehicle dealers, $0.15 per $100 of gross receipts. (Code of Virginia, § 58.1-3734 and § 58.1-3735)

(13) Taxicab companies, and taxicab operators who do not drive for a company subject to this tax, $30 per year.

(14) All businesses not listed hereinabove and not otherwise exempt from taxation, $0.15 per $100 of gross receipts.

Section 7-710. Proration of tax.
In the event that a person has permanently ceased to engage in such business, trade, profession, occupation or calling within the Town during a year for which a license tax based on gross receipts has already been paid, the taxpayer shall be entitled upon application to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised in the Town. The Town may elect to remit any refunds in the ensuing fiscal year and may offset against such refund any amount of past due taxes owed by the same taxpayer. In no event shall the Town be required to refund any part of a flat fee or minimum flat tax. (See § 58.1-3710, Code of Virginia.)

Section 7-711. Exemptions.
Exemptions to the license tax or fee is as adopted in the Code of Virginia § 58.1-3703 C.

Section 7-712. Violations and penalties.
If any person engages in any business, trade, profession, occupation or calling without a license, such person shall be guilty of an offense and, unless otherwise specifically provided by law, shall, on conviction thereof, be fined not more than $1,000 for each separate offense. Such conviction shall not relieve any such person from the payment of the license tax prescribed by law.

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CHAPTER 8: FRANCHISE AGREEMENTS

Article I Cable Television Systems

Division 1 General Provisions

Division 2 Substantive Provisions

Division 3 Procedures and Enforcement

Article I Cable Television Systems

Division 1 General Provisions

Section 8-100. Statement of Applicability.

(a) This Ordinance establishes the criteria, procedures and standards by which the Town of Bowling Green will grant and enforce a cable franchise ordinance to a provider of cable services pursuant to § 15.2-2108 *et seq.* of the Code of Virginia as an alternative to a negotiated cable franchise pursuant to § 15.2-2108.20 of the Code of Virginia. The Town of Bowling Green, on request by an applicant, will continue to grant a negotiated cable franchise in accordance with Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 521 *et seq.*, and as provided by § 15.2-2108.20 of the Code of Virginia. The ability to seek an ordinance cable franchise under this Ordinance shall be available to:

(1) A cable operator with previous consent to use the public right-of-way to provide cable services whose negotiated franchise with the Town of Bowling Green is up for renewal and who seeks to renew that franchise pursuant to Virginia Code § 15.2-2108.30;

(2) A certificated provider of telecommunications services with previous consent to use the public rights-of-way in the Town of Bowling Green through a franchise; and

(3) A certificated provider of telecommunications services that lacked previous consent to provide cable service in the Town of Bowling Green but provided telecommunications services over facilities leased from an entity having previous consent to use of the public rights-of-way in the Town of Bowling Green through a franchise.

Section 8-101. Definitions.

"Act" means the Communications Act of 1934.

"Affiliate", in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

"Basic service tier" means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

"Cable administrator" means the local government official who is responsible for the administration of the ordinance cable franchise for the Town of Bowling Green.

"Cable operator" means any person or group of persons that (i) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (ii) otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service.

"Cable service" means the one-way transmission to subscribers of (i) video programming or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

"Cable system" or *"cable television system*" means any facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 subscribers; (ii) a facility that serves only to retransmit the

television signals of one or more television broadcast stations; (iii) a facility that serves only subscribers without using any public rights-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) any portion of a system that serves fewer than 50 subscribers in any Town of Bowling Green, where such portion is a part of a larger system franchised in an adjacent Town of Bowling Green; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

"Certificated provider of telecommunications services" means a person holding a certificate issued by the State Corporation Commission to provide local exchange telephone service.

"Council" means the governing body of the Town of Bowling Green.

"Franchise" means an initial authorization, or renewal thereof, issued by a franchising authority, including the Town of Bowling Green or the Commonwealth Transportation Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way. A negotiated cable franchise is granted by a Town of Bowling Green after negotiation with an applicant pursuant to § 15.2-2108.20. An ordinance cable franchise is granted by a Town of Bowling Green when an applicant provides notice pursuant to § 15.2-2108.21 that it will provide cable service in the Town of Bowling Green.

"Franchisee" means a person that has been granted a cable television franchise by the Town of Bowling Green pursuant to this Ordinance or any predecessor ordinance or franchise agreement.

"Force majeure" means an event or events reasonably beyond the ability of cable operator to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which cable operator's facilities are attached or to be attached or conduits in which cable operator's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

"Gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the cable system to provide cable services in the franchise area; however, in an ordinance cable franchise "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii)

revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

"Interactive on-demand services" means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

"Person" means an individual, partnership, association, joint stock company, organization, corporation, or any other legal entity, but such term does not include the Town of Bowling Green.

"Public rights-of-way" means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the Town of Bowling Green or the Commonwealth of Virginia now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining cable facilities. No reference herein, or in any franchise, to a "public right-of-way" shall be deemed to be a representation or guarantee by the Town of Bowling Green that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a franchisee shall be deemed to gain only those rights to use as are properly in the Town of Bowling Green and as the Town of Bowling Green may have the undisputed right and power to give.

"Transfer" means any transaction in which (i) an ownership or other interest in the cable operator is transferred, directly or indirectly, from one person or group of persons to another person or group of persons, so that majority control of the cable operator is transferred; or (ii) the rights and obligations held by the cable operator under the cable franchise granted under this article are transferred or assigned to another person or group of persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the cable franchise shall not include (a) transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator; (b) transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator; (c) any action that is the result of a merger of the parent of the cable operator; (d) any action that is the result of a merger of another affiliate of the cable operator; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the cable franchise or the system used to provide cable in order to secure indebtedness.

"VDOT" means the Virginia Department of Transportation.

"Video programming" means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

All terms used herein, unless otherwise defined, shall have the same meaning as set forth in Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and if not defined therein, then as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 *et seq.*, and if not defined therein, their common and ordinary meaning. In addition, references in this Ordinance to any federal or state law shall include amendments thereto as are enacted from time-to-time.

Section 8-102. Procedures to Obtain an Ordinance Cable Franchise.

