



City of Emporia

Zoning and Subdivision Ordinance

Adopted May 21, 2024

Effective July 1, 2024



City of Emporia Chapter 90
Zoning & Subdivision Ordinance

Table of Contents

ARTICLE 1. – In General..... 1-1

 Division 1. Enactment and Authority..... 1-1

 Section 1-1-1. Title..... 1-1

 Section 1-1-2. Authority..... 1-1

 Section 1-1-3. Purpose..... 1-1

 Section 1-1-4. Applicability..... 1-2

 Section 1-1-5. Conformity with Ordinance Required..... 1-3

 Section 1-1-6. Severability..... 1-3

 Division 2. Ordinance Conflicts and Interpretations..... 1-3

 Section 1-2-1. Interpretation..... 1-3

 Section 1-2-2. Figures and References in Ordinance..... 1-3

 Division 3. Zoning Districts Map..... 1-4

 Section 1-3-1. Establishment, Maintenance, and Amendment..... 1-4

 Section 1-3-2. Incorporated by Reference..... 1-4

 Section 1-3-3. Interpretation of Zoning District Boundaries..... 1-4

 Section 1-3-4. Unauthorized Changes..... 1-5

 Division 4. Transition of Regulations after Adoption..... 1-5

 Section 1-4-1. Effective Date of Ordinance..... 1-5

 Section 1-4-2. Violations Continue..... 1-5

 Section 1-4-3. Nonconformities..... 1-5

 Section 1-4-4. Complete Applications and/or Plats..... 1-6

 Section 1-4-5. Other Approved Permits and Development Approvals..... 1-6

 Section 1-4-6. Vested Rights..... 1-7

ARTICLE 2. – Administration..... 2-1

 Division 1. Zoning Administrator and Subdivision Agent..... 2-1

 Section 2-1-1. Appointment; Powers; and Duties..... 2-1

 Division 2. Planning Commission..... 2-2

 Section 2-2-1. Appointment; Terms; Membership; Compensation; Removal..... 2-2

 Section 2-2-2. Powers and Duties..... 2-2

 Section 2-2-3. Coordination of State and Local Transportation Planning..... 2-4

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 2-2-4. Meetings and Procedures..... 2-4

Section 2-2-5. Expenditures; Gifts and Donations. 2-5

Division 3. Board of Zoning Appeals. 2-6

Section 2-3-1. Appointment; Terms; Membership; Compensation; Removal..... 2-6

Section 2-3-2. Powers and Duties. 2-6

Section 2-3-3. Meetings and Procedures..... 2-7

Division 4. Enforcement..... 2-8

Section 2-4-1. Authority. 2-8

Section 2-4-2. Complaints and Inspection. 2-8

Section 2-4-3. Notice of Violation. 2-8

Section 2-4-4. Remedies and Penalties for Violation..... 2-9

Division 5. Fees. 2-10

Section 2-5-1. Fees and Charges. 2-10

Division 6. Taxes and Expenses Paid. 2-11

Section 2-6-1. Delinquent Taxes and Charges..... 2-11

ARTICLE 3. – Permits and Applications 3-1

Division 1. In General..... 3-1

Section 3-1-1. Preapplication Meeting. 3-1

Section 3-1-2. Minimum Submission Standards. 3-1

Section 3-1-3. Forms. 3-1

Section 3-1-4. Ownership Disclosure. 3-1

Section 3-1-5. Oath Required..... 3-1

Division 2. Zoning Text and Map Amendments..... 3-2

Section 3-2-1. In General..... 3-2

Section 3-2-2. Standards and Procedures..... 3-2

Section 3-2-3. Reconsiderations..... 3-4

Division 3. Conditional Zoning and Proffers..... 3-4

Section 3-3-1. Purpose and Intent. 3-4

Section 3-3-2. Standards and Procedures..... 3-4

Section 3-3-3. Amendments and Variations Prior to Final Decision..... 3-6

Section 3-3-4. Effect of Condition; Period of Validity..... 3-6

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 3-3-5. Record of Conditional Zoning 3-7

Section 3-3-6. Reconsiderations..... 3-7

Division 4. Conditional Use Permits..... 3-7

Section 3-4-1. Purpose and Intent. 3-7

Section 3-4-2. Applicability..... 3-7

Section 3-4-3. Standards and Procedures..... 3-7

Section 3-4-4. Effect of Decision; Period of Validity..... 3-9

Section 3-4-5. Revocations..... 3-9

Section 3-4-6. Reconsiderations..... 3-9

Division 5. Variances. 3-9

Section 3-5-1. Purpose and Intent. 3-9

Section 3-5-2. Standards and Procedures..... 3-10

Section 3-5-3. Effect of Decision; Period of Validity..... 3-11

Section 3-5-4. Reconsiderations..... 3-11

Division 6. Site Plans. 3-11

Section 3-6-1. Purpose and Intent. 3-11

Section 3-6-2. Applicability..... 3-12

Section 3-6-3. Site Plan Specifications, Generally..... 3-12

Section 3-6-4. Site Plan Contents..... 3-13

Section 3-6-5. Standards and Improvements. 3-15

Section 3-6-6. Review. 3-16

Section 3-6-7. Amendment of Site Plans. 3-17

Section 3-6-8. Compliance with Approved Site Plan Required..... 3-18

Section 3-6-9. Period of Validity..... 3-18

Division 7. Zoning Permits. 3-19

Section 3-7-1. Applicability..... 3-19

Section 3-7-2. Standards and Procedures..... 3-19

Section 3-7-3. Period of Validity..... 3-20

Division 8. Certificate of Occupancy..... 3-20

Section 3-8-1. Applicability..... 3-20

Section 3-8-2. Standards and Procedures..... 3-20

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Division 9. Zoning Determinations. 3-21

 Section 3-9-1. Purpose and Intent. 3-21

 Section 3-9-2. Standards and Procedures..... 3-21

Division 10. Appeals..... 3-21

 Section 3-10-1. Appeals of Zoning Administrator Determinations and Decisions. 3-21

 Section 3-10-2. Appeals to Board of Zoning Appeals (BZA) Procedures. 3-21

 Section 3-10-3. Appeals of BZA, Planning Commission, or City Council. 3-22

 Section 3-10-4. Construction in Violation of Ordinance Without Appeal to BZA..... 3-22

 Section 3-10-5. Stay of Proceedings..... 3-22

Division 11. Public Hearings and Notifications..... 3-22

 Section 3-11-1. Public Hearing Required. 3-22

 Section 3-11-2. Advertisements and Mailings. 3-23

 Section 3-11-3. Posting Notice on Property. 3-24

 Section 3-11-4. Developer/Applicant Responsibility..... 3-25

 Section 3-11-5. Waiver of Notice. 3-25

ARTICLE 4. – Primary Zoning Districts 4-1

 Division 1. Establishment and Purpose. 4-1

 Section 4-1-1. General..... 4-1

 Section 4-1-2. References to District Names. 4-1

 Section 4-1-3. Purpose and Intent of Primary Zoning Districts. 4-2

 Division 2. General District Standards. 4-3

 Section 4-2-1. General..... 4-3

 Section 4-2-2. Additional Standards..... 4-4

 Division 3. Application and Measurement of District Standards. 4-4

 Section 4-3-1. Height..... 4-4

 Section 4-3-2. Lots and Setbacks. 4-6

 Division 4. Residential Districts Dimensional Standards. 4-9

 Section 4-4-1. Residential District Regulations. 4-9

 Division 5. Commercial Districts Dimensional Standards..... 4-10

 Section 4-5-1. Commercial District Regulations. 4-10

 Division 6. Industrial Districts Dimensional Standards..... 4-12

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 4-6-1. Industrial District Regulations..... 4-12

Division 7. Planned Development Districts. 4-12

Section 4-7-1. Purpose. 4-12

Section 4-7-2. General..... 4-13

Section 4-7-3. R-PRD, Planned Residential Development District. 4-13

ARTICLE 5. – Overlay Zoning Districts 5-1

Division 1. Establishment and Purpose. 5-1

Section 5-1-1. General..... 5-1

Section 5-1-2. Purpose and Intent of Overlay Districts..... 5-1

Division 2. Flood Hazard Overlay District (FH)..... 5-2

Section 5-2-1. Authority. 5-2

Section 5-2-2. Applicability..... 5-2

Section 5-2-3. Compliance and Liability. 5-2

Section 5-2-4. Abrogation and Greater Restrictions. 5-2

Section 5-2-5. Penalty for Violations..... 5-2

Section 5-2-6. Designation of the Administrator..... 5-3

Section 5-2-7. Duties and Responsibilities of the Administrator. 5-3

Section 5-2-8. Records. 5-5

Section 5-2-9. Use and Interpretation of FIRMs. 5-5

Section 5-2-10. Jurisdictional Boundary Changes..... 5-6

Section 5-2-11. District Boundary Changes. 5-7

Section 5-2-12. Interpretation of District Boundaries. 5-7

Section 5-2-13. Submitting Technical Data. 5-7

Section 5-2-14. Letters of Map Revision. 5-7

Section 5-2-15. Establishment of Flood Hazard Zones. 5-7

Section 5-2-16. Permitted Uses in Flood Hazard Zones..... 5-8

Section 5-2-17. Development in Flood Hazard Zones. 5-9

Section 5-2-18. Permits and Applications. 5-10

Section 5-2-19. Elevation and Construction Standards. 5-12

Section 5-2-20. Design Criteria for Utilities and Facilities..... 5-14

Section 5-2-21. Existing Structures in Floodplain Areas. 5-15

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 5-2-22. Variances..... 5-15

ARTICLE 6. – Use Matrix..... 6-1

Division 1. Uses Provided..... 6-1

Section 6-1-1. Organization..... 6-1

Section 6-1-2. Abbreviations in Use Matrix..... 6-1

Division 2. Use Not Provided..... 6-1

Section 6-1-3. Use Not Provided..... 6-1

Division 3. Use Matrix..... 6-2

ARTICLE 7. – Use Performance Standards 7-1

Division 1. General..... 7-1

Section 7-1-1. Purpose and Intent..... 7-1

Section 7-1-2. Must Meet Other Regulations..... 7-1

Division 2. Residential Use Standards..... 7-1

Section 7-2-1. Adaptive Reuse Residential..... 7-1

Section 7-2-2. Bed and Breakfast..... 7-2

Section 7-2-3. Dwelling, Manufactured Home..... 7-2

Section 7-2-4. Dwelling, Multi-Family..... 7-3

Section 7-2-5. Dwelling, Townhouse..... 7-4

Section 7-2-6. Family Health Care Structure, Temporary..... 7-5

Section 7-2-7. Home Occupation..... 7-5

Section 7-2-8. Manufactured Home Park..... 7-6

Section 7-2-9. Short-Term Rental..... 7-8

Division 3. Public/Civic/Recreational Use Standards..... 7-10

Section 7-3-1. Shelter, Animal..... 7-10

Section 7-3-2. Telecommunications Facility..... 7-10

Section 7-3-3. Telecommunications Facility, Small Cell..... 7-18

Section 7-3-4. Utility Service, Minor..... 7-19

Division 4. Commercial Use Standards..... 7-19

Section 7-4-1. Adult Use..... 7-19

Section 7-4-2. Automobile Sales and Rental; Automobile Service..... 7-21

Section 7-4-3. Car Wash..... 7-22

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 7-4-4. Construction Material Sales..... 7-23

Section 7-4-5. Drive-Through Window..... 7-23

Section 7-4-6. Equipment Sales, Service, and Repair (Heavy). 7-24

Section 7-4-7. Event Venue. 7-24

Section 7-4-8. Gas Station. 7-25

Section 7-4-9. Kennel, Commercial. 7-26

Section 7-4-10. Outdoor Sales, Seasonal/Temporary. 7-26

Section 7-4-11. Parking Lot, Commercial..... 7-27

Section 7-4-12. Restaurant, Mobile Food Unit. 7-27

Section 7-4-13. Veterinary Hospital/Clinic. 7-29

Division 5. Industrial Use Standards. 7-30

Section 7-5-1. Construction Yard. 7-30

Section 7-5-2. Junkyard/Salvage Yard. 7-30

Section 7-5-3. Self-Storage Facility. 7-31

Division 6. Miscellaneous Use Standards. 7-32

Section 7-6-1. Accessory Structure. 7-32

Section 7-6-2. Mixed-Use Structure..... 7-33

Section 7-6-3. Residential Yard Sale. 7-33

Section 7-6-4. Outdoor Storage. 7-33

Section 7-6-5. Solar Energy, Medium-Scale. 7-34

Section 7-6-6. Solar Energy, Small-Scale. 7-37

ARTICLE 8. – Community Design Standards..... 8-1

Division 1. Lighting. 8-1

Section 8-1-1. Purpose and Intent. 8-1

Section 8-1-2. Applicability..... 8-1

Section 8-1-3. Standards. 8-2

Division 2. Landscaping and Screening..... 8-4

Section 8-2-1. Purpose and Intent. 8-4

Section 8-2-2. Applicability..... 8-4

Section 8-2-3. Landscape Plan Requirements..... 8-4

Section 8-2-4. General Standards. 8-5

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 8-2-5. Transitional Buffers.8-8

Section 8-2-6. Screening and Enclosures.8-10

Section 8-2-7. Parking Lot Landscaping.8-11

Section 8-2-8. Modifications.8-13

Division 3. Walls and Fences.....8-13

Section 8-3-1. Purpose and Intent.8-13

Section 8-3-2. Applicability.....8-14

Section 8-3-3. Location.....8-14

Section 8-3-4. Height.....8-14

Section 8-3-5. Materials.8-15

Section 8-3-6. Maintenance.....8-16

Division 4. Visibility Clearance.8-16

Section 8-4-1. General.....8-16

Division 5. Parking and Loading.8-16

Section 8-5-1. Purpose and Intent.8-16

Section 8-5-2. General.....8-17

Section 8-5-3. Obligations of Owner.8-17

Section 8-5-4. Location to Use.8-18

Section 8-5-5. Joint/Shared Parking.8-18

Section 8-5-6. Reduction in Parking.8-19

Section 8-5-7. Parking Design Standards.8-19

Section 8-5-8. Schedule of Required Parking Spaces.....8-22

Section 8-5-9. Bicycle Parking.8-24

Section 8-5-10. Joint/Shared Off-Street Loading.8-25

Section 8-5-11. Off-Street Loading Design Standards.....8-25

Section 8-5-12. Schedule of Required Off-Street Loading Spaces.....8-26

Division 6. Signs.8-26

Section 8-6-1. Purpose and Intent.8-26

Section 8-6-2. Administration.8-27

Section 8-6-3. Prohibited.8-29

Section 8-6-4. Exemptions.8-30

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 8-6-5. Measurement and General Sign Standards..... 8-31

Section 8-6-6. Special Sign Standards. 8-32

Section 8-6-7. Permitted Signs by District..... 8-33

Section 8-6-8. Nonconforming Signs..... 8-34

Section 8-6-9. Maintenance and Enforcement..... 8-35

Section 8-6-10. Removal of Abandoned Signs. 8-36

Division 7. Open Space. 8-36

Section 8-7-1. Purpose and Intent. 8-36

Section 8-7-2. Applicability..... 8-36

Section 8-7-3. Amount of Open Space Required. 8-37

Section 8-7-4. Areas Counted as Open Space..... 8-37

Section 8-7-5. Areas Not Counted as Open Space..... 8-38

Section 8-7-6. Design and Development Standards. 8-39

Section 8-7-7. Ownership and Maintenance. 8-40

ARTICLE 9. – Nonconforming Uses, Lots, and Structures..... 9-1

Division 1. General..... 9-1

Section 9-1-1. Intent..... 9-1

Section 9-1-2. General..... 9-1

Division 2. Nonconformities. 9-1

Section 9-2-1. Nonconforming Uses. 9-1

Section 9-2-2. Nonconforming Lots of Record..... 9-2

Section 9-2-3. Nonconforming Structures, Buildings, and Improvements..... 9-3

Section 9-2-4. Repairs and Maintenance. 9-4

ARTICLE 10. – Subdivision. 10-1

Division 1. General..... 10-1

Section 10-1-1. Title. 10-1

Section 10-1-2. Recording of Ordinance..... 10-1

Section 10-1-3. Amendments. 10-1

Section 10-1-4. Repeal. 10-1

Section 10-1-5. Applicability..... 10-1

Section 10-1-6. Circumvention..... 10-2

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 10-1-7. Exemptions. 10-2

Section 10-1-8. Appeals and Variances. 10-2

Division 2. Types of Subdivisions. 10-2

Section 10-2-1. Major Subdivisions..... 10-2

Section 10-2-2. Minor Subdivisions. 10-3

Division 3. Design Requirements. 10-3

Section 10-3-1. Conformity to Plans and Regulations. 10-3

Section 10-3-2. Suitability of Land. 10-3

Section 10-3-3. Land for Public Purposes. 10-3

Section 10-3-4. Lots..... 10-4

Section 10-3-5. Remnants. 10-4

Section 10-3-6. Frontage..... 10-5

Section 10-3-7. Access. 10-5

Section 10-3-8. Blocks. 10-5

Section 10-3-9. Streets..... 10-6

Section 10-3-10. Easements..... 10-9

Section 10-3-11. Utilities and Other Improvements..... 10-9

Section 10-3-12. Monuments. 10-11

Division 4. Improvement Plans, Obligations, and Procedure 10-12

Section 10-4-1. Improvement Plan. 10-12

Section 10-4-2. Obligations of Improvements. 10-12

Section 10-4-3. Environmental Obligations. 10-13

Section 10-4-4. Procedure for Plan Approval and Revisions..... 10-13

Division 5. Guarantees..... 10-13

Section 10-5-1. Types of Guarantees. 10-13

Section 10-5-2. Required to be Guaranteed..... 10-13

Section 10-5-3. Amount. 10-14

Section 10-5-4. Release..... 10-14

Section 10-5-5. Extensions for Completion. 10-16

Section 10-5-6. Default. 10-16

Division 6. Platting Requirements, Generally..... 10-16

**City of Emporia Chapter 90
Zoning & Subdivision Ordinance**

Section 10-6-1. Preapplication Meeting.10-16

Section 10-6-2. Approval Before Sale.....10-17

Section 10-6-3. Subdivision Name.10-18

Section 10-6-4. Separate Ownership.10-18

Section 10-6-5. Changes to Plats.....10-18

Division 7. Preliminary Plat.10-18

Section 10-7-1. Applicability.....10-18

Section 10-7-2. Application for Approval.10-18

Section 10-7-3. Preliminary Plat Form and Content.10-18

Section 10-7-4. Review of Preliminary Plats.10-20

Section 10-7-5. Changes to Preliminary Plats.10-21

Division 8. Final Plat.10-22

Section 10-8-1. Applicability.....10-22

Section 10-8-2. Final Plat Form and Content.10-22

Section 10-8-3. Review of Final Plats.10-24

Section 10-8-4. Recording.10-25

Division 9. Vacation of Plats.....10-26

Section 10-9-1. Vacation of Plats.10-26

Division 10. Enforcement, Violations, and Fees.10-27

Section 10-10-1. Enforcement.10-27

Section 10-10-2. Violation and Penalty.10-27

Section 10-10-3. Fees.....10-27

ARTICLE 11. – Definitions.11-1

Division 1. Word Usage.....11-1

Section 11-1-1. General.11-1

Division 2. General Terms.11-1

Section 11-2-1. General.11-1

Division 3. Overlay District Terms.11-23

Section 11-3-2. Definitions for Article 5 – Flood Hazard Overlay District.....11-23

City of Emporia Chapter 90 Zoning & Subdivision Ordinance

Table of Figures

Figure 4.1 Height Measurement in Primary Districts.....	4-4
Figure 4.2 Height Measurement of Raised Structures in Floodplain Areas.....	4-5
Figure 4.3 Lot Standard Terms	4-6
Figure 4.4 Required Setbacks	4-6
Figure 4.5 Stem Lot Front Setback	4-7
Figure 4.6 Setback Example.....	4-8
Figure 4.7 C-1 Example of Additional Height with Increased Setbacks	4-11
Figure 8.1 Examples of Lighting.....	8-3
Figure 8.2 Landscaped Planting Islands Standards	8-13
Figure 8.3 Visibility Clearance	8-16
Figure 8.4 Parking Area Dimensions.....	8-21
Figure 10.1 Block Length and Width	10-6

Table of Tables

Table 4.1 Primary Zoning Districts.....	4-1
Table 4.2 Residential District Regulations	4-9
Table 4.3 Commercial District Regulations.....	4-10
Table 4.4 Industrial District Regulations.....	4-12
Table 4.5 R-PRD, Planned Residential District Regulations	4-15
Table 5.1 Overlay Zoning Districts	5-1
Table 5.2 Permitted Uses in Flood Hazard Zones.....	5-9
Table 6.1 Use Matrix.....	6-2
Table 8.1 Minimum Plant Measurements.....	8-6
Table 8.2 Transitional Buffer Type Required.....	8-9
Table 8.3 Minimum Plantings.....	8-10
Table 8.4 Alternative Transitional Buffer	8-10
Table 8.5 Minimum Off-Street Parking Requirements	8-23
Table 8.6 Minimum Off-Street Loading Requirements	8-26
Table 8.7 Maximum Sign Dimensions – Residential Districts.....	8-33
Table 8.8 Maximum Sign Dimensions – C-1 and DT Districts.....	8-34
Table 8.9 Maximum Sign Dimensions – C-2 and Industrial Districts.....	8-34
Table 8.10 Minimum Open Space Required.....	8-37

ARTICLE 1. – In General.

Division 1. Enactment and Authority.

Section 1-1-1. Title.

This chapter, the full title of which is "City of Emporia, Virginia, Zoning and Subdivision Ordinance," shall be permitted, for convenience, to be referred to as the "Zoning and Subdivision Ordinance" or "Ordinance."

Section 1-1-2. Authority.

- (A) Pursuant to the Code of Virginia, § 15.2-2280 et seq., as amended, the City of Emporia, Virginia, is given the authority to classify and regulate land development under its jurisdiction.
- (B) Pursuant to the Code of Virginia, § 15.2-2240, et seq., as amended, the City of Emporia, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section 1-1-3. Purpose.

- (A) The purpose of this Ordinance is to implement the City of Emporia Comprehensive Plan; promote the health, safety, and general welfare of the public; and of further accomplishing the objectives of § 15.2-2200, as amended, of the Code of Virginia. This Ordinance is designed to give reasonable considerations to:
 - (1) Provide for adequate light, air, convenience of access and safety from fire, flood, impounding structure failure, crime, and other dangers;
 - (2) Reduce or prevent congestion in the public streets;
 - (3) Facilitate the creation of a convenient, attractive and harmonious community;
 - (4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
 - (5) Protect against destruction of or encroachment upon historic areas and working waterfront development areas;
 - (6) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, impounding structure failure, panic or other dangers;
 - (7) Encourage economic development activities that provide desirable employment and enlarge the tax base;
 - (8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;

City of Emporia Zoning & Subdivision Ordinance

Article 1 – In General

- (9) Protect the approach slopes and other safety areas of licensed airports, including United State government and military air facilities;
- (10) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the City as well as reasonable proportion of the current and future needs of the planning district within which the City is located;
- (11) Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;
- (12) Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 or state and federal fair housing laws, as applicable;
- (13) Protect surface water and ground water as defined in the Code of Virginia § 62.1-255, as amended;
- (14) Establish standards and procedures for the orderly division, subdivision and resubdivision of lots, tracts and parcels of land for residential and commercial purposes pursuant to the Code of Virginia § 15.2-2240 et. seq., as amended;
- (15) Ensure proper legal description and proper monumenting of subdivided land;
- (16) Ensure the purchasers of lots, tracks, and parcels of land purchase a commodity that is suitable for the intended use; and,
- (17) Provide standards for development, ensuring appropriate ingress, egress, public facilities, services, and utilities.

Section 1-1-4. Applicability.

- (A) Pursuant to the Code of Virginia, § 15.2-2281, as amended, the provisions of this Ordinance shall apply to all property within the incorporated territory of the City of Emporia, Virginia, with the exception that any property held in fee simple ownership and used by the United States of America, the Commonwealth of Virginia, or the government of the City of Emporia shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion of government lands to private interests, the regulations of the district in which the land is located shall automatically apply.
- (B) Pursuant to the Code of Virginia, § 15.2-2284, as amended, the zoning regulations and districts as herein set forth have been drawn and shall be applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; and the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agriculture and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the City.

Section 1-1-5. Conformity with Ordinance Required.

- (A) Except as otherwise provided in this Ordinance, all land, buildings, structures, and/or premises within the City shall only be used, occupied, erected, constructed, moved, enlarged, and/or altered in conformance with this Ordinance’s regulations.
- (B) Land shall only be subdivided in conformance with this Ordinance’s (Article 10) regulations.

Section 1-1-6. Severability.

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

Division 2. Ordinance Conflicts and Interpretations.

Section 1-2-1. Interpretation.

- (A) The Administrator shall interpret this Ordinance based upon the following criteria:
 - (1) Provisions shall be considered the minimum required to promote the public health, safety, convenience and general welfare;
 - (2) Unless otherwise specified, the standards of this Ordinance are the minimum required;
 - (3) When regulations of this Ordinance conflict with each other, other City Ordinances, or state or federal law, the more restrictive regulation shall govern;
 - (4) This Ordinance does not abolish easements, covenants or other private agreements, however, pursuant to the Code of Virginia, § 15.2-2315, as amended, where this Ordinance’s requirements vary with the requirements of any other lawfully adopted statute, regulation, or ordinance, the most restrictive, or the higher standard, shall control to the extent necessary to resolve the conflict;
 - (5) A building, structure, or use which was not legally existing on July 1, 2024 shall not be made lawful solely by adoption of this Ordinance;
 - (6) Where this Ordinance’s requirements are vague or unclear, the Administrator shall be responsible for their interpretation; and,
 - (7) Conditions imposed or accepted as part of a zoning approval prior to July 1, 2024 shall remain in effect. However as stated in the Code of Virginia § 15.2-2261.1, as amended, if there is a conflict between conditions imposed through those land use decisions and this Ordinance, the conditions shall apply. If there is no condition that addresses a specific use or development standard of this Ordinance, this Ordinance’s requirements shall govern.

Section 1-2-2. Figures and References in Ordinance.

- (A) Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.

City of Emporia Zoning & Subdivision Ordinance

Article 1 – In General

- (B) If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute or regulation.

Division 3. Zoning Districts Map.

Section 1-3-1. Establishment, Maintenance, and Amendment.

- (A) The official location and boundaries of the various primary zoning districts and special district(s) are hereby established as shown on the official “City of Emporia, Virginia, Zoning Map” for convenience, to be referred to as the "Zoning Map".
- (B) A certified copy of the Zoning Map shall be filed in the office of the Clerk of Circuit Court of Greensville County, Virginia.
- (C) The Zoning Map shall be available for examination and inspection by the public at all reasonable times.
- (D) The original of the Zoning Map shall be filed in the Administrator's office and such original shall be updated as the result of the following City Council actions:
 - (1) Amendments to the Ordinance;
 - (2) Approval of a Rezoning (see Article 3, Section 2); or
 - (3) Approval of Conditional Zoning (see Article 3, Section 3).

Section 1-3-2. Incorporated by Reference.

- (A) The Zoning Map, as amended, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

Section 1-3-3. Interpretation of Zoning District Boundaries.

- (A) The Zoning Map associated with this text and showing the division of the territory into districts shall be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
 - (1) Where district boundaries are fixed by dimensions or otherwise shown or described, there shall be no uncertainty.
 - (2) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad tracks, such centerline, or lines at right angles to such centerlines, shall be construed to be such boundaries.
 - (3) 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 centerline at low water or at the limit of the jurisdiction, and in the event of change in shoreline, such boundary shall be construed as moving with the actual shoreline.
 - (4) If distances or other dimensions are not specifically indicated on the Zoning Map, they will be determined by the scale of the map.

City of Emporia Zoning & Subdivision Ordinance

Article 1 – In General

- (5) If the specific location of a boundary cannot be determined from notations on the Zoning Map or application of the above standards, it will be determined by using the map scale to determine the boundary's distance from other features shown on the map.
- (6) Any lot that has been annexed from Greensville County shall be considered a lot of record if no alteration has taken place since annexation.
- (7) In case any territory is not definitely and clearly included within any one district, such territory shall be deemed to be in the R-1 district until otherwise classified by amendment in accordance with Article 3, Permits and Applications, of this Ordinance.
- (8) In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this section – the Administrator will have the authority to interpret the district boundaries in accordance with Section 2-1-1 of this Ordinance.
- (9) The Zoning Administrator’s interpretations may be appealed to the BZA in accordance with Division 3 of this Ordinance. The BZA will not have the power to change substantially the locations of district boundaries.

Section 1-3-4. Unauthorized Changes.

No changes of any nature shall be made on the Zoning Map except in conformity with the procedures and requirements of this Ordinance. It shall be unlawful for any person to make unauthorized changes on the Zoning Map.

Division 4. Transition of Regulations after Adoption.

Section 1-4-1. Effective Date of Ordinance.

This Ordinance was adopted on May 21, 2024. This Ordinance will become effective on July 1, 2024 and repeals and replaces any prior Zoning and Subdivision Ordinances adopted in the City of Emporia. Its provisions shall be in force until repealed or amended.

Section 1-4-2. Violations Continue.

Any development or activity in violation of the previous Zoning and Subdivision Ordinances will continue to be a violation under this Ordinance unless the development or activity complies with the express terms of this Ordinance.

Section 1-4-3. Nonconformities.

If any use, structure, lot, sign, or site feature legally existed immediately prior to July 1, 2024 but does not fully comply with the standards of this Ordinance or any amendment thereto, the use, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and must comply with the requirements in Article 9, Nonconformities, of this Ordinance.

Section 1-4-4. Complete Applications and/or Plats.

- (A) This Section pertains to applications for the following:
- (1) Zoning Text and Map Amendments (rezoning);
 - (2) Conditional Zoning;
 - (3) Conditional Use Permits;
 - (4) Variances; and
 - (5) Subdivision Plats;
- (B) Applications and/or plats accepted as complete prior to July 1, 2024 *or* deemed by the Administrator to be complete, prior to July 1, 2024, but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted.
- (C) An applicant with a pending application and/or plat accepted prior to July 1, 2024, may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.
- (D) To the extent such a complete application and/or plat is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconformities, of this Ordinance.

Section 1-4-5. Other Approved Permits and Development Approvals.

- (A) This Section pertains to applications for the following:
- (1) Site Plans;
 - (2) Zoning Permits; and
 - (3) All other permit and development approvals not provided for in Section 1-4-4, above.
- (B) Any other permits or development approvals granted prior to July 1, 2024, will remain valid until their expiration date.
- (C) Developments with valid permits or development approvals granted prior to July 1, 2024, may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired.
- (1) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the requirements of this Ordinance.
- (D) To the extent that a prior-approved permit or development approval does not comply with this Ordinance, the subsequent development or use, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconformities, of this Ordinance.

Section 1-4-6. Vested Rights.

- (A) The provisions of this Ordinance shall not impair a vested right of a property owner. The Administrator shall be authorized to make determinations on whether a property owner's rights are deemed vested in a land use. The Subdivision Agent shall be authorized to make determinations on whether a property owner's rights are deemed vested in a division. Vested rights determinations shall be made in accordance with the Code of Virginia § 15.2-2307, as amended.
- (B) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to July 1, 2024.

ARTICLE 2. – Administration.

Division 1. Zoning Administrator and Subdivision Agent.

Section 2-1-1. Appointment; Powers; and Duties.

- (A) This Ordinance (with the exception of the Subdivision Article) and the Zoning Map shall be administered, interpreted, and enforced by the Zoning Administrator (Administrator), who shall be appointed by the City Council. The Administrator shall have all authority empowered by this Ordinance in the administration and enforcement of all articles of this Ordinance except the Subdivision Article (Article 10). The Administrator shall exercise their authority at the pleasure of the City Council.
- (B) The Administrator may also hold another office in the City.
- (C) The Administrator shall have such duties as are conferred by this Ordinance and the Code of Virginia § 15.2-2286 (4), as amended, including:
 - (1) Administer and enforce this Ordinance;
 - (2) Interpret zoning district boundaries;
 - (3) Where appropriate, issue zoning permits and certificates;
 - (4) Administer and enforce conditions attached to a rezoning or amendment to the Zoning Map;
 - (5) Make necessary inspections; and,
 - (6) When necessary, call for opinions or decisions, either verbal or written, from other departments, boards, or state agencies.
 - (7) In addition to the regulations contained herein, the Administrator may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Ordinance.
- (D) A Subdivision Agent (Agent) shall be appointed by the governing body to administer and enforce the Subdivision Article (Article 10) and shall serve at the pleasure of the City Council. The Zoning Administrator may also serve as the Subdivision Agent.
- (E) The Agent shall have such duties as are conferred by this Ordinance, including but not limited to:
 - (1) Administer and enforce the Subdivision regulations of this Ordinance;
 - (2) Accept and process applications, including reviewing and certifying plats, for conformance with this Ordinance;
 - (3) Forward plats for review, comment, and approval to the appropriate departments, boards, and state agencies;
 - (4) Keep records of all applications; appeals; and submissions and subsequent actions; and
 - (5) Conduct inspections of subdivision improvements for compliance with the approved subdivision and construction plans.

Division 2. Planning Commission.

Section 2-2-1. Appointment; Terms; Membership; Compensation; Removal.

- (A) Pursuant to the Code of Virginia, § 15.2-2210, et seq., as amended, a Planning Commission shall be created and organized as follows:
- (1) A Planning Commission consisting of at least 5, but not more than 15, members appointed by the City Council.
 - (2) All members shall be residents of the City of Emporia, with at least one-half of such members being owners of real property; and all members shall be qualified by knowledge and experience to make decisions on questions of community growth and development.
 - (3) One member of the Planning Commission may be a member of the City Council, and 1 member may be a member of the administrative branch of government of the City.
 - (i) The term of each of these 2 members shall be coextensive with the term of office to which they have been elected or appointed, unless the City Council, at the first regular meeting each year, appoints others to serve as their representatives.
 - (4) The remaining members of the Planning Commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of 4 years each. The City Council may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing City Council. Vacancies shall be filled by appointment for the unexpired term only.
 - (5) The City Council may provide for compensation to Planning Commission members for their services, reimbursement for actual expenses incurred, or both.
 - (6) A member of the Planning Commission may, with the consent of both governing bodies, serve as an advisory member of the local Planning Commission of a contiguous locality.
 - (7) Any member may be removed for malfeasance or absenteeism.
 - (i) A member of a Planning Commission may be removed from office by the City Council, without limitation, if the Commission member is absent from any 3 consecutive meetings of the Planning Commission or is absent from any 4 meetings of the Planning Commission within any 12-month period. In either event, a successor shall be appointed by the City Council for the unexpired portion of the term of the member who has been removed.

Section 2-2-2. Powers and Duties.

- (A) **General Powers and Duties.** Pursuant to the Code of Virginia § 15.2-2221, as amended, the Planning Commission shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:
- (1) Exercise general supervision of, and make regulations for, the administration of its affairs;
 - (2) Prescribe rules pertaining to its investigations and hearings;

City of Emporia Zoning & Subdivision Ordinance

Article 2 – Administration

- (3) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the City Council;
 - (4) Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
 - (5) Make recommendations and an annual report to the City Council concerning the operation of the Commission and the status of planning within the City of Emporia;
 - (6) Prepare, publish and distribute reports, ordinances and other material relating to its activities;
 - (7) Prepare and submit an annual budget in the manner prescribed by the City Council;
 - (8) If deemed advisable, establish an advisory committee or committees; and
 - (9) When duly authorized by the Planning Commission, members may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation and may visit other communities.
 - (i) The Planning Commission may, by resolution, pay the reasonable traveling expenses incident to such attendance or visits.
- (B) **Comprehensive Plan Powers and Duties.** Pursuant to the Code of Virginia § 15.2-2223 et seq., as amended, the Planning Commission shall have the following powers and duties relating to the City's Comprehensive Plan:
- (1) The Planning Commission shall prepare and recommend a Comprehensive Plan for the physical development of the City of Emporia and the City Council shall adopt such plan.
 - (i) In the preparation of a Comprehensive Plan, the Planning Commission shall make careful and comprehensive surveys and studies, in accordance with § 15.2-2224, as amended, of the existing conditions and trends of growth, and of the probable future requirements of Emporia and inhabitants.
 - (2) Prior to the recommendation of Comprehensive Plan or any part thereof, the Planning Commission shall:
 - (i) Post the Plan or part thereof that is to be considered for recommendation on a website that is maintained by the Planning Commission, or on any other website on which the Planning Commission generally posts information, and that is available to the public.
 - (ii) Give notice in accordance with § 15.2-2204, as amended; and
 - (iii) Hold a public hearing on the Plan.
 - (a) After the public hearing, the Planning Commission may approve, amend and approve, or disapprove the plan.
 - (b) Upon approval, the Planning Commission shall by resolution recommend the plan, or part thereof, to the City Council for adoption.

- (3) Pursuant to § 15.2-2230, as amended, the Planning Commission shall review the Comprehensive Plan at least once every 5 years to determine whether it is advisable to amend the Plan.
- (4) Pursuant to § 15.2-2232, as amended, whenever the Planning Commission recommends a Comprehensive Plan or part thereof for the City of Emporia, and such plan has been approved and adopted by the City Council, it shall control the general or approximate location, character, and extent of each feature shown on the Plan.

Section 2-2-3. Coordination of State and Local Transportation Planning.

- (A) Prior to adoption of any Comprehensive Plan pursuant to Code of Virginia § 15.2-2223, as amended, any part of a Comprehensive Plan pursuant to Code of Virginia § 15.2-2228, as amended, or any amendment to any Comprehensive Plan as described in Code of Virginia § 15.2-2229, as amended, the City shall submit such plan or amendment to the Department of Transportation for review and comment if the plan or amendment will substantially affect transportation on state-controlled highways as defined by regulations promulgated by the Department.
- (B) Upon submission to, or initiation by the City of Emporia, of a proposed rezoning under Code of Virginia § 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303, as amended, the City shall submit the proposal to the Department of Transportation within 10 business days of receipt thereof if the proposal will substantially affect transportation on state-controlled highways.
 - (1) Such application shall include a traffic impact statement if required by this Ordinance or pursuant to regulations promulgated by the Department.
 - (2) Within 45 days of its receipt of such traffic impact statement, the Department shall either:
 - (a) Provide written comment on the proposed rezoning to the City; or
 - (b) Schedule a meeting, to be held within 60 days of its receipt of the proposal, with the Planning Commission or other agent and the rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies.

Section 2-2-4. Meetings and Procedures.

- (A) The Planning Commission shall fix the time for holding regular meetings and shall meet at least once per year.
- (B) The Planning Commission shall choose annually its own chairperson and vice-chairperson.
- (C) If authorized by the City Council, the Planning Commission may:
 - (1) Create and fill such other offices as it deems necessary;
 - (2) Appoint such employees and staff as it deems necessary for its work; and
 - (3) Contract with consultants for such services as it requires.
- (D) A majority of the members shall constitute a quorum and no action of the Planning Commission shall be valid unless authorized by a majority vote of those present and voting.

City of Emporia Zoning & Subdivision Ordinance

Article 2 – Administration

- (E) The Planning Commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record.
- (F) The City Council may provide the Planning Commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the Planning Commission.
- (G) The Planning Commission, by resolution adopted at a regular meeting, may also fix the day or days to which any meeting shall be continued if the chairperson, or vice-chairperson if the chairperson is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting.
 - (1) Such finding shall be communicated to the members and the press as promptly as possible.
 - (2) All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required.
 - (3) A copy of such resolution shall be provided in a newspaper having general circulation in the City of Emporia, at least 7 days prior to the first meeting held pursuant to the adopted schedule.
- (H) Special meetings of the Planning Commission may be called by the chairperson or by 2 members upon written request to the secretary. The secretary shall mail to all members, at least 5 days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof.
 - (1) Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.
- (I) Upon request of the Planning Commission, the City Council or other public officials may, from time to time, for the purpose of special surveys under the direction of the Planning Commission, assign or detail to it any members of the staffs of City administrative departments, or such City Council or other public official may direct any such department employee to make for the Planning Commission special surveys or studies requested by the Planning Commission.

Section 2-2-5. Expenditures; Gifts and Donations.

- (A) The expenditures of the Planning Commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the City Council.
- (B) The Planning Commission may expend, under regular local procedure as provided by law, sums appropriated to it for its purposes and activities.
- (C) A locality may accept gifts and donations for Planning Commission purposes.
 - (1) Any moneys so accepted shall be deposited with the appropriate City Council in a special nonreverting Planning Commission fund to be available for expenditure by the Planning Commission for the purpose designated by the donor.
 - (2) The disbursing officer of the City may issue warrants against such special fund only upon vouchers signed by the chairperson and the secretary of the Planning Commission.

Division 3. Board of Zoning Appeals.

Section 2-3-1. Appointment; Terms; Membership; Compensation; Removal.

- (A) Pursuant to the Code of Virginia, § 15.2-2308, et seq., as amended, a Board of Zoning Appeals (BZA) shall be created and organized as follows:
- (1) A BZA consisting of five members shall be appointed by the circuit court.
 - (2) The term of office shall be for five years; except, that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
 - (3) The secretary of the BZA shall notify the court at least 30 days in advance of the expiration or a term of office, or promptly if a vacancy occurs. A member whose term expires shall continue to serve until the successor is appointed and qualifies.
 - (4) Members of the BZA may be reappointed to succeed themselves but may hold no other public office in the City of Emporia; except that one member may be a member of the Planning Commission and any member may be appointed to serve as an officer of election as defined in Code of Virginia § 24.2-101, as amended.
 - (5) Each member of the BZA may receive such compensation, as authorized by the City Council, for attendance at each regular or called meeting of the BZA. Within the limits of funds appropriated by the City Council, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
 - (6) Any BZA member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court which appointed them, after a hearing held after at least 15 days' notice.

Section 2-3-2. Powers and Duties.

- (A) Pursuant to the Code of Virginia § 15.2-2309, as amended, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:
- (1) **Appeals.** To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance as outlined in Article 3, Division 10.
 - (2) **Variance.** To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201, as amended, from the terms of this Ordinance when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and if the applicant proves through a preponderance of evidence that a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided that the spirit of this Ordinance shall be observed and substantial justice done. Standards and procedures for determining variances are outlined in Article 3, Division 5, of this Ordinance.

City of Emporia Zoning & Subdivision Ordinance
Article 2 – Administration

- (3) **Boundary Interpretations.** To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, only if:
- (i) The Administrator is unable to interpret boundaries, as provided in Article 1, Division 3, of this Ordinance; or
 - (ii) If an applicant appeals the Administrator’s interpretation.
 - (iii) After notice to the owners of the property affected by any such question, and after public hearing with notice as required by the Code of Virginia § 15.2-2204, as amended, the BZA may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question.
- (B) The provisions of this section shall not be construed as granting the BZA the power to rezone property, substantially change the locations of district boundaries as established by this Ordinance, or to base decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

Section 2-3-3. Meetings and Procedures.

- (A) The BZA shall adopt such rules and regulations as it may consider necessary.
- (B) Meetings of the BZA shall be held at the call of its Chairperson or at such time as a quorum of the BZA may determine.
- (C) A quorum shall be at least 3 members. A favorable vote of three members of the BZA 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 on which the BZA is required to pass.
- (D) The BZA shall choose annually its own chairperson and vice-chairperson. The vice-chairperson shall act in the absence of the chairperson and may administer oaths and compel the attendance of witnesses.
- (E) The BZA shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the BZA and perform such other ministerial duties as the BZA shall direct.
- (F) The secretary may be a salaried City employee and shall perform the duties of secretary of the BZA in addition to his other regular duties.
- (G) The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be public record.
- (H) All meetings of the BZA shall be open to the public.
- (I) A non-legal staff member of the City, applicant, landowner, or landowner’s agent/attorney may have ex parte communications with a member of the BZA prior to a hearing but may not discuss the facts or law relative to a particular case. However, all ex parte communications must comply with the requirements of the Code of Virginia § 15.2-2308.1, as amended.

City of Emporia Zoning & Subdivision Ordinance

Article 2 – Administration

- (J) Pursuant to the Code of Virginia § 15.2-2287, as amended, petitions brought by property owners, contract purchasers, or their agents, shall be sworn to under oath stating whether or not any member of the local planning commission or governing body has any interest in such property:
 - (1) Either individually;
 - (2) By ownership of stock in a corporation owning such land, partnership;
 - (3) As the beneficiary of a trust; or
 - (4) As the settlor of a revocable trust.
 - (5) Or whether a member of the immediate household of any member of the planning commission or governing body has any such interest.

Division 4. Enforcement.

Section 2-4-1. Authority.

- (A) As provided in Article 1, conformity with the Ordinance is required. Failure to comply with the requirements of the Ordinance constitutes a violation thereof and is declared to be unlawful.
- (B) As authorized by the Code of Virginia § 15.2-2286(A)(4), as amended, the Administrator or designee shall be responsible for enforcing the provisions of this Ordinance.
- (C) Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Administrator under this Ordinance in monitoring discharges, shall be guilty or liable of this Ordinance.

Section 2-4-2. Complaints and Inspection.

- (A) Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Administrator or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation. The Administrator or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.
- (B) The Administrator may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Administrator may enter upon land with an inspection warrant in accordance with the Code of Virginia § 15-2.2286(A)16, as amended.

Section 2-4-3. Notice of Violation.

- (A) Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Administrator shall issue written notice of such violation to the person committing or permitting the violations.
- (B) Notice of violation shall be mailed by registered or certified mail or hand delivered.

City of Emporia Zoning & Subdivision Ordinance
Article 2 – Administration

- (C) The notice of violation shall state:
 - (1) The nature of the violation;
 - (2) Date that the violation was observed;
 - (3) The remedy or remedies necessary to correct the violation;
 - (4) A reasonable time period for the correction of the violation;
 - (5) A statement informing the recipient that they may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with the Code of Virginia § 15.2-2311, as amended;
 - (6) The applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal; and,
 - (7) That the decision shall be final and unappealable if not appealed within 30 days.
- (D) Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article 3, Division 10.

Section 2-4-4. Remedies and Penalties for Violation.

- (A) Upon becoming aware of any violation and making a determination of validity of any of the provisions of this Ordinance, the Administrator may institute appropriate action or proceedings, as permitted by law, including injunction, abatement to restrain, correction, or abatement.
- (B) The remedies provided in the penalties sections below are cumulative and not exclusive except to the extent expressly provided therein.
 - (1) **Criminal Penalties.**
 - (i) With the exception of the subdivision code in Article 10, any violation of the requirements of this Ordinance resulting in injury to a person or persons or where such civil penalties exceed \$5,000, shall be a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1,000.
 - (ii) If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with this Ordinance, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period, punishable by a fine of not less than \$100 nor more than \$1,500.
 - (2) **Civil Penalties.** Any violation other than as provided in Section 2-4-4 (B) (1), above, for criminal penalties, shall be subject to the following civil penalties, as provided in Virginia Code § 15.2-2209, as amended, and subject to the following:
 - (i) **Procedure.** Proceedings seeking civil penalties for violations of this Ordinance shall commence either by filing a civil summons in the general district court or by the Administrator or Agent issuing a ticket.

City of Emporia Zoning & Subdivision Ordinance

Article 2 – Administration

- (ii) **Civil summons or ticket.** A civil summons or ticket shall contain, at a minimum, the following information:
 - (a) Name and address of the person charged;
 - (b) Nature of the violation and the Ordinance provisions being allegedly violated;
 - (c) Location, date and time violation occurred or was observed;
 - (d) Amount of the civil penalty for the violation; and
 - (e) Right of the recipient to elect to either pay the penalty or stand trial for the violation and the date of such trial. The summons shall state that if the person elects to pay the penalty, the person must do so by making an appearance in person or in writing by mail to the City Treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, enters a waiver of trial and admits liability for the offence charged. The summons shall provide that a signature is an admission of liability that shall have the same force and effect as a judgement of the court. However, such admission shall not be deemed a criminal conviction for any purpose.
- (iii) **Failure to Enter Waiver.** If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law or equity and it shall be the City's burden to provide the violator's liability by a preponderance of the evidence. A finding of liability shall not be deemed a criminal conviction for any purpose.
- (iv) **Fines.**
 - (a) **Amount of Civil Penalty.** A civil violation shall be subject to a civil penalty of \$200 for the initial summons, and a civil penalty of \$500 for each additional summons arising from the same set of operative facts.
 - (b) **Daily Offense.** Each day during which a violation exists shall constitute a separate violation. However, in no event shall a violation arising from the same set of operative facts be charged more frequently than once in any 10-day period.
 - (c) **Maximum Aggregate Penalty.** The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed \$5,000. If the violations exceed the \$5,000 limit, the violation may be prosecuted as a criminal misdemeanor as outlined above.

Division 5. Fees.

Section 2-5-1. Fees and Charges.

- (A) The City Council shall establish, by Ordinance, a schedule of fees, charges and expenses, and collection procedures for Zoning Permits, Conditional Use Permits, variances, appeals, amendments, site plan reviews, and other matters pertaining to this Ordinance.
- (B) The schedule of fees shall be available for inspection in the office of the Administrator and may be altered or amended by the City Council by Ordinance amendment.

Division 6. Taxes and Expenses Paid.

Section 2-6-1. Delinquent Taxes and Charges.

- (A) Pursuant to the Code of Virginia § 15.2-2286 (B), as amended, prior to the initiation of an application or appeal, the applicant shall produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property that are owed to the City, have been paid in full, unless otherwise authorized by the treasurer.
- (3) The above provision applies only to the property or properties for which the application is attached.
- (4) If an applicant is the renter of a subject property and said property has associated unpaid taxes and fees owed to the City, the property owner(s) shall be responsible for paying those balances in full.

ARTICLE 3. – Permits and Applications

Division 1. In General.

Section 3-1-1. Preapplication Meeting.

Prior to the submittal of an application for a Conditional Use Permit, Zoning Text and/or Map amendment (rezoning), Conditional Zoning, or a Site Plan, a preapplication meeting must be held between the applicant and the Administrator, unless otherwise waived by the Administrator. During this meeting the applicant may submit Concept Plans for preliminary review, comment, and recommendation by the Administrator.

Section 3-1-2. Minimum Submission Standards.

- (A) The Administrator shall establish minimum standards for submission requirements of all applications associated with the Zoning and Subdivision Ordinance. Applications shall contain all information required to meet the minimum standards.
- (B) Upon written request by an applicant, the Administrator may waive or modify a submission requirement(s) upon a determination that the information is not necessary to evaluate the merits of the application, such waivers or modifications are for application requirements only and do not include variances or modifications from district or use standards.
- (C) Additional information may be required as deemed reasonably necessary by the Administrator.

Section 3-1-3. Forms.

Applications or applications for amendments (to the Ordinance or Official Zoning Map), Site Plans, Variances, Conditional Use Permits, or Zoning Permits, and any other request requiring action shall be made on forms provided by the City.

Section 3-1-4. Ownership Disclosure.

An applicant must disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be provided, and in any case the names and addresses of all of the real parties of interest in accordance with the Code of Virginia § 15.2-2289, as amended.

Section 3-1-5. Oath Required.

Applications or applications for amendments to the Zoning Ordinance, Official Zoning Map, Variances, or Conditional Use Permits, shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.

Division 2. Zoning Text and Map Amendments.

Section 3-2-1. In General.

Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, whenever public necessity, convenience, general welfare, or good zoning practice requires, the City Council may, from time to time, amend, supplement or change, by Ordinance, the boundaries of the districts or the regulations established in this Ordinance.

Section 3-2-2. Standards and Procedures.

(A) **Initiation of change.** Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:

- (1) Resolution of the City Council;
- (2) Resolution of the Planning Commission; or
- (3) Application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map amendment (rezoning), addressed to the City Council or City of Emporia Planning Commission, who shall forward such application to the City Council.