(a) In order to obtain an ordinance cable franchise, an applicant shall first file with the Town Manager a request to negotiate the terms and conditions of a negotiated cable franchise under § 15.2-2108.20 of the Virginia Code and Bowling Green Cable Franchise.

(b) An applicant shall request in writing and make itself available to participate in cable franchise negotiations at least forty five (45) calendar days prior to filing a notice electing an ordinance cable franchise pursuant to Section 8-102(c) unless the applicant already holds a negotiated cable franchise from the Town of Bowling Green or chooses not to negotiate.

(c) After the forty five (45) day period set forth in Section 8-102(b), an applicant, through its president or chief executive officer, shall file written notice with the Town of Bowling Green that the applicant elects to receive an ordinance cable franchise at least thirty (30) days prior to offering cable service in the Town of Bowling Green. The notice shall be accompanied by a map or a boundary description showing:

(1) The initial service area in which the applicant intends to provide cable service in the Town of Bowling Green within the three (3) year period required for an initial service area; and

(2) The area in the Town of Bowling Green in which the applicant has its telephone facilities, if any.

(d) The map or boundary description of the initial service area may be amended by the applicant by filing with the Town of Bowling Green a new map or boundary description of the initial service area.

Section 8-103. Redlining, Reporting and Inspection.

A franchisee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. The Town of Bowling Green shall have the right to monitor and inspect the deployment of cable services, and the franchisee shall submit semiannual progress reports to the Town of Bowling Green pursuant to Section 8-132(b)(1) hereof detailing the franchisee's current provision of cable services, in accordance with the deployment schedule and its new service area plans for the next six months. The reports shall include visual (graphic, mapping) or written descriptions of actual geographic boundaries of the service areas identified by the franchisee pursuant to this Section.

Division 2 Substantive Provisions

Section 8-110. PEG Channels and Fees.

(a) PEG Channels

(1) The franchisee shall provide two governmental access ("PEG") channels dedicated solely to the Town of Bowling Green or its designee and not shared with any other jurisdiction (unless the Town of Bowling Green agrees otherwise).

(2) The Town of Bowling Green may, after a public hearing and upon a finding that the existing PEG channels are substantially utilized within the meaning of § 15.2-2108.22(1) of the Code of Virginia, require by ordinance that all Town of Bowling Green franchisees provide an additional PEG channel or channels, up to a maximum of three (3) additional PEG channels, provided that the total number of PEG channels, including the additional PEG channels, shall not exceed seven (7).

(3) All PEG channels shall be carried on a franchisee's basic tier.

(4) Pursuant to the provisions of Section 8-116, a franchisee shall either interconnect with one or more other franchisees in the Town of Bowling Green and/or Caroline County or directly connect to PEG insertion points to ensure the carriage of all required PEG access channels.

(5) The Town of Bowling Green or its designee shall be responsible for management, operation, and programming of the PEG access channels.

(b) PEG Fees

(1) A franchisee shall pay to the Town of Bowling Green a recurring fee ("the PEG Capital Fee") to support the capital costs of PEG facilities, including institutional networks which shall be negotiated and defined in the franchise agreement.

(2) A franchisee shall pay to the Town of Bowling Green an additional recurring fee ("the PEG Capital Grant Surcharge Fee") which shall be negotiated and defined in the franchise agreement.

(3) If the Town of Bowling Green and the franchisees cannot agree on a recurring PEG capital cost fee through negotiation under Section 8-110(b)(4), the Town of Bowling Green, by ordinance adopted after a public hearing, shall impose a recurring fee, calculated on a per subscriber or percentage of gross revenue basis, to support the reasonable and necessary capital costs of PEG access facilities, including institutional networks, however, such fee may not exceed the PEG Capital Fee previously imposed on cable operators by the Town of Bowling Green.

(4) Any and all PEG fees permitted or imposed under Section 8-110(b) shall be paid by the franchisee to the Town of Bowling Green on a schedule as negotiated and defined by the franchise agreement.

Section 8-111. Franchise Fee– Omitted

Section 8-112. Customer Service Standards.

(a) A franchisee shall be subject to the following customer service standards consistent with 47 C.F.R. §§ 76.309, 76.1602, 76.1603, 76.1618 and 76.1619:

(1) A franchisee will maintain a local, toll-free access line which will be available to its subscribers 24 hours a day, seven days a week.

[a] Trained representatives will be available to respond to customer telephone inquiries during normal business hours.

[b] After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.

(2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions as measured on a quarterly basis.

(3) The operator will not be required to acquire or perform surveys to measure compliance with the telephone answering standards in Section 8-112(a)(2) unless an historical record of complaints indicates a failure to comply or it is required of the franchisee.

(4) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(5) A franchisee shall accurately collect and maintain data to measure its compliance with the telephone answering standards in Sections 8-112(a)(2) and 8-112(a)(3).

(6) Customer service centers and bill payment locations will be open at least during normal business hours and will be conveniently located.

(7) Installations, Outages, and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five percent (95%) of the time as measured on a quarterly basis.

[a] Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are within 125 feet of the existing distribution system.

[b] Excluding conditions beyond the control of the franchisee, the franchisee will begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The franchisee must begin actions to correct other service problems the next business day after notification of the service problem.

[c] The "appointment window" alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time block during normal business hours. A franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

[d] A franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary, at a time which is convenient for the customer.

(8) A franchisee shall accurately collect and maintain data to measure its compliance with Sections 8-112(a)(6) and 8-112(a)(7).

(9) Communications between a franchisee and its subscribers.

[a] Notification to subscribers. A franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

[1] Products and services offered;

[2] Prices and options for programming services and conditions of subscription to programming and other services;

[3] Installation and service maintenance policies;

[4] Instructions on how to use the cable service;

[5] Channel positions of programming carried on the system;

[6] Refund policy; and

[7] Billing and complaint procedures, including the franchisee's office hours, address and telephone number of the local cable office.

[b] A franchisee shall notify subscribers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the franchisee. In addition, a franchisee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by Section 8-112(a)(8) of this section.

[c] Billing

[1] A franchisee's bills to its subscribers shall be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

[2] In case of a billing dispute, a franchisee must respond to a written complaint from a subscriber within thirty (30) days.