(B) **Zoning Map Amendments.** Applications for Zoning Map amendments, including Conditional Zoning requests, shall be accompanied by 15 copies of a Concept Plan. The Concept Plan may be general and schematic and shall show:

- (1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a recorded subdivision plat or the City's tax map.
- (2) The names and addresses, as shown on the current real estate tax assessment books, of property owners abutting the property or owners located across the road/street.
- (3) Proposed land uses to be developed.
- (4) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
- (5) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
- (6) If any, the general location of proposed open space and recreational areas.
- (7) If any, the general location and type of commercial uses to be developed.
- (8) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (9) A statement on the proposed development schedule.
- (10) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (11) A written description of the nature and extent of the amendment desired and an explanation of the reasons for seeking a change.
 - (12) Any additional information as deemed reasonably necessary by the Administrator.
 - (13) Any rezoning request for a Planned Residential Development District (R-PRD), shall include:
 - (i) A Site Plan, in accordance with Division 6, Site Plans, of this Article.
 - (ii) A general statement of planning objectives to be achieved by the R-PRD, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and intentions with regards to any specific human-made and natural characteristics located on the site.
 - (iii) General information on the trip generation, ownership, maintenance, and construction standards for proposed streets should be included.
 - (iv) A traffic impact analysis that shall be prepared in accordance with the applicable Virginia Department of Transportation standards.
 - (v) Fiscal impact analysis information as specified by the City.
 - (vi) Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.
- (C) **Zoning Text Amendments.** The application for a text amendment to the Zoning Ordinance shall be filed with the Administrator. If the application proposes a change in a zoning classification or map boundaries, there shall be attached to the application:
- (1) Items required in Section 3-2-2 (B), as shown above.
 - (2) A written description of the nature and extent of the amendment desired together with an explanation of the reasons for seeking a change.
- (D) **Standards for Review.**
- (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the City shall evaluate the application and may request that the applicant make revisions, as necessary.
 - (2) The application for a rezoning or zoning text amendment shall be referred to the Planning Commission for public hearing and recommendation. The Planning Commission shall present their recommendation on the proposed ordinance or amendment, including the district maps, to the City Council for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with Division 11 of this Article and the Code of Virginia.
 - (3) The Planning Commission shall advise the City Council of their recommendation within 100 days from its first meeting following the referral of the application. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports the amendment. The City Council shall thereafter take any action it deems appropriate, unless the applicant requests an extension

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

for a defined period not to exceed a total of 90 calendar days from the date of the public hearing.

- (4) All motions, resolutions, or applications for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution, or application for amendment to the Zoning Ordinance or map, or both; otherwise, the amendment shall be deemed approved. In the event of and upon a withdrawal, processing of the motion, resolution, or petition shall cease without further action as otherwise would be required.
- (E) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the City Council shall be entered onto the official Zoning Map within 60 days following the approval of such changes. After updating sections of the Zoning Map, working prints of any updated section thereof upon which modifications have been made shall be inserted into all sets of the Zoning Maps that are used for public viewing and administration.

Section 3-2-3. Reconsiderations.

- (A) Applications requesting an amendment, supplement, or change to the Zoning Ordinance or Zoning Map:
 - (1) If denied by the City Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months from the date of the previous denial.
 - (2) If withdrawn by the applicant, such application, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the City Council to propose any amendment to this Ordinance on their motion at any time.

Division 3. Conditional Zoning and Proffers.

Section 3-3-1. Purpose and Intent.

Conditional zoning provides a method for permitting the reasonable and orderly development of land through zoning map amendment with reasonable conditions governing the use and development of such property. As authorized under the Code of Virginia §§ 15.2-2296 through 15.2-2303.3, as amended, reasonable conditions may be voluntarily proffered for the protection of the community when combined with existing Zoning Ordinance district regulations. The exercise of authority shall not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the locality which would be valid without regard to this division. In addition, the provisions of this Division shall not be used for the purpose of discrimination in housing.

Section 3-3-2. Standards and Procedures.

- (A) **Proffer of conditions; standards of consideration.**

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (1) Any owner of property or their agent making an application for a change in zoning or Zoning Map Amendment may, as part of the application (outlined in Division 2 of this Article), voluntarily proffer in writing reasonable conditions which shall apply to the subject property in addition to the regulations provided by the zoning district sought in the rezoning application. Any such proffered conditions must:
 - (i) Be made prior to any public hearing before the City Council (including joint public hearings with the Planning Commission);
 - (ii) Be in accordance with the procedures and standards contained in the Code of Virginia § 15.2-2297, as amended.
- (2) Proffered conditions shall be subject to the following limitations:
 - (i) The rezoning itself must give rise to the need for the conditions;
 - (ii) The conditions shall have a reasonable relation to the rezoning;
 - (iii) The conditions shall be in accordance with the City of Emporia Comprehensive Plan;
 - (iv) The conditions shall not include a requirement that the applicant create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) that includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in the Code of Virginia § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation;
 - (v) The conditions must not include payment for, or construction of, off-site improvements except those provided for in the Code of Virginia § 15.2-2241 and § 15.2-2303.4;
 - (vi) No condition shall be proffered that is not related to the physical development or physical operation of the property;
 - (vii) In the event that a proffer includes the dedication of real property or the payment of cash, such property shall not transfer, and such cash payment shall not be made until the facilities for which such property is dedicated, or cash is tendered are included in the capital improvements program of the City, provided that nothing herein shall prohibit the City from accepting proffered conditions which are not normally included in the capital improvements program; and
 - (viii) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall include provisions for the disposition of the property or cash in the event the property or cash is not used for the purpose for which it was proffered. Such provisions may include the return of the property or cash to the owner, or such other disposition as is agreed to by the City and the owner at the time the proffer is made.
- (3) At the time each proffer is submitted to the City, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states:

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (i) “Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the City has suggested or demanded a proffer that is unreasonable under applicable law.”
 - (ii) “I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.”
- (4) Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:
- (i) An impact analysis demonstrating justification of proposed proffers.
 - (ii) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.
 - (iii) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development.
 - (iv) A statement detailing any special amenities that are proposed.
 - (v) A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements.
 - (vi) A Concept Plan, as detailed in Section 3-2-2 (B), listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.
 - (vii) A statement setting forth the proposed approximate development schedule.

Section 3-3-3. Amendments and Variations Prior to Final Decision.

- (A) The City Council may accept amended proffers if they:
- (1) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the deadline for preparation of the advertisement of the public hearing by the City Council on the rezoning request.
 - (i) If the City Council determines that the amendment materially affects the overall proposal, the application with the amended proffers shall be remanded back to the Planning Commission for a public hearing and recommendation.

Section 3-3-4. Effect of Condition; Period of Validity.

- (A) All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.
- (B) Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall remain in full force and effect until amended or varied by the City Council.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (1) If the City Council rezones the land as part of a new or substantially revised Zoning Ordinance, such conditions shall continue in full force and effect automatically *without* notice or filing.

Section 3-3-5. Record of Conditional Zoning.

Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator. In addition, the Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions in addition to the regulations provided for in the particular zoning district and which shall be available for public inspection. The Administrator shall update the Index annually and no later than November 30 of each year.

Section 3-3-6. Reconsiderations.

- (A) Applications requesting an amendment or change to the Zoning Map that includes proffered conditions:
 - (1) If denied by the City Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
 - (2) If withdrawn by the applicant, such application, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the City Council to propose any amendment to this Ordinance on their motion at any time.

Division 4. Conditional Use Permits.

Section 3-4-1. Purpose and Intent.

- (A) A use requiring a Conditional Use Permit (CUP) is a use that may be appropriate in a zoning district, but because of its nature, extent, or external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this division is to establish procedures and standards for review and approval of CUPs that provide for such special consideration.

Section 3-4-2. Applicability.

In accordance with Code of Virginia § 15.2-2286, as amended, a CUP is required for the development of any use designated in Article 6, Use Matrix, as a use requiring a CUP in accordance with this Section, or as required by use standards provided in Article 7, Use Performance Standards.

Section 3-4-3. Standards and Procedures.

- (A) In addition to the general application requirements supplied in Division 1 of this Article, the applicant must provide information and data to:
 - (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with the purposes of the specific district in which it will be placed;

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety, or general welfare and show measures to be taken to achieve such goals;
 - (3) Demonstrate that the use will not tend to create congestion in streets, roads, alleys, and other areas; and
 - (4) Show that the proposal meets the applicable specific and general standards required by this Ordinance.
- (B) **Concept Plan.** Applications for CUPs shall be accompanied by 15 paper copies and 1 digital copy of a Concept Plan. The Concept Plan may be general and schematic and shall show:
- (1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions.
 - (2) Proposed land uses to be developed.
 - (3) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
 - (4) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
 - (5) If any, the general location of proposed open space and recreational areas.
 - (6) If any, the general location and type of commercial uses to be developed.
 - (7) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
 - (8) A statement on the proposed development schedule.
 - (9) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
 - (10) Any additional information as deemed reasonably necessary by the Administrator, such as a Traffic Impact Analysis.
- (C) **Standards for Review.**
- (1) The Administrator shall review any CUP application for its compliance with this Ordinance and to determine if it is complete. If the application is not complete, then the Administrator shall notify the applicant in writing of the materials that must be submitted to complete the application. When determined complete, the Administrator shall provide the application to the Planning Commission, along with a staff report that analyzes and makes a recommendation on the application.
 - (2) The Planning Commission shall hold a public hearing, in accordance with Division 11 of this Article, and make a recommendation on the application, including recommendations of such changes and conditions as it might deem appropriate. The Planning Commission shall provide its recommendation to the City Council.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (3) The City Council shall hold a public hearing, in accordance with Division 11 of this Article, and make a final decision on the application, including making appropriate changes to the application and imposition of conditions.
- (4) If an applicant seeks both an amendment to the Zoning Ordinance and a CUP for the same property, both applications may be made jointly and processed at the same time if the proposed amendment does not add a Conditional Use not previously permitted by the terms of this Ordinance.

Section 3-4-4. Effect of Decision; Period of Validity.

- (A) A CUP authorizes only the particular use(s) and associated development that is approved and shall not ensure approval for any other permit or development approval.
- (B) A CUP, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership, but shall expire as provided in (D) below.
- (C) Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, setbacks, lot area, sign requirements, and other specified standards shall be the same as for other uses in the district in which the Conditional Use is located.
- (D) A CUP shall expire upon the first to occur of the following:
 - (1) If the applicant does not obtain Site Plan approval or commence the use granted by the CUP within 1 year (or such longer time as the governing body may approve) from the date of the approval;
 - (2) If an activity operating under an approved CUP ceases for a period greater than 2 years; or
 - (3) Upon expiration of a Site Plan for the use granted by the CUP.

Section 3-4-5. Revocations.

A previously granted CUP may be revoked if the City Council determines there has not been compliance with the conditions of the permit. No permit shall be revoked except after notice and hearing as provided in this Article.

Section 3-4-6. Reconsiderations.

- (A) If a request for a CUP is denied by the City Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
- (B) If a request for a CUP is withdrawn by the applicant, such application, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.

Division 5. Variances.

Section 3-5-1. Purpose and Intent.

Pursuant to the Code of Virginia § 15.2-2309, as amended, the purpose of a variance is to allow for a reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, other relief or remedy is not available, such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance.

Section 3-5-2. Standards and Procedures.

(A) Authority.

- (1) Pursuant to the Code of Virginia § 15.2-2309 (2) and (6), as amended, the Board of Zoning Appeals (BZA) is authorized to review applications for a variance, if the applicant proves the burden and provides evidence that the application meets the standard for a variance and the criteria set out in this Ordinance.
- (2) The BZA may approve, approve with conditions deemed necessary in the public interest, including limiting the duration of a permit and requiring a guarantee or bond to ensure the conditions will be complied with, or deny an application for a variance in accordance with the procedures and standards of this Article.

(B) Standards for Review.

- (1) After application is made as required in Division 1 of this Article, the Administrator shall review the application for compliance with this Ordinance.
- (2) When it has been determined that the application is in proper form, the Administrator shall submit the application to the BZA. The Administrator shall also transmit a copy of the application to the local Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.
- (3) Pursuant to the Code of Virginia § 15.2-2309 (2), as amended, a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or its improvements at the time of the effective date of the Ordinance, and:
 - (i) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (iii) That such hardship is not shared generally by other properties and could be resolved with an amendment to this Ordinance;
 - (iv) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (v) The relief or remedy sought by the variance application is not available through the process for a special exception process that is authorized in the ordinance pursuant to subdivision 6 of the Code of Virginia § 15.2-2309, as amended, at the time of the filing of the variance application.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (4) Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of State and Federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.
- (5) If a request for a reasonable modification is made to a locality and is appropriate under the provisions of State and Federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such modification request shall be granted by the locality unless a variance from the BZA under this section is required in order for such request to be granted.

Section 3-5-3. Effect of Decision; Period of Validity.

- (A) Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership, except for variances provided in Section 3-5-2 (B)(4) of this Article.
- (B) Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the City. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.
- (C) After the BZA has granted a variance, it shall become void after 12 months if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the BZA does not specify some longer period than one year for good cause shown.

Section 3-5-4. Reconsiderations.

- (A) Applications for a variance:
 - (1) If denied by the BZA, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
 - (2) If withdrawn by the applicant, such application, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.

Division 6. Site Plans.

Section 3-6-1. Purpose and Intent.

- (A) The purpose of this section is to promote the orderly development of certain activities in the City and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the Site Plan shall be used to review:
 - (1) The project's compatibility with its environment and with other land uses and buildings existing in the area;

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
- (3) The quantity, quality, utility, and type of the project's required community facilities; and
- (4) The location and adequacy of the project's landscape improvements and provision for drainage and utilities.

Section 3-6-2. Applicability.

(A) General.

- (1) Pursuant to Code of Virginia, § 15.2-2286. A.8, as amended, all development in the City requires approval of a Site Plan in accordance with the procedures and standards in this Division prior to the issuance of a Zoning Permit, Building Permit, or Certificate of Occupancy, or any land disturbance, with the following exceptions:
 - (i) Individually developed single-family detached dwellings.
 - (ii) Individually developed two-family dwellings.
 - (iii) Accessory structures or improvements less than 256 sq. ft. in area.
 - (iv) Filling and grading operations where the area of land disturbance is less than 10,000 sq. ft. where no impervious structures, surfaces or improvements will be installed, and no clearing undertaken.
 - (v) Repairs of a general nature to existing buildings with no land disturbance.
- (2) All previously approved Concept Plans must also submit a Site Plan for administrative approval prior to any site development.
- (3) When a change is proposed that requires additional off-street parking or changes to exterior elements of a previously approved Site Plan, a Site Plan shall be submitted for review to ensure that the change of use can be accomplished within the regulations of this Ordinance.

Section 3-6-3. Site Plan Specifications, Generally.

- (A) Site Plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying, shall be prepared by persons professionally certified in the Commonwealth of Virginia to do such work.
- (B) Site Plans shall be prepared to the scale of 1-inch equals 100 ft. or larger, on 24x36 inch sheets.
- (C) Site Plans may be prepared on one or more sheets to clearly show the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
- (D) When more than one sheet is required to cover the entire project, a cover sheet, general in nature, shall be provided to identify all individual sheets of an application in proper relationship to each other.
- (E) All horizontal dimensions shown on Site Plans shall be in feet and decimals of a foot to be closest to 1/100th of a foot.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (F) When the development is to be constructed in stages or units, a final development schedule shall be included with the Site Plan that shows the order of construction of such stages, an approximate completion date for the construction of each stage, and a final cost estimate of all improvements within each stage.
 - (1) A Site Plan for a particular development stage or unit other than the first shall not be approved until the Site Plan has been approved for the immediately preceding stage or unit.
- (G) 5 paper and 1 digital copy of the Site Plan shall be provided to the Administrator as part of the application and each subsequent review.

Section 3-6-4. Site Plan Contents.

- (A) A Site Plan shall show the following, unless the Administrator determines that some of the following information is unnecessary due to the scope and nature of the development proposed:
 - (1) A title page containing the following:
 - (i) The title of the project, tax map reference, and street address;
 - (ii) Name, mailing and emailing address, and phone number of the applicant and property owner;
 - (iii) The name, mailing and emailing address, phone number, signature, seal, and registration number of the plan preparer, and the preparation date of the plan;
 - (iv) A 4-inch x 4-inch blank space to serve as the signature panel for the approving authority;
 - (v) The north point, scale, and vicinity map;
 - (vi) A table (with computations) estimating the lot coverage ratio and impervious surface ratio; and
 - (vii) A table (with computations) stating the total number of dwelling, commercial, or industrial units of various types in the project and the overall project density in dwelling, commercial, or industrial units per gross acre.
 - (viii) A table (with computations) stating the total number of acres in the project and the percentage and acreage thereof proposed to be allocated to the several dwelling types, any nonresidential uses, off-street parking, green areas, streets, parks, schools, and other reservations.
 - (2) Plan sheets containing:
 - (i) A legend for all symbols shown on the plan;
 - (ii) Topography of the project area with contour intervals of 2 ft. or less;
 - (iii) Existing zoning and zoning district boundaries, including special districts, on the property to be developed and on immediately adjacent properties;
 - (iv) The boundaries of the property or properties involved, all existing property lines, setback lines, streets, buildings, easements, rights-of-way, watercourses, waterways, wetlands, or lakes, and other existing physical features in or adjoining the project. If on an adjoining

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- property, physical features such as watercourses, waterways, or lakes need only be shown in approximate scale and proportion;
- (v) Any proposed parcel lines, easements, rights-of-way, and the locations, dimensions, height, and setbacks for proposed buildings, structures, and other improvements. Proposed building use type, major excavations, and the total square footage of the floor area by proposed use;
 - (vi) The proposed traffic circulation pattern, including the location, dimensions, and character of construction of proposed streets, alleys, driveways, sidewalks; the location, type, and size of ingress and egress to the site; and the relationship of internal traffic to external roads;
 - (vii) The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan;
 - (viii) The location of all existing and proposed off-street parking and loading spaces, indicating types of surfacing, size, angle of stalls, width of aisles, and the number of parking spaces, including parking and access for the handicapped as specified in the Virginia Uniform Statewide Building Code, as amended;
 - (ix) The location of proposed method of supply of adequate electric power, police, and fire and rescue protection;
 - (x) Provisions for the adequate disposition of surface water indicating location, sizes, types, and grades of ditches, catch basins, and pipes and connection to an existing drainage system;
 - (xi) The location and size of sanitary and storm sewers, water mains, sewer lines, fire hydrants, gas, telephone, electric and other utility lines, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities. In the case of City-owned utilities, such information shall be provided to the applicant by the Director of Public Services;
 - (xii) A table estimating the daily public water usage and sewage flow attributable to the proposed development in gallons per day, including the timing of any necessary connections;
 - (xiii) Location and general design of proposed outdoor lighting;
 - (xiv) Location and general design of proposed signs;
 - (xv) A landscape plan showing the location, dimensions, and material descriptions of all existing and proposed screens, buffer yards, or landscaping. The plan shall include the location, height, type, and material of all fences, walls, screen planting, and landscape details of all buildings and grounds;
 - (xvi) Proposed finished grading by contour and, when deemed necessary by the Administrator, supplemented by spot elevations;

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (xvii) The location and screening materials for dumpsters, waste refuse storage, or other outdoor trash receptacles;
 - (xviii) The location and dimensions of proposed recreation areas, open spaces, recreation facilities, and other amenities and improvements, including a statement of whether such open areas are to be dedicated to the public;
 - (xix) The location of any grave, object, or structure marking a place of burial;
 - (xx) The location of any known historic building or feature;
 - (xxi) The approximate limit of any floodplain limits, any drainage district, or mapped dam break inundation zone;
 - (xxii) The proposed nature and manner of grading the site, including proposed treatment of slopes in excess of 10% to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted as required in Chapter 34, Article 4 of the City Code. In all other cases, soil erosion control measures shall be shown on the Site Plan;
 - (xxiii) A plan or report indicating the extent, timing, and estimated cost of all off-site improvements, such as roads, sewer, and drainage facilities deemed necessary to construct the proposed development, and the extent, timing, and estimated cost of all facilities deemed necessary to serve the development such as schools, libraries, and police substations. This plan or report shall relate to the sequence of the development schedule if the development is to be constructed in stages or units;
 - (xxiv) Documentation of all existing permits and applications relevant to the parcel, including, but not limited to: Health Department permits; all existing Zoning Permits and zoning applications; applications for rezoning, Conditional Use Permits, Variances, and any other local, State, or Federal permits related to the parcel;
 - (xxv) A copy of all covenants, restrictions, and conditions pertaining to the use, maintenance, and operation of all open space areas; and
 - (xxvi) Any additional information as required by the Administrator necessary to evaluate the character and impact of the proposed project.
- (B) In addition, a Site Plan for any Planned Residential Development (R-PRD), shall include:
- (1) A plat as required for Preliminary Plat approval by Article 10, Subdivisions.

Section 3-6-5. Standards and Improvements.

- (A) **Improvements Required.** All improvements required by this Ordinance shall be installed at the cost of the developer and in accordance with design and construction standards of the City of Emporia.
- (B) **Specifications.** In cases where specifications have been established by the Emporia City Council, this Ordinance, the Virginia Department of Transportation (VDOT), or other State or Federal agency, for related facilities and utilities, such specifications shall be followed. The most restrictive specifications will prevail.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (1) In addition to those improvements and standards specified in other sections of this Ordinance, the following minimum standards and improvements shall also be required for all Site Plans:
 - (i) All streets and sidewalks must be designed in compliance with Chapter 62, Streets, Sidewalks, and Other Public Places, of the City of Emporia Code of Ordinances.
 - (ii) All landscaping must be designed in compliance with Article 8, Community Design Standards, of this Ordinance.
- (C) **Performance Bond.** After a Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the City an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as “performance bond”) from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.
 - (1) The cost of required improvements shall be determined by a bona fide estimate of construction cost prepared by a duly licensed engineer and such estimate shall be provided at the expense of the developer.
 - (2) The amount of the performance bond or other guarantee shall be 110% of the estimated construction cost.
 - (3) In the event the Administrator has rejected any such agreement or bond, the owners or developer shall have the right to have such determination made by the City Council.
 - (4) If such performance bond contains an expiration date, provisions shall be made for the extension thereof if all improvements have not been completed 30 days prior to the expiration date.
 - (5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Administrator and by the Virginia Department of Transportation, where appropriate.
- (D) **Supervision and Inspections.** It shall be the responsibility of the developer to provide adequate supervision and inspections on the site during the installation of all required improvements, and to have a responsible supervisor together with one set of approved plans, profiles, and specifications at the site at all times when work is being performed.
- (E) **Acceptance of Improvements.** The approval of the Site Plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the City to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvements shall be subject to the City and/or State regulations.

Section 3-6-6. Review.

- (A) **Administrative Review.** Site Plans required under Section 3-6-2 of this Article are subject to administrative approval by the Administrator.
 - (1) The Zoning Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.
- (B) **Site Plan Review Process.** Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:
- (1) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans.
 - (2) Site Plans will be provided to all relevant City departments and reviewing agencies for written comment.
 - (3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.
- (C) **Time Period for Approval.**
- (1) Pursuant to Code of Virginia, § 15.2-2259, as amended, Site Plans shall be approved or disapproved within 60 days after it has been officially submitted and accepted for review for, if State agency review is required, within 35 days of receipt of approvals from all reviewing agencies. If disapproved, the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.
 - (2) Pursuant to Code of Virginia, § 15.2-2259, as amended, a Site Plan that has previously been disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days of resubmission.

Section 3-6-7. Amendment of Site Plans.

(A) **Site Plan for Previously Approved Concept Plan.**

- (1) If it becomes necessary for an approved Site Plan for a previously approved Concept Plan for a Conditional Use Permit or Rezoning to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:
 - (i) Alter a recorded plat;
 - (ii) Conflict with specific requirements of this Ordinance or proffered conditions;
 - (iii) Change the general character or content of an approved Concept Plan or use;
 - (iv) Have an appreciable effect on adjoining or surrounding property;
 - (v) Result in any substantial change of external access points;
 - (vi) Decrease the minimum specified yard and open spaces; and
 - (vii) Substantially change architectural or site design features.
- (2) Amendments such as but not limited to, the elimination of any use shown or the addition of any use not shown on the Concept Plan, or any increase or decrease in the density of the

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

development from the approved Concept Plan, shall require approval of a Concept Plan amendment through the applicable rezoning or Conditional Use Permit process.

- (B) **Site Plan Not Associated with an Approved Concept Plan.** If it becomes necessary for an approved Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve amendment(s) to the Site Plan if the change or amendment is in compliance with this Ordinance.
- (C) If the Administrator fails to act on a request for a minor amendment to the Site Plan within 45 calendar days, it shall be considered approved.

Section 3-6-8. Compliance with Approved Site Plan Required.

- (A) It shall be unlawful for any person to construct, erect, or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.
- (B) No 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.
- (C) The Building Official shall be responsible for enforcing the requirements as set forth in the approved Site Plan, before issuance of a Certificate of Occupancy, and shall give written notice to the Administrator that the Site Plan has been completed before issuing the Certificate of Occupancy.
- (D) Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit to the City agent 2 copies of the completed As-Built Plans. Such shall be submitted at least 1 week prior to the anticipated occupancy of any building for the review and approval by the City agent for conformity with the approved Site Plan and the ordinances and regulations of the City and State agencies.
- (E) Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to guarantee the completion of Site Plan, as outlined in Section 3-6-5 of this Article, and upon providing of such bond with surety as agreed upon by the Administrator, a permit may be issued for the occupancy of those structures already completed.

Section 3-6-9. Period of Validity.

- (A) In accordance with Code of Virginia, § 15.2-2261, as amended, approval of a Site Plan submitted under the provisions of this Article shall expire 5 years after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- (B) The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

Division 7. Zoning Permits.

Section 3-7-1. Applicability.

- (A) No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a permit issued by the Administrator verifying that the building, structure, or use complies with the requirements of this Ordinance.
- (B) No such permit shall be issued for a building, structure, or use unless such complies with the provisions of this Ordinance, or a Conditional Use Permit authorizing an exception, variance, or written order from an appeal has been approved as provided by this Ordinance.

Section 3-7-2. Standards and Procedures.

- (A) The standards below regulate the construction of any building or structure on a lot of record, based on frontage type.
 - (1) **Frontage on Improved Right-of-Way.** If a lot of record has frontage on an improved right-of-way, construction of a structure shall be permitted.
 - (2) **Frontage on Unimproved Right-of-Way.** If a lot of record has frontage on an unimproved right-of-way, the property owner or developer must improve the unimproved right-of-way in accordance with Article 10, Subdivisions, of this Ordinance, and Chapter 62, Article 2, Streets and Article 4, Improvement of Request, of the City Code.
 - (i) Prior to the issuance of a Certificate of Occupancy, the Building Official shall confirm that the required improvements are complete.
 - (3) **No Street Frontage.** If a lot of record is landlocked with no street frontage, proof of adequate access from an improved right-of-way via an access easement shall be provided to the Administrator prior to approval of any construction. The City shall not be responsible for the maintenance or improvement of any private access easement agreement.
- (B) Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.
 - (1) Site Plans shall be submitted as required in Division 6, Site Plans, of this Article.
 - (2) When Site Plans are not required, each Zoning Permit application shall be accompanied by 2 copies of a scale drawing or plan on a plat that shows, with dimensions:
 - (i) Lot lines;
 - (ii) Location of buildings on the lot;
 - (iii) Setback measurements from each property boundary;
 - (iv) Proposed use of all land and buildings;
 - (v) Points of connection to public water and sewer;
 - (vi) Delineation of all floodplain limits;

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (vii) Such other information as may be necessary to provide for the enforcement of these regulations; and
 - (viii) If determined necessary by the Administrator in a specific case, a boundary survey, and a staking of the lot by a competent surveyor, and complete construction plans shall be required.
- (C) If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Administrator. One (1) copy of the drawing shall be returned to the applicant with the permit. One (1) copy shall be kept in the offices of the Administrator as record of the decision.
- (D) A zoning permit, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.