[3] Refund checks will be issued promptly, but not later than either:

{a} The customer's next billing cycle following resolution of the request, no later than the end of the next billing cycle or thirty (30) days, whichever is earlier, OR

{b} The return of the equipment supplied by a franchisee if service is terminated.

[4] Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

[5] A franchisee shall maintain an office within the franchise area for, at minimum, the payment of bills, delivery and return of subscriber equipment, requests for installation, disconnection, and reinstatement of cable service, addressing of subscriber inquiries, and receipt of subscriber complaints.

[d] A franchisee shall provide parental control devices to all subscribers who wish to be able to block out any objectionable channel(s) of programming from the cable service entering the subscriber's home.

[e] A franchisee shall maintain and provide to the Town of Bowling Green on request a log of all subscriber complaints indicating the action taken by the franchisee.

Section 8-113. Service Buildout Requirements.

(a) Within no less than three (3) years of the date of the grant of the franchise, a franchisee shall make cable service available to all of the occupied residential dwelling units in the initial service area selected by the franchisee pursuant to Section 8-102(c)(1) hereof.

(b) Within seven (7) years of the date of the grant of the franchise, a franchisee shall make cable service available to no less than sixty five (65%) of the residential dwelling units throughout the area in the Town of Bowling Green in which the franchisee has telephone facilities.

(c) Notwithstanding Sections 8-113(a) and 8-113(b) above, a franchisee shall not be required to make cable service available:

(1) for periods of force majeure;

(2) for periods of delay caused by the Town of Bowling Green;

(3) for periods of delay resulting from the franchisee's inability to obtain authority to access rights-of-way in the service area;

(4) in areas where developments or buildings are subject to claimed exclusive arrangements;

(5) in developments or buildings that the franchisee cannot access under industry standard terms and conditions after good faith negotiation;

(6) in developments or buildings to which the franchisee is unable to provide cable service for technical reasons or that require facilities that are not available or cannot be deployed on a commercially reasonable basis;

(7) in areas where it is not technically feasible to provide cable service due to the technology used by the franchisee to provide cable service;

(8) in areas where the average occupied residential household density is less than twenty (20) occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the franchisee's active cable or such higher average density number as may be contained in an existing operator's cable franchise; or

(9) when the franchisee's prior service, payment, or theft of service history with a subscriber or potential subscriber has been unfavorable.

Should, through new construction, an area within a franchisee's service area meet the density requirement set forth in Section 8-113(c)(8), the franchisee shall, subject to the exclusions set forth in Sections 8-113(c)(1) through 8-113(c)(7) and 8-113(c)(9), provide cable service to such area

within six (6) months of receiving notice from the Town of Bowling Green that the density requirements have been met.
(d) During the twelve (12) month period commencing after the seventh-year anniversary date of the grant of a franchise, the Town of Bowling Green may, by ordinance adopted after a public hearing in which the Town of Bowling Green specifically finds that such a requirement is necessary to promote competition in cable services within the Town of Bowling Green, require a franchisee to make service available to eighty percent (80%) of the residential dwelling units in the area in the Town of Bowling Green in which the franchisee has telephone facilities within no less than ten (10) years of the date of the grant of the franchisee's franchise, subject to the exclusions set forth in Sections 8-113(c)(1) through 8-113(c)(9) above. If the franchisee notifies the Town of Bowling Green that it is unwilling to accept this additional service availability requirement, the Town of Bowling Green may, after notice and public hearing, terminate the franchisee's ordinance cable franchise.
(e) A franchisee shall file with the Town of Bowling Green a certificate at its third and seventh, and if applicable, tenth, anniversary dates certifying its compliance with the foregoing service requirements.

Section 8-114. Rights-of-Way Management.
(a) All excavation and reconstruction work by a franchisee in the public right-of-way must be in compliance with the requirements of the Code of the Town of Bowling Green, Virginia, and any applicable Code of Caroline County, Virginia, or VDOT standards. It shall be the responsibility of a franchisee to obtain any required permits, to review all applicable excavation, reconstruction, restoration, repair and permitting requirements, and to become familiar with such requirements before beginning any excavation, reconstruction, restoration or repair work in the public right-of-way or private property.
(b) Any equipment or facilities installed by a franchisee in the public right-of-way shall be installed, located, erected, constructed, reconstructed, replaced, restored, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not (1) to endanger or interfere in any manner with improvements the Town of Bowling Green or VDOT may deem appropriate to make; or (2) to interfere with the rights of any private property owner; or (3) to hinder or obstruct pedestrian or vehicular traffic.
(c) Whenever the Town of Bowling Green or VDOT shall determine that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way, the Town of Bowling Green or VDOT may require by written notification that any properties or facilities of the franchisee be removed or relocated. Within sixty (60) days after receipt of notification, unless the Town of Bowling Green or VDOT extends such period for good cause shown, the franchisee shall remove or relocate its facilities to such place and under such terms and conditions as specified by the Town of Bowling Green or VDOT. The franchisee shall bear all expenses associated with the removal and relocation except that the Town of Bowling Green or VDOT will issue, without charge to the franchisee, whatever local permits are required for the relocation of franchisee's facilities. If the franchisee does not complete its removal or relocation within sixty (60) days or such other period as authorized by the Town of Bowling Green or VDOT, the Town of Bowling Green or VDOT may take such actions as necessary to effect such removal or relocation at the franchisee's expense.

Section 8-115. Institutional Networks.
(a) Any franchisee holding a cable franchise from the Town of Bowling Green that was granted before November 1, 2007, under which the franchisee is required to provide institutional network

facilities or capabilities shall continue to provide such facilities or capabilities for the remaining term of that franchisee's franchise, as that remaining term was defined in that franchisee's franchise.
(b) On the expiration of a franchise subject to Section 8-115(a) hereof, the franchisee shall, within sixty (60) days after written request by the Town of Bowling Green, either:

(1) remove, at franchisee's expense, all of its institutional network facilities and equipment owned by franchisee from Town of Bowling Green property (excluding the public right-of-way), or

(2) enter into good faith negotiations with the Town of Bowling Green to convey such facilities and equipment to the Town of Bowling Green at a price not exceeding franchisee's then-current net, depreciated book value of those facilities and equipment. If, despite such good faith negotiations, the franchisee and the Town of Bowling Green cannot agree on a sales price for such facilities and equipment, the franchisee shall, within one hundred twenty (120) days, either:

[a] remove such facilities and equipment, at franchisee's expense, from Town of Bowling Green property, or

[b] abandon such facilities and equipment.

Section 8-116. Interconnection.

(a) Unless otherwise agreed to by the Town of Bowling Green or unless the franchisee elects direct connection pursuant to Section 8-116(f) below, a franchisee shall interconnect its cable system with the cable systems of one or more franchisees, as necessary, located in the Town of Bowling Green for the purpose of ensuring the carriage of all PEG access channels.
(b) Any new cable operator franchised pursuant to this Ordinance on or after November 1, 2007 shall promptly enter into negotiations to interconnect its cable system with the presently operating cable system.
(c) The construction costs and ongoing expenses of the interconnection shall be shared fairly between the interconnecting franchisee and incumbent Franchisee. If no interconnection agreement is reached within one hundred eighty (180) days after the effective date of a franchisee's franchise, the Town of Bowling Green shall designate the point of interconnection. As soon as practicable after the Town's designation of the point of interconnection or the negotiation of an interconnection agreement, but in no event exceeding 180 days after the effective date of its franchise, a franchisee shall carry all PEG access channels on its cable system as required under Section 8-110(a) hereof.
(d) A franchisee shall ensure that all PEG access channel signals carried on its system, whether via interconnection or other method, comply with all applicable FCC signal quality and technical standards for all classes of signals, and that interconnection or direct connection pursuant to Section 8-116(f) below shall preserve the technical and signal quality of all PEG access channel signals.
(e) Franchisees shall share equally the costs of maintenance, repair, replacement and improvements to interconnection facilities. Franchisees shall cooperate in carrying out any such work. If the franchisees fail to reach agreement on such maintenance and repair, the Town of Bowling Green may carry out any work deemed necessary by it. The Town of Bowling Green will bill the franchisees equally for the work, and the franchisees shall remit the amounts so billed within thirty (30) days of receipt of the bill from the Town of Bowling Green.
(f) A franchisee may, if it wishes, direct connect with PEG access origination locations in lieu of interconnection with the incumbent Franchisee. The PEG origination location is Town Hall, Bowling Green, Virginia. Alternatively, if a franchisee can obtain all of the PEG access channels at a single or lesser number of direct connection locations, it may do so. The direct connection options set forth in Section 8-116(f) are subject to the one hundred and eighty (180) day time limit set forth in Section 8-116(c) above.

Section 8-117. Service to Public Locations.
A franchisee shall provide, without charge, within the area in the Town of Bowling Green actually served by its cable system, one cable service outlet activated for basic cable service to each fire and rescue squad station, police station, public library, and any other Town governmental building.

Section 8-118. Future Technology.
(a) No more frequently than one time during each year during the term of the Franchise Agreement starting in the third year of this Agreement, if requested in writing by the Town of Bowling Green, Franchisee shall review with the Town of Bowling Green changes in relevant cable television technology that might benefit Town of Bowling Green Subscribers. Relevant cable technology is that technology necessary to give the cable system the capability of providing cable services substantially equal to those services available to at least 50% of all Subscribers in the following Virginia localities: Lynchburg, Blacksburg, Charlottesville, Harrisonburg, Fredericksburg and such other Virginia localities as mutually agreed; and Maryland municipalities of mid-size having more than 25,000 cable customers as mutually agreed. Such technology shall include but not be limited to converters, cable ready television sets, high definition television, digital compressions, cable modems, remote control devices, scrambling technology, additional interactive capability, and digital video recording technologies.
(b) To the extent consistent with Applicable Law, the Town shall have the option of requiring Franchisee to provide relevant cable technology when the following requirements have been met:

(1) The Town must meet with the Franchisee and negotiate in good faith to identify the cable technologies provided in the benchmark localities which are not currently provided in the Town of Bowling Green;

(2) Such relevant cable technology is technically and economically feasible to be delivered to subscribers in the Town of Bowling Green. Economically feasible shall mean that Franchisee shall have prospects of earning a reasonable rate of return as that term may be defined by the FCC for applicable infrastructure investments by cable operators.

Section 8-119. Emergency Powers and Authority.
(a) Emergency Powers. In the event of an emergency, or where a franchisee's cable system creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the franchisee shall remove or relocate any or all parts of franchisee's cable system at the request of the Town of Bowling Green. If the franchisee fails to comply with the Town's request, the Town of Bowling Green may remove or relocate any or all parts of the franchisee's cable system upon reasonable notice to the franchisee.
(b) Emergency Alert System.

(1) The franchisee shall comply with the Emergency Alert System (EAS) requirements of the FCC in order that emergency messages may be distributed over the System. A franchisee shall install and thereafter maintain an EAS for use by the Town of Bowling Green.

(2) The EAS shall at all times be operated in accordance with federal requirements and other applicable law. In the event of an emergency, as determined by the designated Town of Bowling Green official or other official designated by any approved state or local EAS plan, and subject to applicable federal and Virginia law requirements, the EAS shall be remotely activated by telephone and shall allow a representative from the Town of Bowling Green or other official designated by any approved state or local EAS plan, in the event of an emergency or for reasonable testing, to override the audio and video on all channels on the franchisee's cable system without the assistance of the franchisee.

(3) The Town of Bowling Green or other designated body responsible under any approved state or local EAS plan shall provide reasonable notice to the franchisee prior to any test of the EAS. The franchisee shall cooperate with the Town of Bowling Green or other designated body responsible under any approved state or local EAS plan in any such test.

(4) A franchisee shall maintain the EAS and shall periodically upgrade the EAS at the franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

Section 8-120. Term.

(a) All ordinance cable franchises granted pursuant to this Ordinance shall have a term of fifteen (15) years; however, the franchise agreement shall be reviewed every five years during the term by the parties.

(b) For any cable ordinance franchise granted pursuant to this Ordinance, the date of the grant of the franchise shall be deemed to be the date that the franchisee began providing cable service in Town of Bowling Green.

Division 3 Procedures and Enforcement

Section 8-130. Notice and Hearing Procedures.