Section 3-7-3. Period of Validity.

(A) Expiration of Zoning Permit.

- (1) An approved Zoning Permit shall become null and void if the work described in the Zoning Permit has not begun within one (1) year from the date of issuance. Written notice of the revocation shall be provided by the Administrator to the applicant.
 - (2) If the work described in any Zoning Permit has not been substantially completed within 2 years of the date of issuance, said permit shall expire and be revoked by the Administrator. Written notice of the permit expiration shall be given to the permit applicant.
- (B) **Extension.** Prior to expiration of an approved Zoning Permit, if the applicant requests extension, the Administrator may grant extensions for additional periods as determined to be reasonable, taking into consideration, although not exclusively, the size and nature of the development, due diligence of the applicant to proceed, and other applicable laws in effect at the time of the extension request.

Division 8. Certificate of Occupancy.

Section 3-8-1. Applicability.

No person shall occupy or change the occupancy of a building or structure, or part thereof, hereafter created, erected, changed, converted, altered, or enlarged, wholly or partly, until a Certificate of Occupancy (COO) has been issued as provided in the City of Emporia Code of Ordinances and required by the Virginia Uniform Statewide Building Code.

Section 3-8-2. Standards and Procedures.

Certificates of Occupancy are approved in accordance with the Virginia Uniform Statewide Building Code and the City of Emporia Code of Ordinances.

Division 9. Zoning Determinations.

Section 3-9-1. Purpose and Intent.

In administering, interpreting, and enforcing this Ordinance, the Administrator shall provide a written response to persons who have filed a specific request in writing for a decision or determination on zoning matters within the scope of the Administrator's authority.

Section 3-9-2. Standards and Procedures.

- (A) The Administrator's response shall be provided within 90 days of the date of the request unless the requestor agrees to a longer period of time.
- (B) When the requestor is not the owner or the owner's agent of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), as amended, shall provide written notice within 10 days of receipt of the request to the owner of the property at the owner's last known address as shown on the City's real estate assessment records.
- (C) The Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Division 10 of this Article.

Division 10. Appeals.

Section 3-10-1. Appeals of Zoning Administrator Determinations and Decisions.

- (A) Pursuant to the Code of Virginia § 15.2-2311, as amended, an appeal to the Board of Zoning Appeals (BZA) may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.
- (B) Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- (C) A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

Section 3-10-2. Appeals to Board of Zoning Appeals (BZA) Procedures.

- (A) Pursuant to the Code of Virginia § 15.2-2312, as amended, procedures for submitting an appeal shall be as follows:
 - (1) **Mailing Procedure.** Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal shall be mailed to the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (2) **Hearing.** The BZA shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.
- (3) **Decisions.** In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. In any appeal, if a BZA's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

Section 3-10-3. Appeals of BZA, Planning Commission, or City Council.

- (A) Pursuant to the Code of Virginia § 15.2-2314, and §15.2-2285, as amended, any person jointly or severally aggrieved by any decision of the BZA, Planning Commission, or City Council or any taxpayer or any officer, department, board, or bureau of the City may appeal the decision to the circuit court of Greensville County.
- (B) An application specifying the grounds on which the applicant is aggrieved must be submitted 30 days after the filing of the decision in the office of the BZA.

Section 3-10-4. Construction in Violation of Ordinance Without Appeal to BZA.

- (A) Pursuant to the Code of Virginia § 15.2-2313, as amended, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.
- (B) The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-10-5. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the BZA or by a court of record, on application and on notice to the Administrator and for good cause shown.

Division 11. Public Hearings and Notifications.

Section 3-11-1. Public Hearing Required.

- (A) In accordance with the Code of Virginia § 15.2-2204, as amended, the Planning Commission shall not recommend, nor shall the City Council adopt or approve any plan, ordinance, amendment, or Conditional Use Permit, nor shall the BZA approve any variance, until it has held a duly advertised public hearing. Advertising and notice procedures shall be conducted according to the procedures under the Code of Virginia § 15.2-2204, as amended, as outlined in this Division.
- (B) The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth below need be given only by the City Council.

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

- (C) No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia § 15.2-2204, as amended.

Section 3-11-2. Advertisements and Mailings.

- (A) The notice for each proposal shall provide as required in Code of Virginia § 15.2-2204, as amended:
 - (1) The street address or tax map parcel number of the parcel(s);
 - (i) In cases where the intended action affects more than 25 parcels, the notice must include the approximate acreage subject to the intended action;
 - (ii) For more than 100 parcels, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area;
 - (2) Where copies of the proposal may be examined; and
 - (3) The time and place of any hearing at which persons affected may appear and present their views.
- (B) Notice of public hearings shall also be published once a week for 2 successive weeks in some newspaper published or having general circulation in the City.
 - (1) The term "2 successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than 6 days elapsing between the first and second publications.
 - (2) The hearing shall be held not less than 5 days nor more than 21 days after the second advertisement shall appear in such newspaper.
- (C) Property owner notification shall be sent by the Administrator a minimum of 5 days prior to any public hearing, except where a longer timing is required.
 - (1) Notifications must be mailed to:
 - (i) The owner, owners, or their agent of the subject property;
 - (ii) Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
 - (iii) A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least 10 days prior to the hearing;
 - (iv) The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;
 - (v) The owner of a public use airport when the subject property is located within 3,000 feet of such airport at least 30 days prior to the hearing;
 - (vi) For rezonings, the incorporated property owners' association within a planned development where the subject property is located within the planned development and

City of Emporia Zoning & Subdivision Ordinance

Article 3 – Permits and Applications

the association's members also own property in the planned development that is located within 2,000 feet of any portion of the subject property; and

- (vii) In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.
- (2) The following exceptions shall apply to property owner notification requirements, as outlined in this Section:
- (i) When a proposed amendment to the Zoning Ordinance involves a tract of land not less than 500 acres owned by the Commonwealth of Virginia or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.
 - (ii) For Zoning Map amendments impacting more than 25 parcels or Ordinance amendments that decrease residential density:
 - (a) Adjacent property owner notification is not required.
 - (b) Owner notification is not required for lots less than 11,500 square feet and shown on approved and recorded subdivision plat.
- (3) Notice, as required above, shall be sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records. Notice may be sent by first class mail; however, a representative of the City shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.
- (D) The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The City shall bill the applicant for such costs.

Section 3-11-3. Posting Notice on Property.

- (A) For rezonings and Conditional Use Permits, the applicant shall be required to place a sign(s), provided by the City, on the subject property which indicates that zoning action is pending.
- (1) The notice must be posted on the subject property no less than 15 days prior to the public hearing. Notice shall be removed no later than 7 days after the public hearing.
 - (2) If the application addresses more than one property, signage shall be placed on each parcel.
 - (3) The notice shall be posted at reasonable intervals along roads abutting the subject property, or if there is no abutting road, at the proposed road or entrance into the property, in locations reasonably visible from existing roads.
 - (4) The holding of a public hearing or the validity of action on an application shall not be affected by the unauthorized removal of a notice which has been posted in accordance with this section.

Section 3-11-4. Developer/Applicant Responsibility.

It shall be the responsibility of the applicant to meet the requirements of Section 3-11-2 and Section 3-11-3 of this Article. Improper posting or mailings not in accordance with those Sections shall defer the public hearing. If deferred, the property will require re-posting and new mailings to be sent, and any additional costs associated with the deferment.

Section 3-11-5. Waiver of Notice.

Actual notice of, or active participation in, a public meeting for which written notice is required shall waive the right of that party to challenge the validity of the proceedings based on failure of notice.

ARTICLE 4. – Primary Zoning Districts

Division 1. Establishment and Purpose.

Section 4-1-1. General.

- (A) **Zoning districts established.** Land within the City, as it exists at the time of this Ordinance being enacted, is hereby divided into classes of primary zoning districts to:
- (1) Regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the comprehensive plan;
 - (2) Regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered; and
 - (3) Ensure adequate setbacks, open spaces, and public facilities to support the City’s population.
- (B) **Primary Zoning Districts.** The City of Emporia is hereby divided into the following primary zoning districts:

Table 4.1 | Primary Zoning Districts

Residential Districts	
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	High Density Residential
R-MH	Manufactured Home Residential
Commercial Districts	
DT	Downtown
C-1	General Commercial
C-2	Highway Commercial
Industrial Districts	
I-1	Light Industrial
I-2	Heavy Industrial
Planned Development District(s)	
R-PRD	Planned Residential Development

- (C) Overlay Districts are established in Article 5, Overlay Zoning Districts, of this Ordinance.

Section 4-1-2. References to District Names.

For the purpose of reference throughout this Ordinance, unless specifically provided to the contrary, the term “residential district” shall include R-1, R-2, and R-3 districts; “commercial district” shall include C-1, C-2, and DT districts; “industrial district” shall include I-1 and I-2 districts; and “planned development district” shall include the R-PRD district.

Section 4-1-3. Purpose and Intent of Primary Zoning Districts.

(A) Residential.

- (1) **R-1, Low Density Residential.** The intent of this district is to protect existing low density residential areas, while promoting similar development as the City grows. 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 to prohibit all activities of a commercial nature. To these ends, development shall be limited to low concentrations of homesites on more spacious lots. Uses are limited to single-family dwellings, plus certain additional public, civic, and recreational uses, such as schools, parks, and churches.
- (2) **R-2, Medium Density Residential.** The intent of this district is to protect existing residential areas that provide single- and two-family dwellings, while promoting similar development as the City grows. Regulations for this district are designed to provide a suitable environment for a mix of housing types located in closer proximity to shopping and employment. To these ends, development shall be limited to relatively low to medium concentration, and uses are limited to single- and two-family dwellings, plus certain additional public, civic, and recreational uses, such as schools, parks, and churches.
- (3) **R-3, High Density Residential.** The intent of this district is to protect existing residential areas of medium to high concentrations that are located between or adjacent to other residential and commercial uses, while promoting complementary and similar uses as the City grows. Regulations for this district are designed to stabilize and protect the essential characteristics of the district, to provide a suitable environment for persons desiring the amenities of apartment living and the convenience of being close to shopping, employment centers, and other community facilities. This residential district allows for the most variation of dwelling types. Other permitted uses include those compatible with residential neighborhoods, such as public, civic, and recreational (schools, parks, churches) and limited commercial development unlikely to generate high traffic and crowds of customers. This district is predominately residential in character and, as such, commercial uses should be developed sensitively.
- (4) **R-MH, Manufactured Home Residential.** The intent of this district is to increase opportunities for affordable housing alternatives, to recognize modern advances in manufactured housing technology, and to promote cost effective site development. This district provides opportunity for manufactured housing communities to develop in such a way that is harmonious with existing residential neighborhoods. Furthermore, this district provides for civic and recreational uses, and protects against the intrusion of incompatible commercial and industrial uses.

(B) Commercial.

- (1) **DT, Downtown Commercial.** The intent of this district is to provide a traditional downtown with a mix of uses and services. This district should have infill development that fits the scale, design, and character of the area. Land uses should include a mix of retail, office, service, entertainment, and hotel uses, as well as introduce and expand residential uses that contribute to the activity and vitality of the area.

City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

- (2) **C-1, General Commercial.** The intent of this district is to recognize existing commercial uses and to provide an opportunity to expand these and other similar commercial uses and development. It is also intended to encompass the expanding commercial areas of C-2, and act as a transition between commercial and non-commercial districts. The district should accommodate a range of retail, personal service, and office uses and provide for the convenience and day-to-day needs of residents of nearby neighborhoods.
- (3) **C-2, Highway Commercial.** The intent of this district is to accommodate a wide range of retail, wholesale, service, and office uses that cater to the traveling public and serve the City and the surrounding region. The district is designed to provide highly attractive and accessible shopping along principal highways, while avoiding the routing of traffic onto minor streets or through residential areas.

(C) Industrial.

- (1) **I-1, Light Industrial.** The intent of this district is to provide sufficient space in appropriate locations for less intense industrial uses, such as research facilities, wholesale, warehousing, light industrial, and heavy commercial uses. The uses in this district should be buffered from daily services and residences. Uses should occur mostly in enclosed buildings or be screened from view, and activities should not create a danger to health and safety in surrounding areas, nor create off-site noise, vibration, smoke, dust, lint, odor, heat, or glare.
- (2) **I-2, Heavy Industrial.** The intent of this district is to encourage and provide for larger scale manufacturing operations in appropriate areas separated from daily services and residences. The uses in this district may include outside storage, noise, smoke, or odor, which shall be mitigated with industry best practice for the compatibility of the surrounding area and the preservation of the environment.

(D) Planned Development.

R-PRD, Residential Planned Development. The intent of this district is to promote residential planned developments that are designed and developed in accordance with a master plan. Within such communities, the location of all improvements shall be controlled in such a manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. A planned residential development may include light commercial facilities to the extent necessary to serve the needs of the planned residential development.

Division 2. General District Standards.

Section 4-2-1. General.

- (A) The requirements specified in this Article shall be considered the minimum required to promote the public health, safety, and general welfare.
- (B) Except as provided elsewhere in this Ordinance for nonconforming lots, every structure hereafter constructed shall be located on a lot meeting the minimum requirements for the district in which it is located.

City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

- (C) Photographs, graphics, and/or diagrams in this Article are included for illustrative purposes only. If there is any inconsistency between them and the text of this Ordinance, including tables, the text will govern.

Section 4-2-2. Additional Standards.

In addition to the provided standards for each district, additional standards may apply, as listed below:

- (A) **Use Performance Standards.** Article 7, Use Performance Standards, of this Ordinance establishes additional standards pertaining to specific uses.
- (B) **Community Design Standards.** Article 8, Community Design Standards, of this Ordinance establishes additional standards for:
- (1) Landscaping and screening;
 - (2) Walls and fences;
 - (3) Parking and loading;
 - (4) Lighting;
 - (5) Signs; and
 - (6) Open space.
- (C) **Drainage.** Provisions shall be made for proper stormwater drainage from streets, parking, and loading areas, in accordance with Chapter 78 of the City Code. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accordance with Chapter 34 of the City Code.
- (D) **Streets and Sidewalks.** Provisions shall be made for the construction and maintenance of streets and sidewalks, in accordance with Chapter 62 of the City Code.

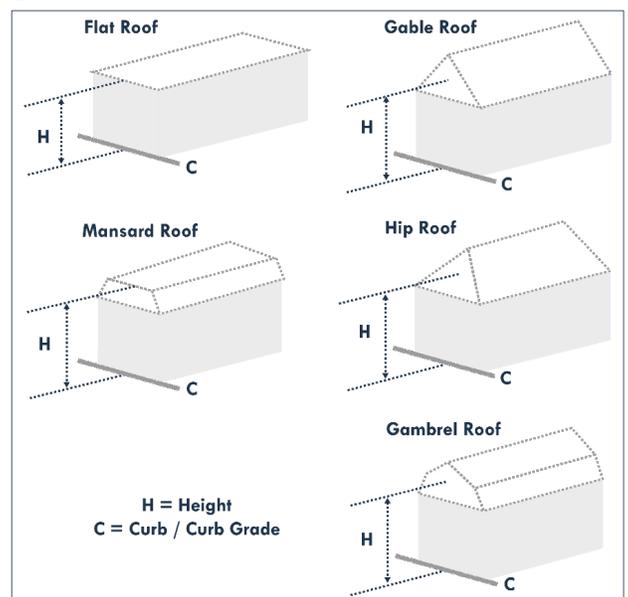
Division 3. Application and Measurement of District Standards.

Section 4-3-1. Height.

(A) **Measuring Height.**

- (1) Building height is measured, in feet, as the vertical distance from the level of the curb or the established curb grade that is opposite the front of the structure to the roofline, measured as follows: *See Figure 4.1.*
 - (i) If a flat roof, measurement is to the top of the roof.

Figure 4.1 | Height Measurement in Primary Districts



City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

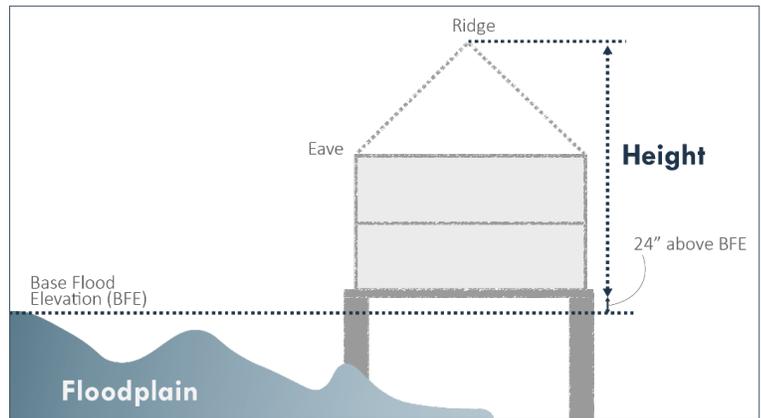
- (ii) If a mansard roof, measurement is to the deck line of the roof.
- (iii) If a gable, hip, or gambrel roof, measurement is to the mean height level between the eaves and ridge of the roof.

(B) Floodplain Height.

(1) For structures that are in AE and A Flood Zones, as identified in Article 5, Overlay Zoning Districts, Division 2, Floodplain Overlay District, of this Ordinance, the following applies:

- (i) Height is measured from 24 inches above the base flood elevation to the roofline as required in this Section, item (A) for the building site. See *Figure 4.2*.
- (ii) In cases where there is a ground floor enclosure below the base flood elevation, height shall be measured as provided in (A), above. See *Figure 4.1*.

Figure 4.2 | Height Measurement of Raised Structures in Floodplain Areas



(C) **Exemptions.** The height limitations of this Ordinance shall not apply to:

- (1) Spires;
- (2) Belfries;
- (3) Cupolas;
- (4) Domes;
- (5) Monuments;
- (6) Chimneys, flues, and smokestacks;
- (7) Flagpoles;
- (8) Silos;
- (9) Television antennas;
- (10) Radio aerials;
- (11) Parapet walls;
- (12) Roof-top mechanical equipment screened by parapet walls;
- (13) Water tanks or towers;
- (14) Broadcasting or communication towers; and
- (15) Utility service, major.

Section 4-3-2. Lots and Setbacks.

(A) **Lot Standards.**

- (1) Lot area shall be the total horizontal area included within the lot lines of a lot.
- (2) Lot width shall be the horizontal distance between the side lot lines of a lot, measured at the front setback.

(B) **Street Frontage Required.** Except as otherwise provided in this Article, every lot shall front a street; whether public or private.

(C) **Required Setbacks.** See Figures 4.3, 4.4, and 4.5.

- (1) Interior Lots, Corner Lots, and Stem Lots shall have the following setbacks:
 - (i) One front, two side, and one rear.
- (2) Double Frontage Lots shall have the following setbacks:
 - (i) Two fronts, one side, and one rear.

Figure 4.3 | Lot Standard Terms

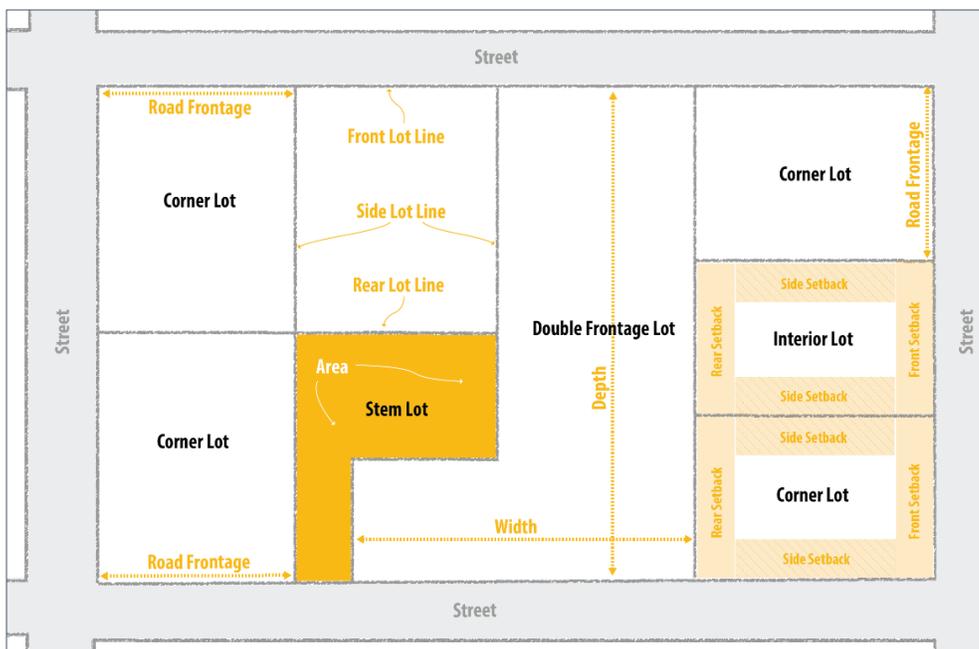
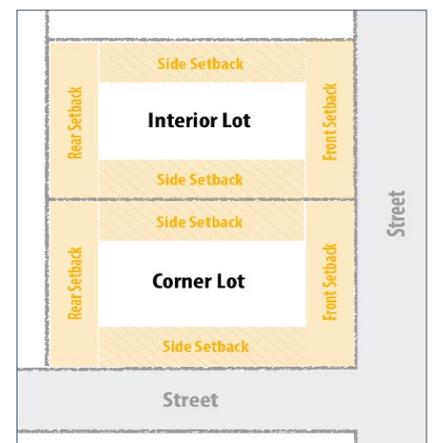


Figure 4.4 | Required Setbacks



(D) **Measurement Methods.** See Figure 4.6. The following methods shall be used for measuring setbacks:

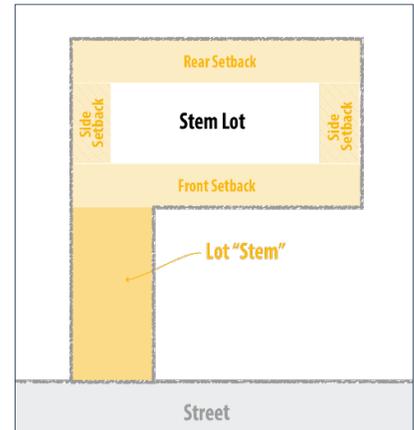
- (1) **All Setback Types.** Setbacks shall be measured in such a manner that the lot line and the setback line are parallel to one another.
- (2) **Front Setback.** Front setbacks are determined as follows:
 - (i) A front setback shall be included for the full width of the lot frontage, measured between the side lot lines.

City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

- (ii) Depth of the front setback shall be measured from the front lot line, inward towards the lot, until the distance required in the district standards is met.
- (iii) Interior Lots shall have one front setback that is the portion along the street.
- (iv) Double Frontage Lots shall have two front setbacks, one along each street.
- (v) Corner Lots shall have one front setback that is the shortest of the two street frontages.
- (vi) Stem Lots shall have one front setback that is measured from the boundary delineating the end of the “stem” and then in towards the lot until the distance required in the district standards is met. *See Figure 4.5.*
- (vii) Irregular Lots shall have one front setback that shall be determined by the nearest existing buildings on each side of the lot. However, if the existing buildings are more than 125 ft. away from the proposed structure, the Administrator will determine the setback.

Figure 4.5 | Stem Lot Front Setback



(3) Side Setback.

- (i) Side setbacks shall be measured from the front setback to the rear setback.
- (ii) Depth of a side setback shall be measured from the lot line in towards the lot until the distance required in the district standards is met.

(4) Rear Setback.

- (i) A rear setback shall be included for the full width of the rear of the lot, measured between the side lot lines.
- (ii) Depth of a rear setback shall be measured from the rear lot line in towards the lot until the distance required in the district standards is met.

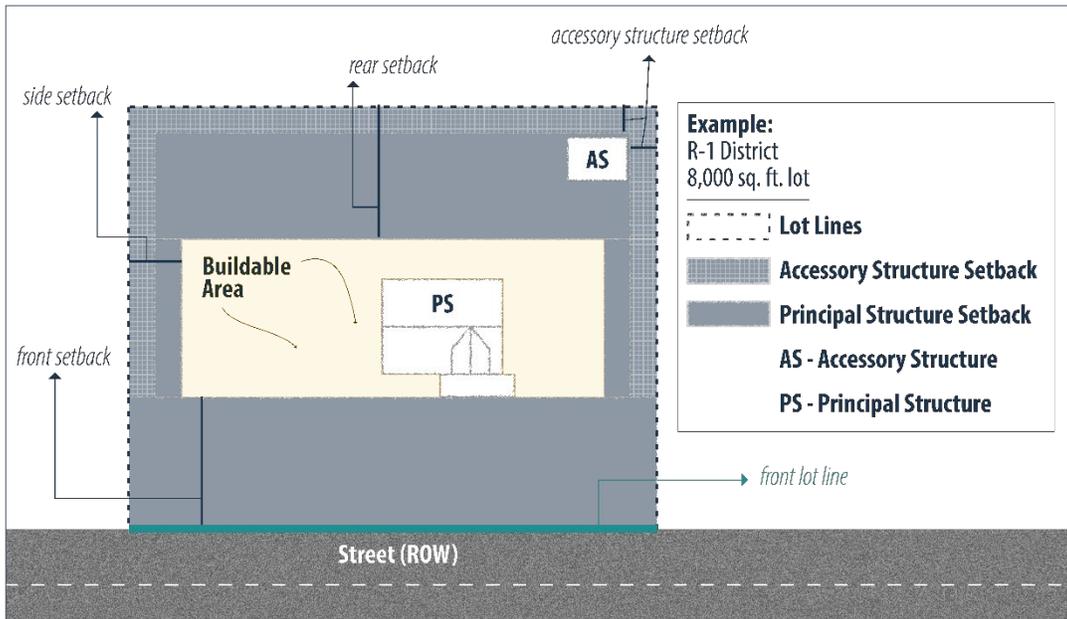
(E) Exemptions and Encroachments. The following uses and structures are permitted in required setbacks, subject to the limitations provided:

- (1) Plantings, fences, or shrubbery.
 - (i) Plantings, fences, shrubbery, or other obstruction on any Corner Lot, shall be no taller than 3 ft. higher than the curb or street level within the visibility triangle.
- (2) Unenclosed porches, steps, and decks, not exceeding 24 sq. ft. in size, may project into any required setback, but shall not be closer than 3 ft. to any lot line.
- (3) Architectural features, chimney, eaves, windowsills, and other like building features may project into any required setback but shall not be closer than 3 ft. to any lot line.
- (4) Balconies and open, unenclosed fire escapes may project not more than 4 ft. into any required side or rear setback but shall not be closer than 3 ft. to any lot line.