(a) In the event that the Town of Bowling Green believes that a franchisee has not complied with the requirements of this Ordinance, Article 1.2 (§ 15.2-2108 et. seq.) of Chapter 121 of Title 15.2 of the Virginia Code, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, the following procedures shall apply:

(1) The Town of Bowling Green shall informally discuss the alleged noncompliance with the franchisee.

(2) In the event that the informal discussion does not resolve the matter, the Town of Bowling Green shall notify the franchisee in writing of the exact nature of the alleged noncompliance.

(3) Within fifteen (15) days from receipt of the Town's written notice, the franchisee shall:

[a] file a written statement with the Town of Bowling Green contesting, in whole or in part, the alleged noncompliance; or

[b] cure the alleged noncompliance and file written notification to the Town of Bowling Green of the cure; or

[c] in the event the nature of the noncompliance prevents the franchisee from curing the noncompliance within fifteen (15) days, the franchisee shall initiate reasonable steps to remedy the noncompliance and file with the Town of Bowling Green a written statement setting forth the steps being taken and the projected date that they will be completed. The franchisee's cure shall be completed within thirty (30) days of the projected date.

(b) In the event the franchisee fails to cure the default within fifteen (15) days, fails to file a timely written response, or fails to timely complete the remediation, the Town of Bowling Green, if it wishes to continue its investigation into the default, shall schedule a public hearing. The franchisee shall be notified in writing at least thirty (30) business days prior to the public hearing and shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. The Town of Bowling Green shall:

(1) provide public notice of the hearing in compliance with Virginia law;

(2) hear any person interested in the violation under review; and

(3) provide the franchisee with an opportunity to be heard.

(c) The Town of Bowling Green shall, within a reasonable time after the closure of the public hearing, issue findings and conclusions in writing, setting forth the basis for the findings, the proposed cure plan and time line for curing the violation, if the violation can be cured, and the penalties, damages and applicable interest, if any, owed.
(d) Subject to applicable federal and Virginia law and the provisions of this Ordinance, if the Town of Bowling Green determines pursuant to a public hearing that a franchisee is in violation of any provision of this Ordinance, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the Town of Bowling Green may apply one or a combination of the following remedies:

(1) seek specific performance or other equitable relief;
(2) commence an action at law;
(3) apply penalties in accordance with Section 8-131(b), if applicable; or
(4) apply liquidated damages in accordance with Section 8-131(c), if applicable.

(e) The Town of Bowling Green may designate the Cable administrator or other designee to conduct the hearings and issue findings and conclusions under this subsection. If the Town of Bowling Green does so, the franchisee may appeal the determination of the Cable administrator or other Town of Bowling Green designee to the Council. Such an appeal shall be heard at a lawfully noticed public hearing.
(f) Any franchise revocation rights applicable to an existing franchisee under a franchise in effect prior to the adoption of this Ordinance shall also apply to franchises granted under this Ordinance.
(g) In the event a franchisee submits notification of unwillingness to comply with any additional service availability requirements as contained in Section 8-113 in this Ordinance, or fails to comply with these additional service requirements, the franchisee's franchise may be terminated after written notice and a public hearing.

Section 8-131. Remedies.
(a) Penalties. If, pursuant to the public hearing required by Section 8-130, the Town of Bowling Green determines that a cable operator has failed to materially comply with this Ordinance, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the Town of Bowling Green may impose any penalty for a violation of the terms of an ordinance franchise under applicable Virginia or Town of Bowling Green law including, without limitation, revocation of the franchise.
(b) Liquidated Damages. The franchisee shall not be charged with multiple violations for a single act or event affecting a single subscriber or for a single act or event affecting multiple subscribers on the same day.

(1) If, pursuant to the public hearing required by Section 8-130, the Town of Bowling Green determines that a franchisee has failed to materially comply with this Ordinance, Article 1.2 (§§ 15.2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the Town of Bowling Green may impose liquidated damages as provided in this subsection. Because a franchisee's failure to comply will result in injury to the Town of Bowling Green and subscribers and because it will be difficult to estimate the extent of such injury, the Town of Bowling Green and, by its acceptance of an ordinance franchise pursuant to this Ordinance, a franchisee agree to the following liquidated damages for the following material violations which represent both parties' best estimate of the damages resulting from the specified non-compliance.

[a] For failure to comply with PEG channels: $200.00/day for each violation for each day the violation continues after written notice has been provided to the franchisee by the Town of Bowling Green of such violation.

[b] For failure to supply complete and accurate information, reports and filings required by the Town of Bowling Green as required by this Ordinance: $100.00/day for each unrelated material violation for each day the violation continues after written notice and an applicable cure period has been provided to the franchisee by the Town of Bowling Green of such violation.

[c] For failure to comply with any the customer service standard set forth in Section 8-112 of this Ordinance: $100.00/day for each violation for each day the violation continues.

[d] For failure to pay in full or in timely fashion any fee to support PEG access pursuant to Section 8-110(b) of this Ordinance: $100.00/day for each violation for each day the violation continues, in addition to the balance of such fees owed and interest.

(2) The Town of Bowling Green may reduce or waive any of the above liquidated damages if it determines, in its discretion, that such waiver is in the public interest.

(3) If a court of competent and binding jurisdiction determines that liquidated damages cannot be imposed by this Ordinance rather than by contract, the foregoing liquidated damages shall be construed to be penalties to the full extent allowed and contemplated by Section 15.2-2108.22(6) of the Code of Virginia.

(c) Interest on unpaid amounts. Interest on any and all unpaid amounts owed by a franchisee to the Town of Bowling Green shall accrue at the legal rates set forth in Virginia Code § 6.1-330.53.

(d) Cure. Any violation or noncompliance with this Ordinance, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, shall not be deemed cured until all penalties, damages and interest, if any, that are owed, are paid.

Section 8-132. Auditing & Reporting.