City of Emporia Zoning & Subdivision Ordinance
Article 4 – Primary Zoning Districts

- (i) Accessory structures are subject to the requirements and regulations of Article 7, Use Performance Standards, of this Ordinance.

Figure 4.6 | Setback Example



Division 4. Residential Districts Dimensional Standards.

Section 4-4-1. Residential District Regulations.

Table 4.2 | Residential District Regulations

	R-1	R-2	R-3	R-MH
Minimum Lot Area:				
All lots	8,000 sq. ft.	6,000 sq. ft.		4,500 sq. ft.
Single-Family Dwellings			6,000 sq. ft.	
Two-Family Dwellings			3,500 sq. ft. per unit	
Townhouse Dwellings			2,000 sq. ft. per unit	
Multi-Family Dwellings			10,500 sq. ft., plus 2,500 sq. ft. for each unit over 4 units	
Minimum Lot Width:				
All lots	75 ft.	60 ft.		50 ft.
Single-Family Dwellings			60 ft.	
Two-Family Dwellings			30 ft. per unit	
Townhouse Dwellings			16 ft. per unit	
Multi-Family Dwellings			75 ft.	
Maximum Lot Coverage:				
All Lots; all structures	30%	35%	60%	40%
Minimum Required Setbacks:				
<i>Front</i>				
Principal Structures	25 ft.			
Accessory Structures	Not permitted in front yard			
<i>Side</i>				
Principal Structures	10 ft.	5 ft.; at least 15 ft. total for both side yards		
Accessory Structures	5 ft.			
<i>Rear</i>				
Principal Structures	25 ft.			
Accessory Structures	5 ft.			
Maximum Structure Height:				
Principal Structures	35 ft.	35 ft.	45 ft.	35 ft.
Non-Residential Principal Structures ¹	35 ft.	35 ft.	45 ft.	35 ft.
Accessory Structures	No taller than principal structure			
¹ Non-residential principal structures in residential districts may be erected to a height of 50 ft.; provided that required front, side, and rear setback minimum standards shall be increased 1 foot for each foot in height over 45 ft.				

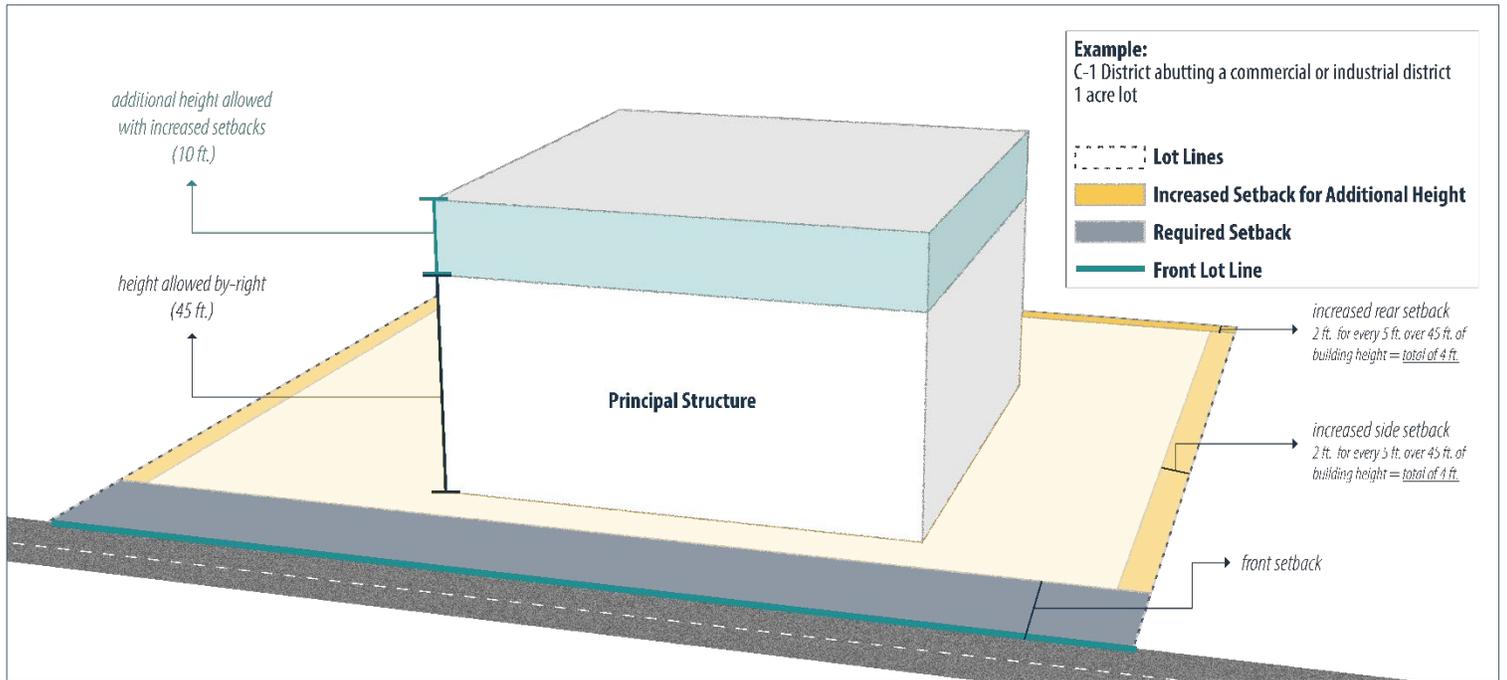
Division 5. Commercial Districts Dimensional Standards.

Section 4-5-1. Commercial District Regulations.

Table 4.3 | Commercial District Regulations

	DT	C-1	C-2
Minimum Lot Area:			
All lots	No minimum; if structures/uses on the lot utilize private well and/or septic system(s), the minimum area shall be determined by the Health Official.		
Minimum Lot Width:			
All lots	No minimum		
Maximum Lot Coverage:			
All Lots, all structures	No maximum; entire lot may be covered, provided that all other district standards of this Article are met		
Minimum Required Setbacks:			
<i>Front</i>			
Principal Structures	0 ft.; Buildings shall be in line with surrounding existing buildings. If there are no immediately adjacent buildings, a maximum setback of 5 ft.	25 ft.	25ft.
Accessory Structures	Not permitted in front yard		
<i>Side</i>			
Principal Structures	None except when abutting a residential district; When abutting a residential district: 25 ft.		
Accessory Structures	5 ft.		
<i>Rear</i>			
Principal Structures	None except when abutting a residential district; When abutting a residential district: 25 ft.		
Accessory Structures	5 ft.		
Maximum Structure Height:			
Principal Structures	45 ft.	45 ft.	45 ft.
Accessory Structures	No taller than principal structure		
¹ Principal structures in C-1 and C-2 districts may be erected to a height of 55 ft. provided that required front, side, and rear setback minimum standards shall be increased 2 ft. for each 5 ft. in structure height over 45 ft. See Figure 4.7.			

Figure 4.7 | C-1 Example of Additional Height with Increased Setbacks



Division 6. Industrial Districts Dimensional Standards.

Section 4-6-1. Industrial District Regulations.

Table 4.4 | Industrial District Regulations

	I-1	I-2
Lot Area:		
All lots	No minimum; if structures/uses on the lot utilize private well and/or septic system(s), the minimum area shall be determined by the Health Official. 10 acre maximum	No minimum; if structures/uses on the lot utilize private well and/or septic system(s), the minimum area shall be determined by the Health Official.
Minimum Lot Width:		
All lots	No minimum	
Maximum Lot Coverage:		
All Lots, all structures	80%	
Minimum Required Setbacks:		
<i>Front</i>		
Principal Structures	25 ft.	
Accessory Structures	Not permitted in front yard	
<i>Side</i>		
Principal Structures	None except when abutting a residential district; When abutting a residential district: 50 ft.	
Accessory Structures	5 ft.	
<i>Rear</i>		
Principal Structures	None except when abutting a residential district; When abutting a residential district, 50 ft.	
Accessory Structures	5 ft.	
Maximum Structure Height:		
Principal Structures ¹	45 ft.	
Accessory Structures	No taller than principal structure	
¹ Principal structures in industrial districts may be erected to a height of 60 ft. provided that required front, side, and rear setback minimum standards shall be increased 1 foot for each foot in height over 45 ft.		

Division 7. Planned Development Districts.

Section 4-7-1. Purpose.

- (A) The purpose of Planned Development Districts is to encourage innovative and efficient land use planning and physical design on large, unified sites. Planned Development Districts are intended to:

City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

- (1) Achieve a high quality of development while protecting environmentally sensitive areas;
- (2) Provide a well-integrated mix of non-residential and recreation uses with various residential dwelling types to achieve a walkable, connected neighborhood;
- (3) Allow more efficient use of land through coordinated networks of streets, utilities, and pedestrian connections, both within the development and to adjacent development;
- (4) Encourage the provision of accessible and useable open space and recreational amenities within the development;
- (5) Promote development forms and patterns that respect the character of established surrounding neighborhoods and other land uses; and
- (6) Promote development patterns that complement a site’s natural and man-made features, such as rivers, lakes, wetlands, floodplains, trees, and historic and cultural resources.

Section 4-7-2. General.

(A) Application.

- (1) Planned Development districts shall be established by amendment to the Zoning Map, in accordance with Article 3, Permits and Applications, of this Ordinance.
- (2) No development within a Planned Development District, including but not limited to clearing, grading, excavating, road building, site preparation or structural improvements, may be permitted prior to Site Plan approval by the City Council in accordance with Article 3, Permits and Applications, Division 6, Site Plans, of this Ordinance.
- (3) No transfer, sale, or conveyance of any individual lot or interest shall be permitted prior to Final Subdivision Plat approval, in accordance with Article 10, Subdivision, of this Ordinance.
- (4) All development and subsequent operation within a Planned Development district shall be undertaken in accordance with the provisions of the approved Site Plan.
- (5) A proposed development may vary from the guidelines outlined in this Division, except for uses subject to approval of a rezoning or Conditional Use Permit in accordance with Article 3, Permits and Applications, of this Ordinance or approval. Any waiver from the standards and guidelines shall be specifically acknowledged by means of a proffer or conditions. A request for waiver must:
 - (i) Clearly outline the requested waiver(s) and
 - (ii) Justify the need or benefit to the public and community should the waiver be granted.

Section 4-7-3. R-PRD, Planned Residential Development District.

- (A) **Character of Development.** Planned Residential Development Districts should encourage unified, high-quality development combining a variety of lot sizes and housing types, recreation, and neighborhood commercial, in a compact, walkable neighborhood setting. Planned Residential Development Districts typically include the following:

- (1) Pedestrian orientation;

City of Emporia Zoning & Subdivision Ordinance

Article 4 – Primary Zoning Districts

- (2) Neighborhood friendly streets and paths;
- (3) Interconnected streets and transportation networks;
- (4) Parks and open space amenities;
- (5) Appropriate commercial uses in neighborhood centers;
- (6) Appropriately scaled buildings and spaces;
- (7) Mixture of housing types and affordability; and
- (8) Environmentally sensitive design.

(B) **Development Requirements and Standards.** In addition to the standards provided in Table 4.5 of this Article, the following standards apply:

(1) **General.**

- (i) The R-PRD shall employ an overall cohesive character with design elements which may include, but are not limited to, materials, balconies, terraces, articulation of doors and windows, sculptural or textual relief of facades, architectural ornamentation, varied roof lines, or other appurtenances, such as lighting fixtures and landscaping. Compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features.
- (ii) Minimum setback ranges for residential dwellings and non-residential uses shall be specifically established during the review and approval of the Concept Plan, as part of the Rezoning process, in accordance with Article 3, Permits and Application, of this Ordinance.
- (iii) Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed to be compatible with adjoining buildings;
- (iv) Building spacing and design shall incorporate privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units whenever feasible;
- (v) Setbacks shall not interfere with public safety considerations such as intersection sight distance or utilities, including other public infrastructure such as sidewalks, open space, etc.
- (vi) All new utility lines, electric, telephone, cable television lines, etc., shall be placed underground.

(2) **Residential.**

- (i) Residential units should vary by dwelling type in a logical and attractive manner to best fit the site. A mixture of residential structures is critical for providing good housing opportunities in a healthy neighborhood setting; and
 - 1. Each R-PRD shall contain at least 2 types of residential uses.
 - 2. No more than 60% of the total number of residential units shall be of the same category (i.e., single-family, duplexes, townhouses).

City of Emporia Zoning & Subdivision Ordinance
Article 4 – Primary Zoning Districts

- (ii) The gross and net residential densities shall be shown on the approved Concept Plan by area and for the development as a whole in dwelling units per acre (du/acre) and shall be binding upon its approval.
- (3) **Commercial.**
 - (i) The proposed commercial uses should be in proportion to the overall intent and functionality of predominately residential character of the planned development district concept.
- (4) **Open Space.**
 - (i) Open space shall be provided in a logical relationship to the site; and
 - (ii) Improvements shall be configured to accommodate any permitted, accessory, and conditional uses in an orderly relationship with one another, with the greatest amount of open area and with the least disturbance to natural features.
 - (iii) Open space shall be in accordance with Article 8, Community Design Standards, of this Ordinance.

Table 4.5 | R-PRD, Planned Residential District Regulations

Minimum District Area:	
Entire R-PRD District	5 acres
Maximum Residential Densities:	
Single-Family Dwellings	4 du/acre
Two-Family Dwellings	6 du/acre
Townhouse Dwellings	10 du/acre
Multi-Family Dwellings	12 du/acre
Minimum Required Setbacks:	
All setbacks determined at Concept Plan stage	
Maximum Commercial Area:	
Entire R-PRD District	5% of total area
Maximum Structure Height:	
Multi-Family Structures	45 ft.
All Other Residential Structures	35 ft.
Non-Residential Structures ¹	45 ft.
Accessory Structures	No taller than principal structure
<i>¹ Non-residential structures may be erected to a height of 60 ft.; provided that required front, side, and rear setback minimum standards shall be increased 1 foot for each foot in height over 45 ft.</i>	

ARTICLE 5. – Overlay Zoning Districts

Division 1. Establishment and Purpose.

Section 5-1-1. General.

- (A) **Overlay Zoning Districts Establishment and Purpose.** This Article establishes overlay districts, which apply additional standards to the development and design requirements of land in the City. These district standards exist as overlays to the existing underlying zoning districts, and, as such, the provisions for the overlay districts do not replace, but shall serve to supplement the underlying district provisions. The City of Emporia has the following overlay zoning district(s):

Table 5.1 | Overlay Zoning Districts

All Overlay Districts	
FH	Flood Hazard Overlay District

Section 5-1-2. Purpose and Intent of Overlay Districts.

(A) **Flood Hazard Overlay District (FH).**

- (1) **Purpose.** The purpose of the Flood Hazard Overlay District provisions are to prevent:
- (i) The loss of life and property;
 - (ii) The creation of health and safety hazards;
 - (iii) The disruption of commerce and governmental services;
 - (iv) The extraordinary and unnecessary expenditure of public funds for flood protection and relief; and
 - (v) The impairment of the tax base by:
 1. Requiring all those uses, activities, and developments that occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;
 2. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
 3. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding; and
 4. Protecting individuals from buying land and structures, which are unsuited for intended purposes because of flood hazards.

Division 2. Flood Hazard Overlay District (FH).

Section 5-2-1. Authority.

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia §15.2-2280, as amended, and may be referred to as the City of Emporia Flood Hazard Overlay District, flood hazard overlay, floodplain overlay, or floodplain regulations.

Section 5-2-2. Applicability.

These provisions shall apply to all lands within the jurisdiction of the City of Emporia and identified as special flood hazard areas (SFHAs) identified by the City or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the City by the Federal Emergency Management Agency (FEMA).

Section 5-2-3. Compliance and Liability.

- (A) No land shall hereafter be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Division, and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.
- (B) The degree of flood protection sought by the provisions of this Division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Division does not imply that areas outside the floodplain area or that land uses permitted within such area will be free from flooding or flood damages.
- (C) This Division shall not create liability on the part of the City of Emporia or any officer or employee thereof for any flood damages that result from reliance on this Division, or any administrative decision lawfully made there under.

Section 5-2-4. Abrogation and Greater Restrictions.

- (A) This Division supersedes any locally adopted flooding regulations currently in effect in flood-prone districts. Any regulations, however, shall remain in full force and effect to the extent that its provisions are more restrictive.
- (B) These regulations are not intended to repeal or abrogate any existing ordinances including Zoning and/or Subdivision Ordinances or Building Codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 5-2-5. Penalty for Violations.

- (A) Any person who fails to comply with any of the requirements or provisions of this Division, or directions of the Administrator, or any other authorized employee of the City of Emporia, shall be subject to the penalties pursuant to the Code of Virginia, and as outlined in the VA Uniform Statewide Building Code (USBC) for building code violations, and Article 2, Division 4,

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

Enforcement, of the City of Emporia Zoning and Subdivision Ordinance for violations and associated penalties.

- (B) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Division.
- (C) The imposition of a fine or penalty for any violation of, or noncompliance with, this Division shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time.
- (D) Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this Division may be declared by the City to be a public nuisance and abatable as such.
- (E) Flood insurance may be withheld from structures constructed in violation of this Division.

Section 5-2-6. Designation of the Administrator.

- (A) The City shall appoint a designee to administer and implement the regulations of this Division, referred to herein as the Administrator. The Administrator may:
 - (1) Administer the duties and responsibilities herein.
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
 - (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. 59.22.

Section 5-2-7. Duties and Responsibilities of the Administrator.

- (A) The duties and responsibilities of the Administrator shall include but are not limited to:
 - (1) Review applications for permits to determine whether proposed activities will be located in a SFHA.
 - (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
 - (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (4) Review applications to determine whether all necessary permits have been obtained from the federal, state, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free flowing non-tidal waters of the state.

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (5) Verify that an applicant proposing to alter a watercourse has notified adjacent local governments, the Department of Conservation and Recreation Division of Dam Safety and Floodplain Management (DCR), the Virginia Department of Environmental Quality (DEQ) and the US Army Corp of Engineers (USACE) and has submitted copies of such notifications to FEMA.
- (6) Approve applications and issue permits to develop in SFHA if the provisions of this Division have been met or disapprove applications if the provisions of this Division have not been met.
- (7) Inspect, or cause to be inspected, prospective buildings, structures, and other prospective development for which permits have been issued to determine compliance with this Division or to determine if noncompliance has occurred or violations have been committed.
- (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
- (9) Submit to FEMA, or require to be submitted to FEMA, at the applicant's expense, data, and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City of Emporia, within 6 months after such data and information becomes available if the analysis indicates changes in base flood elevations.
- (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (i) Copies of FISs, FIRMS (including historic studies and maps and current effective studies and maps), and Letters of Map Change (LOMC); and
 - (ii) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue Notices of Violation, and require permit holders to take corrective action.
- (12) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
 - (i) Make determinations as to whether buildings and structures that are in SFHA that are damaged by any cause have been substantially damaged.
 - (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct the structure. Prohibit the repair of a substantially damaged building without a permit, except for temporary emergency protective measures necessary to secure a property or to stabilize a building or structure to prevent additional damage.
- (14) Undertake, as determined appropriate by the Administrator due to the circumstances, other actions, which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under National Flood Insurance Program (NFIP) flood insurance policies.

- (15) Notify FEMA when the corporate boundaries of the City of Emporia have been modified and:
- (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR and FEMA.
- (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP, which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (17) It is the duty of the Administrator to consider flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the City, whether or not those hazards have been specifically delineated geographically (e.g., via mapping or surveying).

Section 5-2-8. Records.

Records of actions associated with administering this Division shall be kept on file and maintained by the Administrator or their designee.

Section 5-2-9. Use and Interpretation of FIRMs.

- (A) The Administrator shall make interpretations, where needed, as to the exact location of SFHA, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
- (1) Where field surveyed topography indicates that adjacent ground elevations:
 - (i) Are below the base flood elevation in riverine SFHAs, even in areas not delineated as a SFHA on a FIRM, the area shall be considered as a SFHA and subject to the requirements of these regulations; or
 - (ii) Are above the base flood elevation, the area shall be regulated as a SFHA unless the applicant obtains a LOMC that removes the area from the SFHA.

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (2) In FEMA-identified SFHAs where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- (5) If a preliminary FIRM and/or a preliminary FIS has been provided by FEMA:
 - (i) Upon the issuance of a Letter of Final Determination (LOFD) by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (ii) Prior to the issuance of a LOFD by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 5-2-15 as defined by this Division and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (iii) Prior to issuance of a LOFD by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 5-2-10. Jurisdictional Boundary Changes.

- (A) The County flood hazard overlay in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the NFIP. The City shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes SFHAs with flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR Division of Dam Safety and Floodplain Management and FEMA.
- (B) In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.
- (C) To ensure that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new

area for which the community has assumed, or relinquished floodplain management regulatory authority must be included with the notification.

Section 5-2-11. District Boundary Changes.

The delineation of the Flood Hazard Overlay District may be revised by the City of Emporia City Council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA. An approved Letter of Map Revision (LOMR) serves as record of this change.

Section 5-2-12. Interpretation of District Boundaries.

Initial interpretations of the boundaries of the Flood Hazard Overlay District shall be made by the Administrator or designee. Should a dispute arise concerning the boundaries of any of the districts, the BZA shall make the necessary determination in accordance with Article 3, Permits and Applications, of this Ordinance. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the BZA and to submit his own technical evidence if they so desire.

Section 5-2-13. Submitting Technical Data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than 6 months after the date such information becomes available, the City of Emporia shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates, and floodplain management requirements will be based upon current data.

Section 5-2-14. Letters of Map Revision.

- (A) When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) or a LOMR. Examples include:
- (1) Any development that causes a rise in the base flood elevations within the floodway.
 - (2) Any development occurring in zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
 - (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 CFR 65.3 and 65.6(a)(12).

Section 5-2-15. Establishment of Flood Hazard Zones.

- (A) **Basis of Flood Hazard Zones.**
- (1) The various flood hazard zones shall include special flood hazard areas (SFHA). The basis for the delineation of these zones shall be the FIS and the FIRM for the City of Emporia, Virginia, and incorporated areas prepared by FEMA, Federal Insurance Administration, dated July 7, 2009, and any subsequent revisions or amendments thereto.

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (2) The City of Emporia may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high-water marks, or approximated study methodologies.
 - (3) The boundaries of the SFHA and flood hazard zones are established as shown on the FIRM, which is declared to be a part of this Division and shall be kept on file at the City of Emporia Planning and Zoning Department.
- (B) **Description of Flood Hazard Zones.** The flood hazard zones described below shall constitute the Flood Hazard Overlay District. It shall be an overlay to the existing underlying zoning districts as shown on the official zoning ordinance map, and as such, the provisions for the Flood Hazard Overlay District shall serve as a supplement to the underlying district provisions.
- (1) **Floodway Areas.** Those areas in an AE Zone(s) and delineated, for purposes of this Division, using the criterion that certain areas within the floodplain must be capable of carrying the water of the 1% annual chance flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this Flood Hazard Overlay District are specifically defined in Table 2 of the City of Emporia FIS and shown on the accompanying FIRM.
 - (2) **AE Zone.** A flood hazard zone with two categories:
 - (i) Category 1 areas shall be those areas for which 1% annual chance flood elevations have been provided and the floodway has been delineated.
 - (ii) Category 2 areas on the FIRM accompanying the FIS shall be those areas for which 1% annual chance flood elevations have been provided and the floodway has not been delineated.
 - (3) **A Zone.** Those areas for which no detailed flood profiles or elevations are provided, but the 1% annual chance floodplain boundary has been *approximated*.
 - (4) **X Zone.** Other flood districts shall be those areas identified as Zone X on the FIRM. This zone includes areas of 0.2% annual chance flood or areas of 1% annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.

Section 5-2-16. Permitted Uses in Flood Hazard Zones.

- (A) **Permitted uses.** In the Flood Hazard Overlay District, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance:

Table 5.2 | Permitted Uses in Flood Hazard Zones

Use	Zone		
	AE	A	X
Uses consisting of development of a structure, where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required in this Division.			P
Accessory structures consisting of 200 sq. ft. or less.	P	P	P
Agricultural uses, such as general farming, pasture, grazing, outdoor-plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.	P	P	P
Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves and hunting and fishing areas.	P	P	P
Accessory residential uses, such as yard areas, gardens, play areas, and parking areas.	P	P	P
Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, etc.	P	P	P
<i>P = permitted Blank = not permitted</i>			

Section 5-2-17. Development in Flood Hazard Zones.

(A) Development in Floodway Areas.

- (1) Within any designated Floodway Areas, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (i) Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (ii) If (1), above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5-2-19 and Section 5-2-20.
- (2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the City of Emporia’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.

(B) Development in AE Zones.

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within AE zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Emporia.
 - (2) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the City of Emporia’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.
- (C) **Development in A Zones.**
- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within A zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Emporia.
 - (2) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the City of Emporia’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.
 - (3) For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available [44 CFR 60.3(b)].
 - (4) Where the specific 1% annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation, in the following manner:
 - (i) The elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (ii) Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (iii) The Administrator reserves the right to require a hydrologic and hydraulic analysis for any development in this zone.
 - (iv) When such base flood elevation data is utilized, the lowest floor shall be 24 inches above the base flood elevation.

Section 5-2-18. Permits and Applications.

(A) **Permit requirement.**

- (1) All uses, activities and, development occurring within the Flood Hazard Overlay District shall be undertaken only upon the issuance of a permit.

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (i) Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding.
 - (ii) Such development shall be undertaken only in strict compliance with the provisions of this Division and with all other applicable codes and ordinances, as amended, such as the VA USBC and the City of Emporia Zoning and Subdivision Ordinance.
 - (2) Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways or any watercourse, drainage ditch or any other drainage facility or system.
 - (i) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the City of Emporia, a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Marine Resources Commission, and the Virginia State Water Control Board.
 - (ii) Further notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Flood Plain Management at the Department of Conservation and Recreation and the Federal Emergency Management Agency.
- (B) Site Plans and Permit Applications.**
- (1) All applications for development in the Flood Hazard Overlay District and all building permits issued for the Flood Hazard Overlay District shall incorporate the following information:
 - (i) The elevation of the Base Flood at the site;
 - (ii) For structures to be elevated, the elevation of the lowest floor, including basement.
 - (iii) For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
 - (iv) Topographic information showing existing and proposed ground elevations.
- (C) Standards for Subdivision Proposals.** All subdivision proposals shall:
- (1) Any subdivision proposal or other proposed development (including proposals for manufactured home parks and subdivisions) that exceed 50 lots or 5 acres, whichever is less, in an area where BFE data is not available, or the SFHA has not been delineated, shall include data using detailed methodologies, including a hydraulic and hydrologic analysis, comparable to those contained in a FIS. Once identified, those areas shall be subject to the requirements of this Division.
 - (2) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
 - (3) Have adequate drainage provided to reduce exposure to flood hazards.

Section 5-2-19. Elevation and Construction Standards.

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 5-2-15, above, the following provisions shall apply:

(A) **General Standards.** The following shall apply to all permits:

- (1) New construction and substantial improvements shall be built according to this Ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for anchoring to resist wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- (6) New construction and replacement of any utilities and facilities shall follow the provisions of Section 5-2-20 of this Article.

(B) **Residential Construction.**

- (1) New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A, shall have the lowest floor, including basement, elevated to or above the base flood level plus 24 inches.

(C) **Nonresidential Construction.**

- (1) New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated to or above the base flood level plus 24 inches.
- (2) Non-residential buildings located in all A and AE zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus 2 feet are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation to which such structures are floodproofed, shall be maintained by the Administrator.

(D) **Space Below the Lowest Floor.**

City of Emporia Zoning & Subdivision Ordinance
Article 5 – Overlay Zoning Districts

- (1) In zones A and AE, fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - (i) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
 - (ii) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and
 - (iii) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 2. The total net area of all openings must be at least 1 square inch for each square foot of enclosed area subject to flooding.
 3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 4. The bottom of all required openings shall be no higher than 1 foot above the adjacent grade.
 5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(E) **Accessory Structures.**

- (1) Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of this Section or, if not elevated or dry floodproofed, shall:
 - (i) Not be used for human habitation;
 - (ii) Be limited to no more than 200 square feet in total floor area;
 - (iii) Be useable only for parking of vehicles or limited storage;
 - (iv) Be constructed with flood damage-resistant materials below the base flood elevation;
 - (v) Be constructed and placed to offer the minimum resistance to the flow of floodwater;
 - (vi) Be anchored to prevent floatation;

City of Emporia Zoning & Subdivision Ordinance
Article 5 – Overlay Zoning Districts

- (vii) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
- (viii) Shall be provided with flood openings which shall meet the following criteria:
 - 1. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
 - 2. The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification, or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - 3. The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - 4. Any louvers, screens, or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (ix) A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed.

(F) **Recreation Vehicles.**

- (1) All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - (ii) Meet all the requirements of Section 5-2-19 (A).

Section 5-2-20. Design Criteria for Utilities and Facilities.

- (A) **Sanitary Sewer Facilities.** All new or replacement sanitary sewer facilities and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- (B) **Water Facilities.** All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- (C) **Drainage Facilities.** All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal systems. The City Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to

accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- (D) **Utilities.** All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated where possible, and constructed to minimize the chance of impairment during a flooding occurrence. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and placed to prevent water from entering or accumulating within the components during conditions of flooding.
- (E) **Streets and Sidewalks.** Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Section 5-2-21. Existing Structures in Floodplain Areas.

- (A) Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:
 - (1) The Administrator has determined that:
 - (i) Change is not a substantial repair or substantial improvement;
 - (ii) No new square footage is being built in the floodplain that is not complaint;
 - (iii) No new square footage is being built in the floodway;
 - (iv) The change complies with this ordinance and the VA USBC; and
 - (v) The change, when added to all the changes made during a rolling 5-year period does not constitute 50% of the structure's value.
 - (2) The changes are required to comply with a citation for a health or safety violation.
 - (3) The structure is a historic structure and the change required would impair the historic nature of the structure.

Section 5-2-22. Variances.

- (A) **General.**
 - (1) A request for a variance to the requirements of this Flood Hazard Overlay District may be made in accordance with Article 3, Permits and Applications, of this Ordinance.
 - (2) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
- (B) **Limitations.**

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (1) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (2) No variance shall be granted for an accessory structure exceeding 200 sq. ft.
- (C) **Basis for Variances.** Variances shall be issued only:
- (1) Upon a showing of good and sufficient cause;
 - (2) After the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) After the Board of Zoning Appeals has determined that the granting of such variance will not result in a(n):
 - (i) Unacceptable or prohibited increase(es) in flood heights;
 - (ii) Additional threats to public safety;
 - (iii) Extraordinary public expense;
 - (iv) Creation of nuisances;
 - (v) Cause for fraud or victimization of the public; and/or
 - (vi) A conflict with local laws or ordinances.
- (D) **Additional Factors.** In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in Article 3, Permits and Applications, of this Ordinance, and consider the following additional factors:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation;
 - (2) The danger that materials may be swept on to other lands or downstream to the injury of others;
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - (5) The importance of the services provided by the proposed facility to the community;
 - (6) The requirements of the facility for a waterfront location;
 - (7) The availability of alternative locations not subject to flooding for the proposed use;
 - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (9) The relationship of the proposed use to the Comprehensive Plan and this Division;

City of Emporia Zoning & Subdivision Ordinance

Article 5 – Overlay Zoning Districts

- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood;
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (12) The historic nature of a structure.
 - (i) Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and
 - (13) Such other factors which are relevant to the purposes of this Ordinance.
- (E) **Notification and Record.**
- (1) The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the base flood elevation will:
 - (i) Increase the risks of life and property; and
 - (ii) Will result in increased premium rates for flood insurance.
 - (2) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency (FEMA).

ARTICLE 6. – Use Matrix

Division 1. Uses Provided.

Section 6-1-1. Organization.

- (A) The Use Matrix organizes permitted uses by use zoning district, use categories, and use types. The Use Matrix, Article 7, Use Performance Standards, and Article 11, Definitions, of this Ordinance, together provide a systematic basis for identifying and organizing uses and distinguishing unidentified uses to determine whether a particular use is allowable in a particular zoning district.
 - (1) **Use classifications.** Use classifications identify broad general classifications of land use and include agricultural uses; residential uses; public, civic, and recreational uses; commercial uses; industrial uses; and miscellaneous uses.
 - (2) **Use types.** The specific use types identify the specific principal uses that fall within each use classification.
- (B) If a use’s definition states that the particular use is permitted as ancillary or accessory to another use, a second Zoning Permit is not required for that ancillary or accessory use.

Section 6-1-2. Abbreviations in Use Matrix.

- (A) **Permitted Uses.** “B” in a Use Matrix cell indicates that the use type in that row is allowed by-right in the zoning district at the head of that column, subject to any Use Performance Standards of Article 7, of this Ordinance.
- (B) **Conditional Uses.** “CUP” in a Use Matrix cell indicates that the use type in that row is allowed in the zoning district at the head of that column only upon approval of a Conditional Use Permit, in accordance with Article 3, Permits and Applications, and subject to any Use Performance Standards in Article 7 of this Ordinance.
- (C) **Prohibited Uses.** Blank cells in the Use Matrix indicates that the use type in that row is prohibited in the zoning district at the head of that column.

Division 2. Use Not Provided.

Section 6-1-3. Use Not Provided.

- (A) Any use that is not specifically listed as a permitted use or a Conditional Use is prohibited.
- (B) The Administrator will determine whether an unlisted use is part of an existing use category or use type as defined in Article 11, Definitions, of this Ordinance. Upon determining the most similar use type, the Administrator will treat the proposed use the same as the most similar use.
- (C) If the Administrator determines that the proposed use is not similar to any listed use type, that use is prohibited.

Division 3. Use Matrix.

Table 6.1 | Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Residential											
Adaptive Reuse Residential					CUP						7-2-1
Bed and Breakfast	CUP	CUP	CUP		B	B				CUP	7-2-2
Dwelling, Manufactured Home				B							7-2-3
Dwelling, Multi-Family			B		CUP					B	7-2-4
Dwelling, Single Family	B	B	B							B	
Dwelling, Two-Family			B							B	
Dwelling, Townhouse			B							B	7-2-5
Family Health Care Structure, Temporary	B	B	B	B						B	7-2-6
Family Day Home (1-4 Individuals)	B	B	B	B						B	
Family Day Home (5-12 Children)	CUP	CUP	CUP	CUP						CUP	
Group Home, Large			CUP								

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
	<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>										
Group Home, Small	B	B	B	B						B	
Home Occupation	B	B	B	B	B					B	7-2-7
Life Care Facility			B				CUP			B	
Manufactured Home Park				B							7-2-8
Shelter, Residential					CUP	CUP		CUP			
Short-Term Rental	CUP	B	B		B	B				B	7-2-9
Public, Civic, and Recreational											
Amateur Radio Tower	B	CUP									
Cemetery, Public	CUP						CUP				
Club		CUP	CUP		B	B	B			CUP	
Communications Services					CUP	B	B	B			
Community/Cultural Center			CUP	CUP	B	B	B			CUP	
Educational Facility, College, University, Business or Trade							CUP	CUP	CUP		
Educational Facility, Primary or Secondary	CUP	CUP	CUP		B	B	B			CUP	

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Public Parks and Recreation	B	B	B	B	B	B	B	B	B	B	
Public Use	CUP	CUP	CUP	CUP	B	B	B	B	B	CUP	
Recreation Facility, Neighborhood	B	B	B	B						B	
Recreation Facility, Noncommercial	CUP	CUP	CUP	CUP	CUP					CUP	
Religious Assembly	B	B	B	B	B	B	B			B	
Shelter, Animal							B	B	B		7-3-1
Telecommunications Facility								CUP	B		7-3-2
Telecommunications Facility, Small Cell	B	B	B	B	B	B	B	B	B	B	7-3-3
Utility Service, Major							CUP	CUP	CUP		
Utility Service, Minor	B	B	B	B	B	B	B	B	B	B	7-3-4
Commercial											
Adult Use							CUP				7-4-1
Automobile Sales and Rental						B	B	CUP			7-4-2
Automobile Service					CUP	B	B	CUP			

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Brewery, Distillery, or Winery							CUP	B	B		
Brewery, Distillery, or Winery, Micro-					B	B	B	B			
Business Support Services					B	B	B	B			
Day Care Center					B	B	B			CUP	
Car Wash							B				7-4-3
Catering Facility					B	B	B				
Crematorium								CUP	CUP		
Commercial Laundry							CUP	B			
Construction Material Sales							B	B			7-4-4
Consumer Repair Services					B	B	B	B			
Drive-Through Window						B	B				7-4-5
Equipment Sales, Service, and Repair (Heavy)							CUP	B	B		7-4-6
Event Venue					B	B	B	CUP		CUP	7-4-7
Farmers Markets					B	B	B				
Financial Institution					B	B	B				

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Funeral Home					CUP	CUP	B	B			
Gas Station					CUP	B	B				7-4-8
Hospital			B				B				
Hotel					B	B	B				
Kennel, Commercial						CUP	CUP	B	B		7-4-9
Manufactured/Modular Home Sales							B	CUP			
Nursing Home			CUP				CUP			CUP	
Office, General					B	B	B			CUP	
Office, Medical/Clinic			B		B	B	B			CUP	
Outdoor Sales, Seasonal/Temporary					B	B	B				7-4-10
Parking Lot, Commercial					CUP	CUP	CUP	B			7-4-11
Personal Services					B	B	B			B	
Recreation/Entertainment, Commercial Indoor					B	B	B				
Recreation/Entertainment, Commercial Outdoor					CUP	B	B				

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Restaurant, General					B	B	B			CUP	
Restaurant, Mobile Food Unit					B	B	B	B		B	7-4-12
Store, Large					B	B	B				
Store, Small					B	B	B			CUP	
Tradesperson Service						B	B	B	B		
Veterinary Hospital/Clinic						CUP	B	B			7-4-13
Industrial											
Construction Yard								B	B		7-5-1
Hazardous Materials, Storage and Distribution									CUP		
Junkyard/Salvage Yard									B		7-5-2
Laboratory, Research, and Development							CUP	B	B		
Manufacturing, Heavy									B		
Manufacturing, Light								B	B		
Manufacturing, Small-Scale					CUP	CUP	CUP	B	B		
Self-Storage Facility							B	B	B		7-5-3

City of Emporia Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Use	Districts										Use Performance Standards
	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-MH Manufactured Home Residential	DT Downtown District	C-1 General Commercial	C-2 Highway Commercial	I-1 Light Industrial	I-2 Heavy Industrial	R-PRD Planned Residential Development	
<i>B = By-Right CUP = Conditional Use Permit Blank = Not Permitted</i>											
Truck/Freight Terminal									B		
Warehousing and Distribution								B	B		
Miscellaneous											
Accessory Structure	B	B	B	B	B	B	B	B	B	B	7-6-1
Construction Temporary Uses	B	B	B	B	B	B	B	B	B	B	
Mixed-Use Structure					B					B	7-6-2
Outdoor Storage						B	B	B	B		7-6-4
Residential Yard Sale	B	B	B	B						B	
Solar Energy, Medium-Scale							CUP	CUP	CUP		7-6-5
Solar Energy, Small-Scale	B	B	B	B	B	B	B	B	B	B	7-6-6
Transportation Services					CUP	B	B	B	B		

ARTICLE 7. – Use Performance Standards

Division 1. General.

Section 7-1-1. Purpose and Intent.

- (A) The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses and are not intended to exclude other provisions of this Ordinance that may apply.
- (B) The standards set forth in this Article for a specific use apply to the particular individual use, regardless of the review procedure by which it is approved, unless otherwise specified in this Ordinance or approved through conditions of a Conditional Use Permit.

Section 7-1-2. Must Meet Other Regulations.

- (A) Each use provided in this Article may also require permits and approvals, including:
 - (1) Zoning Permit;
 - (2) Conditional Use Permit;
 - (3) Site Plan Approval; and/or
 - (4) Other City of Emporia required permits, such as a business license or Erosion and Sediment Control Permit.
- (B) Applicants should consult with the City of Emporia staff during the application process to ensure all permits and requirements are met.

Division 2. Residential Use Standards.

Section 7-2-1. Adaptive Reuse Residential.

- (A) **General Design and Building Layout.**
 - (1) Exterior modifications shall maintain the architectural character of the existing structure.
 - (2) Parking, amenities, and infill structures, if provided, shall provide special attention to compatibility of adjacent land uses, topography, existing vegetation, and orientation.
 - (3) The existing building is modified in accordance with building code requirements for residential occupancy.
 - (4) A minimum of 25% of the ground floor shall be used for leasing offices and shared common space (e.g. exercise rooms, co-working spaces, etc.).
 - (i) These areas shall be along pedestrian walkways/sidewalks and/or facing the right-of-way.
 - (ii) All portions of the ground-floor that are adjacent to a pedestrian walkway shall remain transparent to blend in with the commercial character of the district.

Section 7-2-2. Bed and Breakfast.

- (A) **Owner/Operator Occupied.** Bed and breakfasts shall be occupied by the owner/operator during operation.
- (B) **Licensure.** The owner/operator shall hold a valid business license from the City and, where applicable, a permit from the Department of Health.
- (C) **Registration.**
 - (1) The owner/operator of a bed and breakfast shall maintain a log of all patrons, including their name, address, license plate number and state, and their length of stay. The log shall be available to City staff upon request.
 - (2) Guest may stay no longer than 30 consecutive days.
- (D) **Bedroom Limit.** A maximum of six bedrooms is permitted unless otherwise approved through a Conditional Use Permit.
- (E) **General Standards.**
 - (1) If within a residential district, changes made to the exterior of the building occupied by the bed and breakfast shall maintain the residential character of the building.
 - (2) Signage and parking shall comply with the regulations of Article 8, Community Design Standards, of this Ordinance.
 - (3) Every room occupied for sleeping purposes shall comply with Uniform Statewide Building Code.
 - (4) Guest rooms shall not have cooking facilities.
 - (5) Food services in connection with the use shall be limited to meals provided to guests taking lodging at the facility. Restaurant service open to the general public is a separate use, permitted according to the district regulations.
 - (6) Additional activities, including receptions, parties, and other events, are not permitted unless specifically authorized by the Conditional Use Permit.

Section 7-2-3. Dwelling, Manufactured Home.

- (A) The manufactured home dwelling shall comply with the Virginia Manufactured Housing Construction and Safety Standards Law.
- (B) The manufactured home dwelling shall be placed on a permanent foundation and shall comply with the requirements of the Virginia Uniform Statewide Building code, including skirting requirements.
- (C) Manufactured home dwellings shall not be joined or connected together as one dwelling, nor shall any accessory building, excluding decks or similar structures, be attached to a manufactured home dwelling. This does not prohibit manufactured home dwellings designed and manufactured as multi-section homes.

Section 7-2-4. Dwelling, Multi-Family.

- (A) **Property Line Setbacks.** Groups of multifamily dwellings located on the same property shall be considered as one building for the purpose of determining front, side, and rear setback requirements. The entire group as a unit shall require one front, two side, and one rear setback as specified in the appropriate district, as provided in Article 4, Primary District Standards, of this Ordinance.
- (B) **Spacing Between Buildings.** Multifamily buildings located on the same property shall be set apart from each other by a minimum distance 25 ft. If the walls facing one another do not have windows, then the minimum distance is 15 ft.
- (C) **Pedestrian Access.** Pedestrian access shall be provided with a sidewalk or other paved surface to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities, and to adjoining properties and along public roadways.
- (D) **Roads and Private Pavement.** All roads and private pavement shall have concrete curb and gutter.
- (E) **Screening of Mechanical Equipment and Refuse Collection.** Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
- (F) **General Design and Building Layout.** The development shall be designed with special attention to compatibility of adjacent land uses, topography, existing vegetation, building height, and orientation. The development shall incorporate building layout and design that relates to and enhances the existing neighborhoods, natural vegetation, and terrain or incorporates natural design features, such as preservation of scenic vistas or other unique elements of the site.
- (G) **Landscaping and Buffer.** Landscaping and/or transitional buffers shall be installed as required in Article 8, Community Design Standards, of this Ordinance.
- (H) **Architecture Standards.**
 - (1) Buildings shall be designed to impart harmonious proportions and avoid monotonous facades and large masses.
 - (2) Buildings shall maintain architectural variety, while at the same time maintain an overall cohesive residential character.
 - (i) Residential character shall be achieved through the creative use of design elements such as, but not limited to, balconies, terraces, articulation of doors and windows, sculptural or textural relief of facades, architectural ornamentation, or varied roof lines.
- (I) **DT Downtown District.** In addition to the above standards, the following standards shall apply to all multi-family dwellings within DT districts.
 - (1) Dwelling units located within the ground floor shall be located to the rear of the building.
 - (2) A minimum of 50% of the ground floor shall be used for leasing offices and shared common space (e.g. exercise rooms, co-working spaces, etc.).
 - (i) These areas shall be along pedestrian walkways/sidewalks and/or facing the right-of-way.

- (ii) All portions of the ground-floor that are adjacent to a pedestrian walkway shall remain transparent to blend in with the commercial character of the district.

Section 7-2-5. Dwelling, Townhouse.

- (A) **Placement.** No more than 8 adjoined townhouse units may be constructed in a single row.
- (B) **Architectural Treatment of Townhouses.** The facades of each unit of a townhouse structure shall be varied to visually distinguish them as individual dwelling units by changing front yard depth and utilizing variations in materials or design. No more than 4 abutting townhouse units shall have the same front yard depth or the same, or essentially the same, architectural treatment of facades and roof lines.
- (C) **Vehicular Access.** Each townhouse unit shall have unencumbered access from a dedicated public street.
- (D) **Pedestrian Access.** Pedestrian access shall be provided with a sidewalk, or similar paved surface if approved by the Administrator, to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities and to adjoining properties and along public roadways.
- (E) **Roads and Private Pavement.** All roads and private pavement shall have concrete curb and gutter.
- (F) **Landscaping and Buffer.** Landscaping and/or transitional buffers shall be installed as required in Article 8, Community Design Standards, of this Ordinance.
- (G) **Screening of Mechanical Equipment and Refuse Collection.** Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
- (H) **Open space and Amenities.** In any townhouse project resulting in the creation of any open space and amenities thereon, broadly defined, the maintenance and upkeep of such areas and elements shall be provided for by an arrangement acceptable to the City and in compliance with this Article or applicable state statutes.
 - (1) In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act, Code of Virginia §§ 55.1-1900 through 55.1-1907 is applicable, the project shall conform to the requirements of that act.
 - (2) In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act, Code of Virginia §§ 55.1-1900 through 55.1-1907 is not applicable, the developer shall meet the following requirements:
 - (i) Establish a nonprofit entity according to the provisions of the Virginia Nonstock Corporation Act, Code of Virginia, §§ 13.1-801 through 13.1-946, as amended, whose membership shall be all the individuals or corporations owning residential property within the townhouse project and whose purpose shall be to hold title in fee simple to, and be responsible for maintenance and upkeep of such open space; and

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (ii) Hold title to and be responsible for such open space until such time as conveyance to such a nonprofit entity occurs. Such conveyance shall occur when at least 75% of the townhouse units have been sold; and
 - (iii) Provide proper agreements and covenants running with the land and in favor of the citizens of Emporia, requiring membership in such a nonprofit entity. Such agreements and covenants shall include, among other things, that any assessments, charges, and cost of maintenance of the open space shall constitute a pro rata lien upon the individual townhouse lots, inferior in lien and dignity only to taxes and bona fide duly recorded first and second mortgages or deeds of trust on the townhouse lot. Covenants shall also prohibit the denuding, disturbing or defacing of said open space without prior approval of the City Council after recommendation of the Planning Commission.
- (3) All open space shown on the approved Site Plan is binding as to location and use proposed.

Section 7-2-6. Family Health Care Structure, Temporary.

(A) Development Standards.

- (1) All temporary family healthcare structures shall comply with all setback requirements that apply to the primary structure.
- (2) Only 1 family health care structure shall be allowed on a lot or parcel of land.
- (3) The structure shall be no more than 300 gross sq. ft. and shall comply with all applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).

(B) Permits.

- (1) Prior to installing a temporary family healthcare structure, a permit shall be obtained from the City and associated fees paid.
- (2) The City may revoke the permit if the permit holder violates any provision of this section.

(C) General Standards.

- (1) Any family healthcare structure shall comply with all applicable requirements of the Virginia Department of Health.
- (2) No signage shall be permitted on the exterior of the structure or anywhere on the property.
- (3) Any temporary family healthcare structure shall be removed within 60 days of the date on which the temporary family healthcare structure was last occupied by a mentally or physically impaired family member receiving services or assistance.

Section 7-2-7. Home Occupation

(A) Size of Use. The maximum area permitted in conjunction with a home occupation shall be as follows:

- (1) No more than 250 sq. ft. or 15% of the floor area of the dwelling, whichever is greater; or
- (2) Up to 100% of the floor area of an accessory structure.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

(B) **Employees and Customers.**

- (1) No employees, except family members residing in the dwelling unit, shall be permitted at the dwelling unit for business purposes.
- (2) No customers shall be permitted at the dwelling unit for business purposes.

(C) **General Standards.**

- (1) There shall be no change in the exterior of the structure and/or property to indicate the home occupation use.
- (2) No advertising of any type shall use the street address.
- (3) No signs shall be permitted.
- (4) Materials and supplies associated with the home occupation shall be limited to just-in-time delivery and storage practices. No bulk storage on-site is permitted.
- (5) Exterior storage of business-related equipment, trailers, materials, or merchandise is prohibited.
- (6) The type of traffic generated by the home occupation shall be consistent with the type of traffic of other dwellings in the area.
- (7) The home occupation shall not increase the demand on public water, public sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.

Section 7-2-8. Manufactured Home Park.

(A) **Lot Area.**

- (1) Minimum of 1 acre.
- (2) Areas within a 100-year floodplain and areas within a public right-of-way shall not count towards the minimum acreage for the manufactured home park.
- (3) Minimum size of each individual lot within the manufactured home park shall be 4,500 sq. ft.

(B) **Frontage.** Manufactured home parks shall have minimum frontage of 50 ft. on a public street.

(C) **Setbacks.**

- (1) Setbacks for the manufactured home park shall comply with Article 4, Primary Zoning Districts, of this Ordinance.
- (2) Setbacks for individual lots shall be a minimum of:
 - (i) Front setback: 25 ft. from the right-of-way of public streets.
 - (ii) Side and rear setbacks: 10 ft.

(D) **Density.**

- (1) The maximum number of manufactured home units in a manufactured home park shall be 8 units per acre.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (2) Maximum of 50 manufactured homes per manufactured home park.
- (3) Maximum of 1 manufactured home per lot.
- (E) **Manufactured Home Placement.** Manufactured homes shall be placed in designated pad sites and shall not obstruct any road, private pavement, sidewalk, or public utility easement.
- (F) **Screening.** Manufactured home parks shall require a transitional buffer, in accordance with Article 8, Community Design Standards, of this Ordinance.
- (G) **Open Space and Recreation.**
 - (1) A minimum of 500 sq. ft. of recreation area shall be required per manufactured home lot.
 - (i) 50% of the required area shall be outside of designated floodplains.
 - (2) Recreation facilities such as playground equipment, playfields and courts, picnic tables, and benches, as deemed appropriate at time of plan review, shall be installed within the required recreation area.
 - (i) All recreational facilities shall be designed, constructed, and maintained to be safe for users.
 - (ii) The size and shape of each recreation area shall be adequate for the intended use.
 - (3) All required safety fall zones and surfacing standards shall be met.
- (H) **Streets.**
 - (1) Manufactured home parks shall have access to a paved public street.
 - (2) The design and construction of the interior street system shall be sufficient to adequately serve the size and density of the development.
 - (3) All interior streets shall conform and be constructed to the specification of Chapter 62 of the City of Emporia Code of Ordinances.
 - (4) The internal street improvements shall extend continuously from the existing improved street system to provide suitable emergency vehicle access to manufactured homes, to provide adequate connections to the existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles with origins or destinations on the property.
- (I) **Service Areas.** Centrally located service buildings may provide common laundry facilities, office space for management, and accessory uses customarily incidental to the operation and maintenance of a manufactured home park.
- (J) **Utilities.**
 - (1) **Water and Sewer.** All manufactured parks shall be provided with a central water system and an approved sewer system, by the Virginia Health Department, and all manufactured homes within a manufactured home park shall be required to hook up to such systems.
 - (2) **Electricity.** Each manufactured home space shall be provided with electrical service installed in accordance with the National Electrical Code.