(a) Auditing

(1) Once every twenty-four (24) months and upon thirty (30) days' written notice to the franchisee, the Town of Bowling Green shall have the right to:

[a] inspect and copy at any time during normal business hours at such location as the Town of Bowling Green may designate, all books and records of a franchisee and any other person who is a "cable operator" of the franchisee's cable system reasonably necessary to audit and confirm the franchisee's accurate payment of any fees required by this Ordinance; and

[b] audit and recompute any amounts determined to be payable under this Ordinance or a franchise agreement. Such records shall include, but are not limited to: receipts, financial and accounting records, contracts, computer records, codes, programs and disks or other storage media or other material that the Town of Bowling Green reasonably deems necessary in order to monitor compliance under this Section. The franchisee may request that proprietary and confidential information be kept from public disclosure, but only as permitted by the Virginia Freedom of Information Act.

(2) The Town's audit expenses shall be borne by the Town of Bowling Green unless the audit discloses an underpayment of more than three percent (3%) of any quarterly payment, but not less than $5,000.00, in which case the Town's out-of-pocket costs of the audit shall be borne by the franchisee as a cost incidental to the enforcement of its franchise. Any additional undisputed amounts due to the Town of Bowling Green as a result of the audit shall be paid by the franchisee

within thirty (30) days following written notice to a franchisee by the Town of Bowling Green of the underpayment.

(b) Reporting

(1) Deployment Reports

[a] A franchisee shall submit to the Cable administrator, within thirty (30) days after the close of the second and fourth calendar quarters, semiannual progress reports detailing the franchisee's current deployment and provision of cable services within its initial service area and, after the first three (3) years of its franchise, within all parts of the Town of Bowling Green where the franchisee has telephone facilities and projecting the franchisee's system deployment plans and new services areas for the next six (6) months.

[b] A franchisee shall submit, within thirty (30) days after the close of the second and fourth calendar quarters, semiannual reports to the Cable administrator providing sufficient information for the Town of Bowling Green to assess the franchisee's compliance with Sections 8-103, 8-113(a), 8-113(b), 8-113(c), and, if applicable, 8-113(e) hereof and with §§ 15.2-2108.21 (D) and 15.2-2108.22 (12) of the Code of Virginia.

(2) Annual Reports. An annual report to Town Council shall be presented by the franchisee at a regular public meeting of the Town Council. No later than ninety (90) days after the end of its fiscal year, a franchisee shall submit a written report to the Town Council, which shall include:

[a] A summary of the previous year's activities in development of the franchisee's cable system, including, but no limited to, descriptions of cable services begun or dropped, the number of cable subscribers gained or lost for each category of service, the number of pay units sold, the amount collected annually from other users of the cable system and the character and extent of the cable services rendered to such users;

[b] A summary of the number of complaints relating to billing, technical services, installation, construction, front counter or telephone answering problems, programming, and other complaints and the nature of the remedial efforts, if any, undertaken by the franchisee to address recurring complaints that are not resolved individually on a case-by-case basis;

[c] If PEG fees are paid on a percentage of gross revenue, an annual report from the previous calendar year showing franchisee's total operating revenues from each type of cable service, its gross revenue, and the amount of the franchisee fees and PEG access fees paid by the franchisee to the Town of Bowling Green. The report shall include a report from an independent auditor or a duly authorized officer of the franchisee who has reviewed the financial statements of franchisee for the year, and found that franchisee's gross revenue, as defined in this Ordinance, are as reported in the annual report;

[d] A copy of the company's annual report, if any, of franchisee's parent corporation;

[e] An ownership report, indicating all persons who at any time during the preceding year did control or benefit from an interest in the franchisee of five percent (5%) or more;

[f] A list of major cable-related projects undertaken in the past year and planned for the current year, including construction and upgrade schedules for any new, relocated, or upgraded aerial or underground facilities;

[g] A report on any technical tests and measurements on the system made by the franchisee for compliance with applicable FCC standards;

[h] A report on the number of system subscribers, by type, the number of miles of cable plant in the system, and the number of residents passed by the cable system; and

[i] Such other information as the Cable administrator or the Council reasonably and lawfully may direct in order to ascertain franchisee's compliance with this Ordinance, Article 1.2

(§§ 15.2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder.

(3) Quarterly Customer Service Reports. Unless this requirement is waived in whole or in part by the Town of Bowling Green, no later than thirty (30) days after the end of each calendar quarter, the franchisee shall submit a written report to the Town of Bowling Green, in a form reasonably satisfactory to the Town of Bowling Green, which shall include:

[a] A report showing the number of service calls received by type during that quarter, including any property damage to the extent such information is available to the franchisee, and any line extension requests received during that quarter;

[b] A report showing the number of outages for that quarter, and identifying separately each planned outage of one or more nodes for more than one hour at a time, the time it occurred, its duration, and the map area (using the most recent edition of the ADC map or its equivalent, as specified by the Town of Bowling Green) and, when available to the franchisee, number of homes affected; and, when the franchisee can reasonably determine that at least 25 homes were affected, each unplanned outage affecting more than 25 homes for more than one hour, the time it occurred, the reason for the disruption and its causes, its estimated duration and the tax map area and, when available to the franchisee, the number of homes affected; and

[c] A report showing the franchisee's performance with respect to all applicable customer service standards established in 47 C.F.R. §76.309(C) and this Ordinance, signed by an officer or employee certifying its performance with these customer service standards. If the franchisee is unable to certify full compliance for any calendar quarter, it must indicate in its filing each standard with which it is in compliance and in noncompliance, the dates of noncompliance, the reason for the noncompliance and a remedial plan. The franchisee's failure to file a compliance certificate or noncompliance statement as required herein shall subject the franchisee to the liquidated damages established in this Ordinance. The franchisee shall keep such records as are reasonably required to enable the Town of Bowling Green to determine whether the franchisee is substantially complying with all such customer service standards, and shall maintain adequate procedures to demonstrate substantial compliance.

(4) If the franchise is terminated, the franchisee shall file with the Town of Bowling Green, within ninety (90) days after such termination, a financial statement clearly showing the gross revenue received by the franchisee since the end of the previous fiscal quarter. The franchisee shall pay the PEG fee owed pursuant to Section 8-110 and any other fees or amounts due at the time such statement is filed.

(5) Additional Reports.

[a] Within thirty (30) days of the Town's request, the Incumbent Franchisee shall submit to the Town of Bowling Green all information needed to calculate the PEG Capital Grant Surcharge Fee as set forth in Section 8-110(b)(2) hereof and § 15.2-2108.22(3)(ii)(a) and (b).