City of Emporia Zoning & Subdivision Ordinance
Article 7 – Use Performance Standards

- (K) **Refuse.** An acceptable garbage and refuse collection program and temporary storage system shall be provided, with such program and physical system subject to final plan approval.
- (1) The accepted garbage and refuse collection program shall be the responsibility of the Manufactured Home Park owner/operator.
 - (2) Each manufactured home lot shall be provided with at least 1 garbage or trash container.
 - (3) Any common refuse collection areas visible from adjacent property or roads shall be screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
- (L) **Maintenance.**
- (1) Internal streets shall be maintained by the owner of each manufactured home park in order that such streets remain unobstructed and in suitable condition for passage of tenants, visitors, and public safety vehicles.
 - (2) Recreation and open areas designed for common use shall be maintained by the owner of each park in order that such areas present a tidy appearance and do not offer refuge for rodents and other pests.

Section 7-2-9. Short-Term Rental.

- (A) **Definitions.** The following shall apply as used in this section:
- (1) *Booking transaction.* Any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
 - (2) *Guest or transient.* A person who occupies a short-term rental unit.
 - (3) *Primary resident (or host).* The owner of the short-term rental unit, or lessee of the short-term rental unit with a lease agreement that is one year or greater in length, who occupies the property as his or her principal place of residence and domicile. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.
 - (4) *Residential dwelling unit.* A residence where one or more persons maintain a household.
- (B) **Registration and Other Requirements.**
- (1) No host shall operate a short-term rental business without having registered with the Administrator as required by Virginia Code § 15.2-983, as amended.
 - (2) The Administrator will report all registrations to the City of Emporia Commissioner of the Revenue for the collection of all appropriate tax, including transient lodging tax, and any required business licensure fees.
 - (3) The registration form shall include the following information:
 - (i) The name, telephone number, address, and email address of the host.
 - (ii) A reminder about the importance of having appropriate levels of insurance that covers the short-term rental, the host, and the guests.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (4) The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year and shall be renewed annually.

(C) Registration Revocation, Suspension, or Cancellation.

- (1) A registration may be revoked, suspended, or cancelled for the following reasons:
 - (i) Failure to collect and/or remit the transient occupancy tax or other business taxes required by the City of Emporia.
 - (ii) Three (3) or more substantiated complaints (including, but not limited to, noise and excess trash) within a rolling 12-month period.
- (2) A formal complaint shall be filed with the Administrator to be considered received.
 - (i) If violations occur, as supplied in (C)(1), above, the Administrator may revoke, suspend, or cancel the registration.
- (3) Before any suspension or cancellation can be effective, the Administrator shall give written notice to the short-term rental host.
 - (i) The notice of revocation, suspension, or cancellation issued under the provisions of this Ordinance shall contain:
 1. A description of the violation(s) constituting the basis of the suspension or cancellation; and
 2. If applicable, a statement of acts necessary to correct the violation.
- (4) In accordance with Article 3, Permits and Applications, of this Ordinance, an applicant may appeal the Administrator’s decision for revocation, suspension, or cancellation of the registration.

(D) Use regulations.

- (1) The unit shall meet all applicable building codes.
- (2) No signage shall be allowed in conjunction with this use.
- (3) No recreational vehicles, buses, or trailers shall be used in conjunction with the short-term rental use to increase the occupancy of the rental unit.
- (4) The host shall not permit occupancy of a short-term rental unit for a period of less than overnight, or more than 92 consecutive days, including all extensions and renewals to the same person or a person affiliated with the lessee, in accordance with Code of Virginia § 58.1-3510.4.
- (5) The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

(E) Penalty.

- (1) Any short-term rental business in violation of zoning regulations, including operation without registering, is subject to all relevant penalties as set forth by the City of Emporia.

- (2) It shall be unlawful to operate a short-term rental:
 - (i) Without obtaining a business license and a registration as required by this Article;
 - (ii) After a registration has been suspended or cancelled; or,
 - (iii) In violation of any other requirement of this Article.

Division 3. Public/Civic/Recreational Use Standards.

Section 7-3-1. Shelter, Animal.

- (A) **Location.** Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:
 - (1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and
 - (2) 200 ft. from any dwelling not on the associated parcel.
- (B) **General Standards.**
 - (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
 - (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
 - (3) Waste disposal shall be in accordance with Virginia Department of Health standards.
 - (4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Section 7-3-2. Telecommunications Facility.

- (A) **Uses.**
 - (1) **Principal or Accessory Use.** For the purposes of determining compliance with the standards of this Ordinance, telecommunication facilities may be considered either principal or accessory uses.
 - (i) An existing use or an existing structure on the same lot shall not preclude the installation of a telecommunication facility on such lot.
 - (ii) For purposes of determining whether the installation of a telecommunication facility complies with district regulations, the dimensions of the entire lot shall control, even though the facility may be located on leased area within such lots.
 - (2) **Nonconforming Uses.** Telecommunication facilities that are constructed, and antennas that are installed, in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - (3) **Excluded Uses.** The following uses are not subject to the requirements of this Section for telecommunications facilities:

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (i) Amateur radio operations as regulated by § 15.2-2293.1 of the Code of Virginia, as amended.
 - (ii) Television reception antennas that are less than 35 ft. above ground level (AGL) and used exclusively for non-commercial purposes.
 - (iii) Ground-mounted satellite earth station antennas that are less than or equal to 10 ft. AGL, less than or equal to 6 ft. in diameter and used exclusively for non-commercial purposes.
 - (iv) Micro-wireless facilities, provided that they are less than or equal to eighty 80 ft. AGL. Co-location of additional antennae should be sought. The City reserves the right to require "stealth technology" to hide or camouflage wireless facilities for micro-wireless facilities.
 - (v) Satellite earth station antennas. Ground-mounted satellite earth station antennas that are less than or equal to 10 ft. AGL, less than or equal to 6 ft. in diameter, and used exclusively for non-commercial purposes.
 - (vi) City owned or operated wireless telecommunication facilities are exempt from the requirements of this Article but are expected to adhere, to the extent reasonably possible, to the standards described herein.
 - (vii) Any wireless communication antenna that meets the definition of a "Administrative review-eligible project" as defined in the Code of Virginia § 15.2-2316.6, as amended, is considered a "Utility Service, Minor" by this Article and is not subject to the provisions of this Section.
- (B) **Local Government Access.** Owners of all new telecommunication facilities shall provide, at no cost to the City, colocation opportunities as a community benefit to improve radio communication for City departments and emergency services (including both tower space and sheltered equipment space on the ground). All proposals for a telecommunication facility shall acknowledge the critical role of the City's radio system for emergency services including fire, rescue, and law enforcement personnel and shall warrant that no interference with the City's radio system shall result from such installation.
- (C) **Location Preference.** The following sites shall be considered by applicants as the preferred order of location of proposed telecommunications facilities, (1) being the most preferred, and (3) being the least preferred:
- (1) Existing telecommunication facilities (towers).
 - (2) Public structures, such as water towers, utility structures, fire stations, bridges, steeples, and other public buildings not utilized primarily for residential uses.
 - (3) Property zoned industrial.
- (D) **Colocation Requirements.**
- (1) Existing towers may be extended to allow for additional users provided that the overall height of the tower is not increased by more than 15 ft. for each new user and that the overall height of the structure does not exceed 199 ft.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (2) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna shall consist of the following minimum information:
 - (i) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements;
 - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;
 - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
 - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
 - (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable; and;
 - (vi) The applicant demonstrates that there are other limiting factors that render the existing towers and structures unsuitable.

(E) Design Standards.

- (1) Broadcasting or communication towers shall be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment.
- (2) Towers shall be designed to collapse fully within the lot lines of the subject property in case of structural failure.
- (3) Unless utilizing camouflaging designs, towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color, to reduce visual obtrusiveness.
- (4) Dish antennas will be of a neutral, non-reflective color with no logos. Towers that are painted shall be repainted if the original color has significantly degraded as the result of the fading, peeling, flaking, or rust.
- (5) At a facility site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and surrounding structures.
- (6) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (7) Towers shall be illuminated as required by the Federal Communications Commission, (FCC) but no lighting shall be incorporated if not required by the FCC, other than essential security lighting. Site lighting shall be full cut-off and directed downward. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
 - (8) No advertising of any type shall be placed on the tower or accompanying facility.
 - (9) All towers shall meet or exceed current standards and regulations of the FAA and the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas. Towers that are painted, as required by the FAA, shall be repainted as necessary to maintain minimum visibility requirements as set forth by the FAA.
 - (10) To ensure structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state, and local building codes and regulations.
 - (11) The area immediately surrounding the tower and access road shall be kept free of trash and debris.
 - (12) All electrical devices, fixtures, and wires, to include electric generators and fuel tanks, shall be maintained in compliance with the requirements of the National Electrical Safety Code.
 - (13) Tower owners shall maintain towers, telecommunication facilities and antenna support structures in safe condition so that the same shall not menace or endanger the life or property of any person.
- (F) **Setbacks.** The following setback distances for towers shall be required and shall replace the setbacks otherwise required in the zoning district in which the facility is located.
- (1) The tower shall be set back from any off-site residential structure at least 250 ft.
 - (2) Towers, guys, and accessory facilities shall be set back:
 - (i) 100 ft. from any property line which abuts a residential or planned development district;
and
 - (ii) 50 ft. from any property line which abuts a commercial or industrial district.
 - (3) No habitable structures or places where people gather shall be located within any “fall zone” as certified by a registered professional engineer licensed in Virginia.
 - (4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, utility pole, water tower, public facility, or similar structure.
- (G) **Height Restrictions.** Telecommunication facilities shall be designed not to exceed an overall height of 199 ft. except as otherwise approved in the conditions of the Conditional Use Permit.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (H) **Security fencing.** Ground-mounted towers and equipment shall be enclosed by security fencing to protect against unauthorized access. Unless otherwise specified, a minimum 6 ft. high chain link fence, incorporating an anti-climb device and locked access gate, shall be provided.
- (I) **Landscaping.** Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip at least 4 ft. wide outside the perimeter of the facilities.
- (1) Natural vegetation sufficient to serve as buffer may be used in lieu of planting a landscaped buffer.
 - (2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
 - (3) All plant material used as landscaping and/or buffering shall be tended and maintained in a healthy growing condition. Dead plant material shall be replaced in-kind.
- (J) **Signage.** Signage on site shall be limited to no trespassing, safety, or FCC required signs to be positioned on the fence surrounding the facility. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- (1) The appropriate signage as required by FCC guidelines governing Electromagnetic Energy Fields (EMEF) shall be clearly posted.
 - (2) A 24-hour emergency contact information shall be posted at the site by the owner and each co-locator.
 - (3) FCC tower registration shall be clearly posted.
- (K) **Required Application Information.**
- (1) Actual photographs of the site that include a simulated photographic image of the proposed tower. The photograph with the simulated image shall include foreground, the midground, and the background of the site.
 - (i) The City staff reserves the right to select the locations for the photographic images and require additional images. As photo simulations may be dependent upon a balloon test first being conducted, the applicant is not required to submit photo simulations with their initial application but shall provide them prior to the public hearing with the Planning Commission.
 - (2) An engineering report, certifying that the proposed tower is structurally suitable and of adequate height for co-location with a minimum of 3 users including the primary user.
 - (3) Copies of the co-location policy. The applicant shall provide copies of propagation maps demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary.
 - (4) A copy of the FAA airspace study shall be provided prior to the issuance of a building permit for the construction tower. The FAA airspace study shall provide confirmation that the tower will not pose any hazard to air navigation.
 - (5) A commitment from a service provider to locate on the proposed tower.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (6) An agreement allowing the City to collocate on the tower for the purpose of emergency service communications.
 - (7) A proposed construction schedule.
 - (8) Site Plans for telecommunications facilities shall include:
 - (i) Radio frequency coverage and tower height requirements.
 - (ii) All designated “fall zones” as certified by a registered professional engineer licensed in Virginia.
 - (9) Any other information to assess compliance, deemed necessary by the Administrator.
- (L) **Application Process.**
- (1) **Balloon Test.** For towers requiring a Conditional Use Permit, a balloon test shall be required for new towers prior to the public hearing with the Planning Commission.
 - (i) The applicant shall arrange to raise a colored balloon (no less than 3 ft. in diameter) at the maximum height of the proposed tower and within 50 horizontal ft. of the center of the proposed tower.
 - (ii) The applicant shall inform the Administrator and adjacent property owners in writing of the date and times of the test at least 7, but no more than 14 days in advance. The notice will direct readers to a new date if the test is postponed due to inclement weather. The applicant shall request in writing permission from the adjacent property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.
 - (iii) The date, time, and location of the balloon test shall be advertised in the City’s newspaper of record by the applicant at least 7 but no more than 14 days in advance of the test date. The advertisement will direct readers to a new date if the test is postponed due to inclement weather.
 - (iv) The balloon shall be flown for at least 4 consecutive hours during daylight hours on the date chosen.
 - (v) Signage shall be posted on the property to identify the property where the balloon is to be launched. The signage will direct readers to a new date if the test is postponed due to inclement weather. This signage shall be posted a minimum of 72 hours prior to the balloon test. If inclement weather postpones the test, then cancellation of the test for that day shall be clearly noted on the signage.
 - (vi) If the wind during the balloon test does not allow the balloon to sustain its maximum height or there is significant fog or precipitation which obscures the balloon's visibility, then the test shall be postponed and moved to the alternate inclement weather date provided in the advertisement. City staff reserves the right to declare weather inclement for purposes of the balloon test.
 - (2) **Community Meeting.** For towers requiring a Conditional Use Permit, a community meeting shall be held by the applicant prior to the public hearing with the Planning Commission.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (i) The applicant shall inform the Administrator and adjacent property owners in writing of the date, time, and location of the meeting at least 7 but no more than 14 days in advance.
 - (ii) The date, time, and location of the meeting shall be advertised in the City’s newspaper of record by the applicant at least 7 but no more than 14 days in advance of the meeting date.
 - (iii) The meeting shall be held within the City, at a location open to the public with adequate parking and seating facilities which shall accommodate persons with disabilities.
 - (iv) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback.
 - (v) The applicant shall provide to the Administrator a summary of any input received from members of the public at the meeting.
- (3) Approval Process and Time Restrictions.**
- (i) For all tower applications, the following applies:
 1. Unless some other timeframe is mutually agreed upon, an application for a tower shall be reviewed by the City and a written decision shall be issued within 150 days of a completed submission.
 2. Unless some other timeframe is mutually agreed upon, an application for collocation shall be reviewed by the City and a written decision shall be issued within 90 days of a completed submission.
 3. A complete application for a project shall be deemed approved if the City fails to approve or disapprove the application within the applicable period specified or mutually agreed upon.
 - (ii) For towers requiring a Conditional Use Permit, the following applies:
 1. The approving bodies, in exercise of the City’s zoning regulatory authority, may disapprove an application on the grounds that the tower’s aesthetic effects are unacceptable, or may condition approval on changes in tower height, design, style, buffers, or other features of the tower or its surrounding area. Such changes need not result in performance identical to that of the original application.
 - i. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, and areas containing unique natural features, scenic roadways or historic areas; the concentration of towers in the proposed area; and, whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.
 2. The approving bodies, in accord with Code of Virginia § 15.2-2316.4:2, as amended, may disapprove an application based on the availability of existing wireless support structures within a reasonable distance that could be used for co-location at

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

reasonable terms and conditions without imposing technical limitations on the applicant.

3. If the City disapproves an application, it shall provide the applicant with a written statement of the reasons for disapproval. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided. The written statement shall contain substantial record evidence and be publicly released within 30 days of the decision.

(M) **Structural Certification and Inspections.** All proposed towers shall be certified by a licensed professional engineer to be structurally sound and in conformance with the requirements Structural Standards for Steel Antenna Towers and Antenna Supporting Structures (ANSI/TIA/EIA-222-F), International Statewide Building Code and all applicable city, state, and federal laws.

- (1) For new structures, or the extension of existing structures, such certification shall be submitted prior to issuance of the building permit. For existing towers being utilized for co-location, certification shall be provided to verify its capability to support additional loading.
- (2) Over the life of the tower, the City may require the tower owner to inspect and certify the structural integrity of the tower should there be a reason to believe that the tower has degraded to the point where it is believed to pose a legitimate threat to life and/or property. Structural analysis shall be performed within 30 days, upon formal written request of the City.
- (3) The City reserves the right to perform inspections, upon reasonable notice to the tower owner. The City and its agent retain authority to enter onto the property for the purpose of assessing compliance with the statewide building code and all other construction standards provide by the City Code and federal and state law. If defects had been identified on previous inspections, the City may, at its discretion require the tower owner to bear the cost of the inspection.
- (4) The tower or telecommunication facilities owner shall certify to the City on an annual basis that it is in compliance with all of the requirements set forth above.

(N) **Review Fee.** Any out-of-pocket costs incurred by the City for the review of any of the above required information shall be reimbursed by the tower owner.

(O) **Bond.** To secure the removal of abandoned structures, the City shall require the tower owner to post a bond, or provide some other reasonable assurance, in an amount to be determined by the City based upon the anticipated removal cost of the tower.

(P) **Abandoned Towers.** Any antenna or tower that is not operational for a continuous period of 24 months shall be considered abandoned, and the owner of each such antenna or tower shall remove the tower.

- (1) Removal includes the removal of the tower, all tower and fence footers, underground cables, and support buildings. The buildings may remain with the owner's approval.
- (2) If there are 2 or more users of single tower, then this provision shall become effective when all users cease using the tower.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (3) The City may dismantle and remove the tower and recover the cost of the same from the owner.
- (4) In the event that the Bond amount is insufficient to cover the cost of removal, the City reserves the right to seek the remaining balance from the owner.

Section 7-3-3. Telecommunications Facility, Small Cell.

(A) In accordance with Code of Virginia § 15.2-2316.4, as amended, small cell telecommunications facilities shall be permitted by-right in all zoning districts subject to the following general performance standards.

(B) Installation.

- (1) The small cell telecommunications facility shall be installed by a wireless services provider or wireless infrastructure provider on an existing structure.
- (2) The wireless services provider or wireless infrastructure provider has obtained permission from the owner of the existing structure to collocate the small cell telecommunications facility on the existing structure and to collocate the associated transmission equipment on or proximate to the existing structure.
- (3) Each antenna is located inside an enclosure of, or the antenna and all its exposed elements could fit within an imaginary enclosure of, no more than 6 cubic ft.; and
- (4) Excluding electric meter, concealment, telecommunications demarcation boxes, backup power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services, all other equipment associated with the facility does not exceed 28 cubic ft., or such higher limit as may be established by the Federal Communications Commission.

(C) Application and Review.

- (1) A wireless services provider or wireless infrastructure provider may submit up to 35 permit requests for small cell telecommunications facilities on a single application. Permit application fees shall be in accordance with Code of Virginia § 15.2-2316.4, Paragraph B (2) of the Code of Virginia, as amended.
- (2) Permit applications for small cell telecommunications facilities shall be reviewed and approved as follows:
 - (i) Permit applications for the installation of small cell telecommunications facilities shall be approved or disapproved within 60 days of receipt of the complete application. The 60-day period may be extended by staff upon written notification to the applicant, for a period not to exceed an additional 30 days.
 - (ii) Within 10 days of receipt of an application submission and a valid electronic mail address for the applicant, the applicant shall receive an electronic mail notification if the application is incomplete. If the application is determined to be incomplete, the notification shall specify the missing information which needs to be included in a resubmission in order to be determined complete.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (iii) Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The disapproval may be based only on any of the following reasons:
 - 1. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;
 - 2. Public safety or other critical public service needs; and/or
 - 3. In instances where the installation is to be located on or in publicly owned or publicly controlled property (excluding privately owned structures where the applicant has an agreement for attachment to the structure), aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property.
- (iv) A permit application approval shall not be unreasonably conditioned, withheld, or delayed.
- (v) An applicant may voluntarily submit, and staff may accept, any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.
- (vi) The submission of a permit application shall represent a wireless services provider's or wireless infrastructure provider's notification to the City as required by Code of Virginia § 15.2-2316.4(A), as amended.

Section 7-3-4. Utility Service, Minor.

- (A) For utility uses requiring a structure, not including public water and sewer lines and appurtenances, service lines to consumers, water towers, and above and below ground cables, wires, or pipes where such uses are located in easements:
 - (1) If visible from adjacent residential or planned development districts and/or properties that are occupied by a residential dwelling, the use shall be located within an enclosed structure having a style and character compatible with the surrounding residential structures or shall be screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (2) A minor utility shall not include facilities for construction, repair, service, or storage of vehicles or off-site utility equipment.

Division 4. Commercial Use Standards.

Section 7-4-1. Adult Use.

- (A) **Purpose.** It is a purpose of this Section to regulate adult uses in order to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult uses within the City. The requirements of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually-oriented materials.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(B) **Findings.** Based on evidence of the adverse secondary effects of adult uses, and on findings, interpretations, and narrowing constructions incorporated in numerous legal cases, it is recognized that:

- (1) Adult uses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.
- (2) Adult uses should be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and should be separated from other sexually-oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually-oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm, which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects exists independent of any comparative analysis between adult uses and non-adult uses. Additionally, the interest in regulating adult uses to preventing future secondary effects of either current or future adult uses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(C) **Establishment.** The establishment of an adult use as referred to herein shall include the opening of such use as a new use, the relocation of such use, the enlargement of such use in either scope or area, or the conversion, in whole or part, of an existing business into an adult use.

(D) **Measurements of distance.** All distances specified in this Section shall be measured from the property line of one use to another. The distance between an adult use and a residentially or planned development zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially or planned development zoned district.

- (1) No adult use shall be established within 1,000 ft. of any other adult use in any zoning district.
- (2) No adult use shall be established within 1,000 ft. of a residential zoned district, planned development district, designated historic district, educational facility, religious assembly, public park and recreation area, public use, hotel, nursing home, or day care center as defined in this Ordinance.

(E) **Hours of Operation.**

- (1) No adult use shall be open:

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (i) More than 72 hours in any week (a week being consecutive days from Sunday to Saturday);
- (ii) More than 12 hours within any 24-hour period; or
- (iii) Prior to 9 a.m. or later than 11 p.m.

(F) Design Standards.

- (1) Any signs and exterior lighting shall be in accordance with the regulations of Article 8, Community Design Standards, of this Ordinance.
 - (i) Signs shall not include graphic or pictorial depiction of material available on the premises.
- (2) No adult use shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others.
- (3) Window areas shall remain transparent.

Section 7-4-2. Automobile Sales and Rental; Automobile Service.

(A) Development Standards.

- (1) All principal and accessory structures shall comply with the district standards for which they are located.
- (2) The use shall be located and designed so that vehicular circulation does not conflict with traffic movements and pedestrian access within adjacent streets, service drives, and/or parking areas.
- (3) No portion of the use, excluding required screening and landscape buffers, shall be located within 100 ft. of a residential or planned development district or structure containing a dwelling unit.

(B) Parking Standards.

- (1) All parking shall comply with Article 8, Community Design Standards of this Ordinance.
- (2) All parking, excluding display of vehicles for sale or rental, shall be located to the side or rear of the establishment.

(C) General Standards.

- (1) All repairs and maintenance of vehicles, including parts installation, shall be performed within a completely enclosed building.
- (2) No vehicle or equipment displays shall be located within a required setback, fire lane, travel way, sidewalk, or landscaped area.
- (3) The temporary on-site storage of vehicles awaiting repair, service, or removal shall be on the side or rear of the principal structure and screened from view from any adjacent right-of-way by a building, or by an opaque fence or wall, in accordance with Article 8, Community Design Standards, of this Ordinance.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (i) Temporary on-site storage of vehicles is 30 days or less.
 - (4) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.
 - (5) No outdoor storage of inoperable vehicles, parts, or equipment shall be permitted.
 - (6) Nothing, including vehicles and vehicle equipment, shall be displayed on the top of a building.
- (D) **Sales and Rental Standards.**
- (1) All vehicles for sale or rent shall be parked in a parking space or a vehicle display pad, as shown on an approved Site Plan.
 - (2) One vehicle display pad may be elevated up to 2 ft. above grade level.
- (E) **Hazardous Materials Standards.**
- (1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.
 - (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the City and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all City departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-4-3. Car Wash.

- (A) **Location.**
- (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements and pedestrian access within adjacent streets, service drives, and/or parking areas.
 - (2) Buildings, structures, and vacuuming facilities shall be a minimum of 100 ft. from any residential district or use.
- (B) **Prohibited.** No sales, repair, or outside storage of motor vehicles shall be conducted on the site.
- (C) **Design Standards.**
- (1) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
 - (2) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (3) An automatic water reclamation system shall be used to recover a minimum of 70% of the car wash rinse water for reuse.

(D) **Hazardous Materials Standards.**

- (1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.
- (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the City and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all City departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-4-4. Construction Material Sales.

- (A) Outdoor storage as an accessory use to a Construction Materials Sales operation shall conform with the standards of Outdoor Storage, as provided in Section 7-6-4 of this Article.

Section 7-4-5. Drive-Through Window.

(A) **Access.**

- (1) Access to public streets or other public ways shall be provided from at least 2 points at all times. Access points shall be kept clear at all times.
 - (i) The Administrator may modify the number of required accesses.
- (2) All drive-through window facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

- (B) **General Standards.** Drive-through window openings shall be located at least 20 ft. from any property line.

- (C) **Lighting.** The parking area of any drive-through facility shall be adequately illuminated. Such illumination shall be in conformance with the regulations of Article 8, Community Design Standards, of this Ordinance.

(D) **Stacking Spaces.**

- (1) A minimum of 4 stacking spaces shall be located behind the order speaker and 4 stacking spaces shall be located between the order speaker and the pickup window.
 - (i) A minimum of 8 stacking spaces shall be provided when there is only a pickup window.
- (2) Stacking spaces shall not interfere with the travel way traffic or designated parking spaces.

Section 7-4-6. Equipment Sales, Service, and Repair (Heavy).

- (A) **Screening and Landscaping.** Screening and landscape buffers are required and shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
- (B) **Location.** No storage of equipment shall be located within 50 ft. of any public right-of-way.
- (C) **General Standards.**
 - (1) All accessory maintenance, service, or repairs shall be performed within a completely enclosed building.
 - (2) No equipment displays shall be located within a required setback.
 - (3) Elevated equipment displays shall be prohibited.
 - (4) Outdoor displays shall be limited to the equipment being sold, rented, or leased on the property. No other display of any other goods, parts, or merchandise shall be permitted.
 - (5) Outdoor storage of inoperable vehicles or equipment shall be prohibited.
 - (6) Outdoor storage as an accessory use, where permitted, shall not exceed 30% of the total site area and shall be subject to the use standards of Section 7-6-4 of this Article.
 - (7) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.
- (D) **Hazardous Materials Standards.**
 - (1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into the public sewer, storm drainage, or other surface waters is prohibited.
 - (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the City and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all City departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-4-7. Event Venue.