[b] The Town of Bowling Green may, upon reasonable written notice, require such additional information with respect to the reports to be submitted as may be reasonably necessary for the Town's oversight of the franchise, as determined by the County in its reasonable discretion and as permitted by Virginia law.

Section 8-133. Itemization.

(a) By agreement of the parties, a franchisee providing cable service may identify as a separate line item on each regular bill of each subscriber:

(1) the amount of the total bill assessed as a franchise fee, or any equivalent fee, that the franchisee has paid to the Town of Bowling Green;

(2) the amount of the total bill assessed to satisfy any requirements imposed on the franchisee, including those to support PEG access facilities, including institutional networks; and
(3) the amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental entity on the transaction between the franchisee and the subscriber.

Section 8-134. Modifications.
Any modification to a franchise agreement shall be in writing and shall require the approval of the Town Council.

Section 8-135. Transfer.
No transfer of any franchise granted under this Ordinance shall occur without the prior consent of the Town of Bowling Green, provided that the Council shall not unreasonably withhold, delay, or condition such consent. No transfer shall be made to a person, group of persons or affiliate that is not legally, technically, and financially qualified to operate the cable system and satisfy the franchise obligations.

Section 8-136. Surrender.
A franchisee that receives an ordinance cable franchise under this Ordinance that considers, within three (3) years after the grant of a cable franchise under this Ordinance, that its provision of cable services within the Town of Bowling Green is no longer economically feasible, may notify the Town of Bowling Green in writing and surrender its cable franchise for the entire Town of Bowling Green without liability to the Town of Bowling Green (other than for any fees, taxes, or payments owed for the period before the franchisee surrendered the franchise and ceased providing cable service in the Town of Bowling Green). If a franchisee so surrenders its cable service franchise, it shall not be eligible to obtain a new cable service franchise within the Town of Bowling Green until after the normal expiration date of the franchise that such franchisee surrendered.

Section 8-137. Renewal.
(a) A franchisee electing to renew its cable franchise shall do so:
(1) pursuant to the renewal procedures in 47 U.S.C. § 546, or
(2) by providing notice to the Town of Bowling Green that it will opt into an ordinance cable franchise pursuant to this Ordinance.
(b) A franchisee may file such notification that its cable franchise will be renewed by an ordinance cable franchise not more than one year in advance of the expiration date of its existing franchise.
(c) Except as provided by federal law, the restrictions in §§ 15.2-2015 through 15.2-2018, 15.2-2100 through 15.2-2105, 15.2-2106 and 15.2-2107 of the Code of Virginia, including, but not limited to, the advertisement and receipt of bids for cable franchises, shall not apply to renewal certifications except where a renewal would result in the Town of Bowling Green having granted a cable franchise and a renewal with combined terms in excess of forty (40) years.

Section 8-138. Bonding.
(a) Within thirty (30) days after the award of a franchise, the franchisee shall deposit with the Town of Bowling Green a performance bond or an irrevocable letter of credit from a financial institution running to the Town of Bowling Green in the amount of fifty thousand dollars ($50,000.00.). The bond or letter of credit shall be used to insure the faithful performance by the franchisee of all of the provisions of its franchise and this Ordinance, Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and the mandatory requirements of 47 U.S.C. §§ 521-573 and any rules promulgated thereunder, and

compliance with all lawful orders, permits, and directions of any agency, commission, board, department, division, or office of the Town of Bowling Green or VDOT having jurisdiction over the acts of the franchisee, or defaults under a franchise or the payment by a franchisee of any penalties, liquidated damages, claims, liens, and taxes due the Town of Bowling Green which arise by reason of the construction, operation, or maintenance of franchisee's cable system in the Town of Bowling Green, including restoration of the public rights-of-way and the cost of removal or abandonment of any property of a cable operator.

(b) Any bond obtained by a franchisee must be placed with a company which is qualified to write bonds in the Commonwealth of Virginia, such bond shall be subject to the approval of the Town of Bowling Green attorney and shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the Town of Bowling Green):

"It is hereby understood and agreed that this bond may not be cancelled without the consent of the Town of Bowling Green until sixty (60) days after receipt by the Town of Bowling Green by registered mail, return receipt requested, of a written notice of intent to cancel or not renew."

(c) Any letter of credit must be issued by a federally insured commercial lending institution and shall be subject to the approval of the Town of Bowling Green attorney and shall be solely in the name of Town of Bowling Green.

(1) The letter of credit may be drawn upon by the Town of Bowling Green by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the chief executive officer of the Town of Bowling Green certifying that the franchisee has failed to comply with this Ordinance after having been given due notice and opportunity to cure the failure to comply. Such certificate shall also state the specific reasons for the failure of compliance, and stating the basis of the amount being drawn.

(2) The Town of Bowling Green may withdraw money from the letter of credit or cash security fund in accordance with the procedures set forth in this section:

[a] The Town of Bowling Green shall provide the franchisee with written notice informing the franchisee that such amounts are due to the Town of Bowling Green. The written notice shall describe, in reasonable detail, the reasons for the assessment. The franchisee shall have thirty (30) days subsequent to receipt of the notice within which to cure every failure cited by the Town of Bowling Green or to notify the Town of Bowling Green that there is a dispute as to whether franchisee believes such amounts are due the Town of Bowling Green. Such notice by the franchisee to the Town of Bowling Green shall specify with particularity the basis of franchisee's belief that such monies are not due the Town of Bowling Green.

[b] Upon the delivery of the necessary documents to the lending institution, the Town of Bowling Green has the right to immediate payment from the issuer bank of the amount from the letter of credit necessary to cure the default.

[c] Any letter of credit shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the Town of Bowling Green: "It is hereby understood and agreed that this letter of credit may not be canceled by the issuer bank nor the intention not to renew be stated by the issuer bank until sixty (60) days after receipt by the Town of Bowling Green, by registered mail, return receipt requested, of a written notice of such intention to cancel or not to renew."

(d) Any bond or letter of credit shall be recoverable by the Town of Bowling Green for all damages and costs, whether direct or indirect, resulting from the failure of a franchisee to well and faithfully observe and perform any provision of this Ordinance.

(e) The bond or letter of credit shall be maintained at the amount established herein for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this Ordinance. The franchisee shall promptly replace any amounts withdrawn from the bond or letter of credit.

Section 8-139. Indemnification and Insurance.

(a) The franchisee shall indemnify, hold harmless and defend the Town of Bowling Green, its officers employees, and agents (hereinafter referred to as "indemnities"), from and against:

(1) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the franchisee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the franchisee's cable system caused by franchisee, its contractors, subcontractors or agents or the franchisee's failure to comply with any federal, state or local statute, ordinance or regulation.

(2) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or, lien arising out of work, labor, materials or supplies provided or supplied to the franchisee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the franchisee's cable system in the Town of Bowling Green.

(3) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by franchisee or its affiliates for violations of the common law or any laws, statutes or regulations of the Commonwealth of Virginia or of the United States, including those of the Federal Securities and Exchange Commission, whether by the franchisee or otherwise.

(b) Damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees, or programs to be delivered by the franchisee's cable system.

(c) The franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any Town of Bowling Green-owned or controlled property, including streets and public rights-of-ways, and the franchisee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the franchisee's cable system or the franchisee's failure to comply with any federal, state or local statute, ordinance or regulation, except for any claim asserted or liability imposed upon the indemnitees that arises or is related to wanton or willful negligence by the indemnitees.

(d) In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the franchisee shall, upon notice from

any of the indemnitees, and at the franchisee's sole cost and expense, resist and defend the same, provided further, however, that the franchisee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of the Town of Bowling Green attorney or his or her designee.

(e) The Town of Bowling Green shall give the franchisee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of Section 8-139.

(f) Nothing in this Ordinance or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by the Town of Bowling Green of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits of liability of the Town of Bowling Green as exists presently or as may be increased from time to time by the legislature. Nothing in a franchise or this Ordinance shall constitute a waiver of the Town's statutory provisions, privileges or immunities, including the Town's sovereign immunity, of any kind or nature.

(g) The franchisee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of the franchise, general comprehensive liability insurance insuring the franchisee. All liability insurance shall include an endorsement in a specific form which names as joint and several insured's the Town of Bowling Green and the Town's officials, employees and agents, with respect to all claims arising out of the operation and maintenance of the franchisee's cable system in the Town of Bowling Green. Liability insurance mentioned herein below shall be in the minimum amounts of:

(1) $1,000,000.00 for bodily injury or death to anyone person, within the limit of two million dollars ($2,000,000) for bodily injury or death resulting from any one accident;

(2) $1,000,000.00 for property damage, including damage to the Town's property, from any one accident;

(3) $1,000,000.00 for all other types of liability resulting from any one occurrence;

(4) Workers Compensation Insurance as required by the Commonwealth of Virginia;

(5) A franchisee shall carry and maintain in its own name automobile liability insurance with a limit of $1,000,000 for each person and $1,000,000 for each accident for property damage with respect to owned and non-owned automobiles for the operation of which the franchisee is responsible;

(6) In addition to the above coverages, a franchisee shall carry Excess/Umbrella Liability coverage in an amount to be mutually agreed upon between the Town of Bowling Green and the franchisee but in no case shall the amount of the umbrella policy be less than fifteen (15) million dollars; and

(7) Coverage for copyright infringement.

(h) The inclusion of more than one (1) insured shall not operate to increase the limit of the franchisee's liability, and that insurer waives any right on contribution with insurance which may be available to the Town of Bowling Green.

(i) All policies of insurance required by this Section shall be placed with companies which are qualified to write insurance in the Commonwealth of Virginia and which maintain throughout the policy term a General Rating of "A-" and a Financial Size Category of "A:X" as determined by Best Insurance Rating Services.

(j) Certificates of insurance obtained by the franchisee in compliance with this section must be approved by the Town of Bowling Green attorney, and such insurance policy certificate of insurance shall be filed and maintained with the Town of Bowling Green clerk during the term of the franchise.

The franchisee shall immediately advise the Town of Bowling Green attorney of any litigation that may develop that would affect this insurance.
(k) Should the Town of Bowling Green find an insurance document to be in non-compliance, then it shall notify the franchisee, and the franchisee shall be obligated to cure the defect.
(l) Neither the provisions of this section, nor any damages recovered by the Town of Bowling Green thereunder, shall be construed to nor limit the liability of the franchisee under any franchise issued hereunder or for damages.
(m) The insurance policies provided for herein shall name the Town of Bowling Green, its officers, employees and agents as additional insured's, and shall be primary to any insurance or self-insurance carried by the Town of Bowling Green. The insurance policies required by this section shall be carried and maintained by the franchisee throughout the term of the franchise and such other period of time during which the franchisee operates or is engaged in the removal of its cable system. Each policy shall contain a provision providing that the insurance policy may not be canceled by the surety, nor the intention not to renew be stated by the surety, until thirty (30) days after receipt by the Town of Bowling Green, by registered mail, of written notice of such intention to cancel or not to renew.
(n) Nothing in this section shall require a franchisee to indemnify, hold harmless or defend the Town of Bowling Green, its officials, employees or agents, from any claims or lawsuits arising out of the Town's award of a franchise to another person.

Section 8-140. Inspection of Facilities.
A franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within the Town of Bowling Green. The Town of Bowling Green shall have the right to review a franchisee's construction plans and specifications to assure compliance with the required standards. After construction has been completed, the Town of Bowling Green shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this Ordinance and all applicable federal, state and local building and engineering codes. However, the Town of Bowling Green shall not be required to review or approve construction plans and specifications or to make any inspections. The franchisee shall be solely responsible for taking all steps necessary to assure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.

Section 8-141. Incorporation of Amendments to State Code, Federal Law and Regulations.
Sections 15.2-2108.19 through 15.2-2108.31 of the Code of the Virginia, 1950, as amended, and all of the provisions and standards referenced therein, are hereby adopted and incorporated as fully as if set out at length herein. All future amendments to such sections and provisions are hereby automatically incorporated into the Code of the Town of Bowling Green.

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DISPOSITION LIST

The following is a chronological listing of the changes to the Code of the Town of Bowling Green since adopting the recodified Code on June 23, 2010.

Adoption Date	Subject	Disposition
XX	XX	XX

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