- (A) **Noise.** All noise shall comply with the Noise Ordinance, Chapter 34, Article 2, of the City of Emporia Code of Ordinances.
 - (1) There shall be no amplified noise between 11:00 p.m. and 8:00 a.m., seven days per week.
- (B) **Occupancy Limitations.** For all indoor and outdoor areas, occupancy limits shall comply with all local and state laws.
 - (1) Any structure or building utilized for an event, or as an event venue, shall meet the International Building Code requirements for public occupancy.

Section 7-4-8. Gas Station.

(A) Location and Dimensional Requirements.

- (1) Entrances to the gas station shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
- (2) All gas station driveways and access points shall be a minimum of 100 ft. from any residential or planned development district or residence.
- (3) All fuel pump islands, compressed air connections, and similar equipment shall be a minimum of 15 ft. from any property line.
- (4) On all corner lots, all driveways, access points, and curb openings shall be set back a minimum of 25 ft. from the corner property lines.
- (5) No driveway or access point shall exceed 50 ft. in width at the property line, nor be located within 12 ft. of a property line.
- (6) There shall be a minimum distance between driveways of 25 ft. unless such driveways are less than 5 ft. apart.
- (7) When the above location and dimensional requirements, (1) through (5), cannot be met due to site constraints, they may be modified by the joint approval of the Administrator, Chief of Police, and City Manager.

(B) Screening.

- (1) A 6 ft. solid fence, wall, or landscaping shall be provided along property lines adjoining any residentially zoned district or lot containing a dwelling unit.
- (2) Dumpsters or other refuse shall be screened in accordance with Article 8, Community Design Standards, of this Ordinance.

(C) Design Standards.

- (1) In cases where there is no existing curb, gutter, or sidewalk along the street or streets from which the gas station shall take access, the developer shall, at his own expense, construct the necessary curb, gutter, and sidewalk according to the specifications of the City.
- (2) Gas canopy shall be compatible with the principal use with regard to design, material, and architectural style.
- (3) Outdoor speakers shall not be audible beyond the property lines.
- (4) Under-canopy lighting shall consist of recessed, flat lens fixtures.
- (5) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

(D) General Standards.

- (1) There shall be no storage of automobiles, trailers, recreational vehicles, boats, or similar equipment.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (2) Sales of limited fuel oil or bottled gas is permitted as an accessory use.
- (3) Fuel dispensers, pump islands, overhead canopy, and air and water dispensers shall be removed upon cessation of the use for a period of more than 1 year.
- (4) The Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

(E) **Hazardous Materials Standards.**

- (1) All hazardous materials shall be handled, recycled, or disposed of according to federal, state, and local laws.
- (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the City and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all City departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-4-9. Kennel, Commercial.

(A) **Location.** Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:

- (1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and
- (2) 200 ft. from any dwelling not on the associated parcel.

(B) **General Standards.**

- (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
- (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
- (3) Waste disposal shall be in accordance with Virginia Department of Health standards.
- (4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Section 7-4-10. Outdoor Sales, Seasonal/Temporary.

(A) **Permits.** Each stand for the retail sale of seasonal/temporary goods, including Christmas trees or fireworks, shall obtain a Seasonal/Temporary Outdoor Sales Permit by the Administrator prior to setup and sales.

- (1) No more than 6 permits shall be issued for the same lot during a calendar year.
- (2) No permit shall be issued to an applicant, unless or until:

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (i) A minimum of 30 consecutive days after a permit issued to that applicant for the same or an adjacent lot or parcel has expired.
- (B) **Time Limits.**
 - (1) Seasonal sales (fireworks, Christmas trees, etc.) shall be permitted for a period not to exceed 60 consecutive days.
 - (2) Temporary sales (rummage sales, yard sales, sidewalk sales, etc.) shall be permitted for a period not to exceed 3 consecutive days.
- (C) **Setbacks.** The outdoor sales stand or display shall be setback at least 15 ft. from any public right-of-way and outside any required landscape buffer.
- (D) **Parking.** Parking shall be supplied on the site of the primary use and not along the public right-of-way.
- (E) **Signs.** Signs for the use shall be in accordance with Article 8, Community Design Standards, of this Ordinance.

Section 7-4-11. Parking Lot, Commercial.

- (A) **Activity.**
 - (1) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking, but no other business of any kind shall be conducted in the structure or lot except for City-sanctioned outdoor markets or permitted mobile food restaurants.
 - (2) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
 - (3) No outdoor storage of inoperable vehicles or equipment shall be permitted.
- (B) **Design.** To retain all cars completely within the parking lot, a rail, fence, wall, landscape hedge, or other continuous barricade of no less than 3 ft. tall shall be provided except at exit or access driveways.
- (C) **Screening.** Screening shall be provided on each side of the parking lot which:
 - (1) Abuts upon any residential district or use or planned development; or
 - (2) Faces across a street, alley, or place from any lot in a residential district or use or planned development.
 - (3) Screening shall be in conformance with the regulations of Article 8, Community Design Standards, of this Ordinance.

Section 7-4-12. Restaurant, Mobile Food Unit.

- (A) **Application Requirements.**
 - (1) Applications for a mobile food unit shall provide the following:
 - (i) A City of Emporia issued business license, or a statement from the Commissioner of the Revenue stating that no city business license is required;

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (ii) A valid permit from the Virginia Department of Health stating that the mobile food unit meets all applicable standards. A valid health permit must be maintained for the duration of the mobile food unit permit;
 - (iii) Valid registration documents from the Virginia Department of Motor Vehicles for the mobile food unit, including both vehicle and trailer registration, as applicable.
 - (iv) Written permission from the owner(s) of the property upon which the mobile food unit will operate;
 - (v) Description of the days of the week and hours of operation for proposed vending at each proposed property;
 - (vi) A sketch to be approved by the Administrator, for each property, that illustrates access to the site, all parking areas, routes for ingress and egress, placement of the mobile food unit, distance from the property lines, garbage receptacles and any other feature associated with the mobile food unit; and
 - (vii) An annual fee, as provided in Planning and Zoning Fee Schedule of the City Code.
- (2) A mobile food unit permit is valid through December 31 of the year upon which the permit was issued.
 - (3) The mobile food unit must conspicuously display the approved permits for public inspection.
 - (4) No additional permit shall be required for the location or setup of a mobile food unit on private property for the catering or providing of food service to a private, temporary event (weddings, birthdays, picnics, etc.). During such an event, no public vending shall be permitted.
 - (5) Permit and fee shall not be required for individual mobile food unit if the operator is participating in a fair, festival, or similar event on private property, after the approval of a Zoning Permit authorizing mobile food units on the property.
- (B) **Noise.**
- (1) All noise associated with the mobile food unit – including the operation of the mobile restaurant, music, or use of a generator – shall comply with Chapter 24, Article 2 of the City of Emporia City Code pertaining to noise control.
- (C) **Signage.**
- (1) No signs shall be displayed except:
 - (i) Those permanently affixed to the licensed vehicle and/or trailer associated with the mobile food unit;
 - (ii) One A-frame sign not to exceed 4 ft. in height and 6 sq. ft. of display for each of the two sides; and
 - (iii) The sign cannot block any passageways.
 - (2) Advertisements for businesses other than the mobile food unit may not be utilized.
- (D) **Trash and Waste.**

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

(1) Trash receptacles shall be provided, and all trash, refuse, or recyclables generated by the mobile food unit shall be removed from the site by the operator at the end of the business day.

(i) Public trash receptacles shall not be used for compliance with this section.

(2) No liquid or solid wastes shall be discharged from a mobile food unit.

(E) **Operation Hours.**

(1) Mobile food units may operate between 6 a.m. and 9 p.m. Sunday to Thursday and between 6 a.m. to 11 p.m. Friday and Saturday (including set-up and break-down) on any one day at any single location. The vehicle/trailer and all accessory structures shall be removed each day.

(2) No mobile food unit shall remain on-site at a single location for more than 12 consecutive hours.

(F) **Set-Up Standards.**

(1) One 10 ft. x 10 ft. tent and one table, that fits underneath the tent, may be utilized to provide condiments to patrons.

(2) No tables or chairs for patron use may be set up in association with the mobile food unit.

(3) A 3 ft. wide area of visibility clearance must be maintained around the mobile food unit.

(G) **Location and Parking.**

(1) Mobile food units shall be only permitted as provided in Article 6, Use Matrix, of this Ordinance.

(2) No mobile food unit shall locate within 100 ft. of an entrance to any brick-and-mortar restaurant (determined by measuring from the edge of the mobile food unit to the main public entrance of the brick-and-mortar establishment) unless permission by the owner of the brick-and-mortar restaurant is provided.

(3) Notwithstanding (G) (2) above, mobile food units may be in any off-street parking lot, so long as the location does not block any drives, aisles, ingress and egress from the property or designated emergency/fire lanes.

(4) No mobile food unit shall park on any fire lane, road, or right-of-way, whether public or private.

(5) No parking space that satisfies the minimum parking requirements of this Ordinance shall be converted into a parking space or vending area to accommodate a mobile food unit.

(6) Parking of mobile restaurants shall not impact required parking for other uses.

Section 7-4-13. Veterinary Hospital/Clinic.

(A) **Location.** Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:

(1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

(2) 200 ft. from any dwelling not on the associated parcel.

(B) **General Standards.**

- (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
- (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
- (3) Waste disposal shall be in accordance with Virginia Department of Health standards.
- (4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Division 5. Industrial Use Standards.

Section 7-5-1. Construction Yard.

- (A) Outdoor storage as an accessory use to a Construction Yard shall conform with the standards of Outdoor Storage, as provided in Section 7-6-4 of this Article.
- (B) All areas of the Construction Yard shall be operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes or other disease-carrying animals and insects.

Section 7-5-2. Junkyard/Salvage Yard.

- (A) **General Standards.** In accordance with Code of Virginia § 33.2-804, as amended, junkyards are permitted with the following standards.
 - (1) Junkyards/salvage yards shall be:
 - (i) Setback at least 500 ft. from any street, road, or other right-of-way.
 - (ii) Completely screened by a solid wall or fence, including solid entrance and exit gates, not less than 6 ft. in height, so as not to be visible from any right-of-way.
 1. All walls and fences shall have a uniform and durable character and shall be properly maintained. All screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
 2. No wall or fence screening shall encroach into a sight distance triangle.
 3. Vehicles, parts, materials, and equipment stored shall not be stacked higher than the screening wall or fence.
 4. When walls and fences are adjacent to commercial, residential, or planned development districts, a landscaped buffer shall be provided to break visibility of the fence in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (iii) Operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes or other disease-carrying animals and insects.
 - (2) Junkyards/salvage yards shall not:

City of Emporia Zoning & Subdivision Ordinance
Article 7 – Use Performance Standards

- (i) Involve collection or storage of any material containing, or contaminated with, dangerous explosives, chemicals, gases, or radioactive substances.

Section 7-5-3. Self-Storage Facility.

(A) **Activity.** No portion of the facility shall be used to manufacture, fabricate, or process goods; to service or repair vehicles, small engines, or electrical equipment, or conduct similar repair activities; to conduct sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

- (1) The owner/operator shall be allowed to sell moving and packaging materials and related items and to hold auctions on site for the disposal of goods stored on the premises.

(B) **Prohibited.**

- (1) No storage of hazardous, toxic, or explosive materials shall occur in the facility. Signs shall be posted within the facility describing such limitations. No storage of combustible or flammable liquids, combustible fibers, or explosive materials, or toxic materials, shall be permitted on the premises.
- (2) Self-storage facilities shall not include portable storage containers, shipping containers and/or tractor trailers.
- (3) Incidental parking or storage of motor vehicles, including trucks or moving vans is not allowed, except for purposes of loading and unloading, or if approved as a part of a automobile sales and rental establishment.

(C) **General Standards.**

- (1) Except as otherwise authorized in this Section, all personal property shall be stored within enclosed buildings.
- (2) Access to all self-service storage rental spaces must be from the interior of the site. No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the public right-of-way.
- (3) Fire hydrants and/or fire suppression devices shall be provided, installed, and maintained in compliance with applicable codes and regulations.
- (4) No more than one security or caretaker quarters may be developed on the site, and any such quarters shall be integrated into the facility's design.
- (5) All access ways on the site shall be paved with asphalt, concrete, or comparable paving materials.
- (6) Loading and unloading areas must be located, screened or fully enclosed to minimize the potential for adverse impacts on adjacent property.
- (7) All areas with street frontage not occupied by a building or structure shall include a wall/fence or screening in accordance with Article 8, Community Design Standards, of this Ordinance.

Division 6. Miscellaneous Use Standards.

Section 7-6-1. Accessory Structure.

- (A) **Exemptions.** Residential accessory structures including, but not limited to, flag poles, basketball hoops, clotheslines, arbors, swings, structures less than 6 sq. ft., or residential yard ornaments shall be exempt from the minimum setback, lot area, and certification requirements as specified in this Section.
- (B) **Development Standards.**
- (1) Accessory structures shall meet the standards of the underlying zoning district, including setbacks and height regulations provided in Article 4, Primary Zoning Districts, of this Ordinance.
 - (2) Accessory structures are not permitted in front setbacks.
 - (3) Accessory structures shall not exceed 40% of the gross floor area of the main structure.
- (C) **Permanent Portable Storage Containers.**
- (1) A Zoning Permit is required for any portable storage container used as permanent storage.
 - (2) Portable storage containers used as permanent storage located outside of a fully enclosed building or structure is only permitted in the C-2, I-1, and I-2 zoning districts.
 - (3) When visible from adjacent properties or streets, the storage containers shall be screened in compliance with Article 8, Community Design Standards, of this Ordinance, and kept in good condition.
 - (4) The portable storage container shall meet all accessory structure setback requirements for the district in which it is located.
 - (5) Other than the required Zoning Permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.
 - (6) Portable storage containers shall not be used as a principal use or main building or structure.
 - (7) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited.
- (D) **Temporary Portable Storage Containers.**
- (1) A Zoning Permit is required for any portable storage container used temporarily and located on a lot for more than 15 calendar days.
 - (2) No permit shall be granted for more than 60 calendar days.
 - (3) The portable storage container shall be placed a minimum of 5 ft. from the property line, or on the driveway of the lot.
 - (4) When it can be demonstrated that space is not available on the lot, one portable storage container may be placed in a legal parking space on the street for a period no longer than 15 days, with the approval of the City.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (5) Other than the required Zoning Permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.
- (6) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited.

Section 7-6-2. Mixed-Use Structure.

- (A) Dwelling units shall be allowed without restriction on the second or higher floor.
- (B) Dwelling units occupying the first floor of any structure shall only be allowed under the following circumstances:
 - (1) The first-floor residential units are not visible from a main thoroughfare;
 - (i) If the building fronts on a main thoroughfare, the residential portion on the first floor shall be shielded by office or retail space or a lobby that maintains a commercial appearance.
 - (2) At least 50% of the first-floor area shall be dedicated to non-residential use.

Section 7-6-3. Residential Yard Sale.

- (A) Residential yard sales do not require a Zoning Permit, but they shall comply with all regulations of this Section, and other applicable regulations of the City of Emporia Code of Ordinances.
- (B) No more than 4 residential yard sales may be held within a given calendar year by the same household at the same location.
- (C) No residential yard sale shall last more than 3 consecutive days, limited to daylight hours.
- (D) Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day of the sale.

Section 7-6-4. Outdoor Storage.

- (A) **Intent.** The following standards are intended to mitigate impacts of outdoor storage as a principal use, or as an accessory use to commercial and industrial businesses. Examples include construction materials, such as stacks of lumber or stone; equipment; surplus goods; among other items.
- (B) **Location.** No outdoor storage shall be located within 50 ft. of a residential or planned development district.
- (C) **Screening, Buffering, and Landscaping.**
 - (1) Outdoor storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than 6 ft. nor more than 10 ft. in height. All walls and fences shall have a uniform and durable character and shall be properly maintained. All screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (2) When walls and fences are adjacent to commercial, residential, or planned development districts, a landscaped buffer shall be provided to break visibility of the fence in accordance with Article 8, Community Design Standards, of this Ordinance.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (3) Outdoor storage shall be located on the side or rear of the main structure and screened from view from any adjacent roadway.
- (4) No wall or fence screening a storage area shall encroach into a sight distance triangle.
- (5) Parts, materials, and equipment stored in a storage area shall not be stacked and/or piled higher than the screening wall or fence.

Section 7-6-5. Solar Energy, Medium-Scale.

(A) Intent.

- (1) The intent of this Section is to allow medium-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing residential, commercial, industrial, historical, cultural, and recreational uses of property, or the future development of such uses of property within the City.
- (2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of medium-scale solar energy facilities that ensures the protection of health, safety, and welfare of the City.
- (3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(B) Compliance.

- (1) All medium-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration (“FAA”), State Corporation Commission (“SCC”) or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.
- (2) The design and installation of all medium-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.

(C) Megawattage.

- (1) Minimum generation of 500 kilowatts (500 KW).
- (2) Maximum generation of 5 megawatts (5 MW).

- (D) Consumption.** Generated electricity may be used for on-site consumption, provided to electric cooperative member-customers (non-retail, from behind the meter), or distributed for commercial consumption.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

(E) **Land Disturbance.**

- (1) The clearing, grading, and overall site disturbance is limited to only that which is necessary; superfluous clearing and grading is not permitted, in order to retain existing trees and other groundcover.

(F) **Grid Tied System.** No grid-tied system shall be installed until evidence has been given as part of the application that the owner has been approved by the utility company to install the system.

(G) **Height Limits.**

- (1) If the medium-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.
- (2) If the medium-solar energy facility is roof-mounted or otherwise integrated into a principal or accessory building, the facility's height shall not exceed the maximum height limit of the district in which it is located.

(H) **Setbacks.** The solar energy facility shall comply with all setback requirements of the district in which it is located.

- (1) Regardless of whether a medium-scale solar facility is accessory to another use on the lot, all medium-scale solar facilities shall comply with the district's principal structure setbacks.

(I) **Landscaping and Screening.** Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.

(J) **Design Standards.**

- (1) The lowest surface of any panel shall be a maximum of 4 ft. above the finished grade on which the panel is located.
- (2) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.

(K) **Liability Insurance.** The owner shall provide proof of adequate liability insurance for a medium-solar facility prior to beginning construction and before the issuance of any permits.

(L) **Inspection.**

- (1) The owner will allow designated City staff access to the facility for inspection purposes. The City staff will provide the owner with 24-hour notice prior to such inspection when practicable.
- (2) The owner shall reimburse the City its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.

(M) **Decommissioning and Reclamation.**

- (1) All applications for a medium-scale solar energy facility shall require a Decommission and Reclamation plan, as provided in Section 7-6-5 (N), below.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (2) Medium-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the City may require evidentiary support that a longer repair period is necessary.
- (3) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
- (4) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either complete all decommissioning activities and remove the solar energy facility in accordance with the Decommission and Reclamation Plan or resume regular operation within 30 days.
- (5) If the owner of the solar facility fails to remove the installation in accordance with the requirements of the Decommission and Reclamation Plan, or within the proposed date of decommissioning, the City may collect the surety and the City or hired third party may enter the property to physically remove the installation.

(N) Decommission and Reclamation Plan.

- (1) All Decommissioning and Reclamation Plans shall be certified by an engineer or contractor with demonstrated expertise in solar facility removal, and shall include the following:
 - (i) The anticipated life of the project.
 - (ii) An estimated deconstruction schedule.
 - (iii) The estimated decommissioning cost in current dollars.
 - (iv) The estimated cost of decommissioning shall be guaranteed by bond, letter of credit, or other security approved by the City.
 1. The owner shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the medium-scale solar facility.
 2. The escrow account agreement shall prohibit the release of the bond without the written consent of the City. The City shall consent to the release of the bond upon the owner's compliance with the approved Decommission and Reclamation Plan. The City may approve the partial release of the bond as portions of the approved Decommission and Reclamation Plan are performed.
 3. The dollar amount of the bond shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
 4. The owner or occupant shall recalculate the estimated cost of decommissioning every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or occupant shall deposit additional funds into the bond to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than 90% of the original

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

estimated cost of decommissioning, then the City may approve reducing the amount of the bond to the recalculated estimate of decommissioning cost.

- (2) Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities.
- (3) The site shall be graded and re-seeded or replanted within 12 months of removal of solar facilities to restore it to as natural a pre-development condition as possible.
 - (i) Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request shall be approved by the City Council.
- (4) Hazardous material from the property shall be disposed of in accordance with federal and state law.

Section 7-6-6. Solar Energy, Small-Scale.

(A) Intent.

- (1) The intent of this Section is to allow small-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing residential, commercial, industrial, historical, cultural, and recreational uses of property, or the future development of such uses of property within the City.
- (2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of small-scale solar energy facilities that ensures the protection of health, safety, and welfare of the City.
- (3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(B) Compliance.

- (1) All small-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration (“FAA”), State Corporation Commission (“SCC”) or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.
- (2) The design and installation of all small-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

- (3) Site Plans shall be required for all small-scale solar energy facilities, in accordance with Article 3, Permits and Applications, of this Ordinance.
- (C) **Megawattage.**
 - (1) Maximum generation of 500 kilowatts (500 KW).
- (D) **Consumption.** Generated electricity may be used for on-site consumption or provided to electric cooperative member-customers (non-retail, from behind the meter).
- (E) **Land Disturbance.**
 - (1) The clearing, grading, and overall site disturbance is limited to only that which is necessary; superfluous clearing and grading is not permitted, in order to retain existing trees and other groundcover.
- (F) **Height Limits.**
 - (1) If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.
 - (2) If the small-solar energy facility is roof-mounted or otherwise integrated into a principal or accessory building, the facility's height shall not exceed the maximum height limit of the district in which it is located.
- (G) **Setbacks.** The solar energy facility shall comply with all setback requirements of the district in which it is located.
 - (1) Regardless of whether a small-scale solar facility is accessory to another use on the lot, all small-scale solar facilities shall comply with the district's principal structure setbacks.
- (H) **Landscaping and Screening.** Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
- (I) **Design Standards.**
 - (1) If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, then:
 - (i) The lowest surface of any panel shall be a maximum of 4 ft. above the finished grade on which the panel is located.
 - (ii) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.
- (J) **Inspection.**
 - (1) The owner will allow designated City staff access to the facility for inspection purposes. The City staff will provide the owner with 24-hour notice prior to such inspection when practicable.
 - (2) The owner shall reimburse the City its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.

City of Emporia Zoning & Subdivision Ordinance

Article 7 – Use Performance Standards

(K) Decommissioning.

- (1) Small-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the facility is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the City may require evidentiary support that a longer repair period is necessary.
- (2) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
- (3) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either remove the solar energy facility or resume regular operation within 30 days.
- (4) If the owner of the solar facility fails to remove the installation within the proposed date of decommissioning, a hired third party may enter the property to physically remove the installation.
- (5) Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities.
- (6) Hazardous material from the property shall be disposed of in accordance with federal and state law.

ARTICLE 8. – Community Design Standards.

Division 1. Lighting.

Section 8-1-1. Purpose and Intent.

(A) The purpose of this Division is to:

- (1) Permit the use of exterior lighting at the minimum level necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;
- (2) Ensure exterior lighting does not adversely impact land uses on adjacent land by minimizing light trespass, obtrusive light, and glare;
- (3) Curtail light pollution, reduce sky glow, and preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors; and
- (4) Ensure security for persons and property.

Section 8-1-2. Applicability.

(A) **General.** Unless exempted by (B), below, the standards of this Division shall apply to:

- (1) The provisions of this division shall apply to all new development in the City unless exempted in accordance with (B), below.
- (2) To the maximum extent practicable, redevelopment of an existing structure, building, parking lot, or use when it is expanded, enlarged, or otherwise increased in intensity equivalent to or beyond 50% of its existing state.

(B) **Exemptions.** The following are exempted from the exterior lighting standards of this Article:

- (1) Lighting within a public right-of-way or easement that is used principally for illuminating a roadway;
- (2) Lighting for single- and two-family residential development.
- (3) Lighting exempt under State or Federal law;
- (4) Lighting for public monuments and statuary;
- (5) Lighting that is required under the Uniform Statewide Building Code;
- (6) Construction lighting, provided the lighting is temporary and discontinued upon completion of the construction activity each day;
- (7) Emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way;
- (8) Temporary lighting for circuses, fairs, carnivals, theatrical, and other performance areas, provided such lighting is turned off not more than 1 hour after the last performance/event of the day and discontinued upon completion of the final performance/event;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (9) Security lighting, provided it is directed downward, does not glare onto adjacent property, and is controlled and activated by motion sensor devices for a duration of 15 minutes or less, unless it can be demonstrated otherwise that there is a need for constant security lighting;
 - (10) Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech;
 - (11) Architectural lighting of 40 watts incandescent or less;
 - (12) Field lighting for an outdoor athletic facility, provided such lighting is directed and falls within the primary playing area and is turned off at the end of the sports event;
 - (13) FAA-mandated lighting associated with a utility tower or airport; and,
 - (14) The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose installed prior to the adoption of this Division.
- (C) **Conformance with all Applicable Codes.** All outdoor lighting shall be installed in accordance with the provisions of this Ordinance, applicable Electrical and Energy Codes, and applicable sections of the Building Code.
- (D) **Time of Review.** Review for compliance with the standards of this Division shall occur as part of the review of an application for a Site Plan, Planned Development, Zoning Permit, Conditional Use Permit, or Variance.
- (E) **Signs.** Lighting for signage shall be governed by the standards set forth in Division 6, Signs, of this Article.

Section 8-1-3. Standards.

- (A) **Hours of Illumination.** Public/civic/recreational uses, commercial uses, and industrial uses (as identified in Article 6, Use Matrix) that are adjacent to existing residential development or residential zoning districts shall extinguish all exterior lighting, except lighting necessary for security or emergency purposes, within 1 hour after closing and shall not turn on such lights until within 1 hour of opening.
- (1) For the purposes of this subsection, lighting necessary for security or emergency purposes shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways and parking areas, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is encouraged for these purposes.
- (B) **Uniformity.** Outdoor luminaires shall be of uniform style for each project site and conform to the design of the project.
- (C) **Shielding.** Each outdoor luminaire subject to these outdoor lighting requirements shall be dark sky compliant with a full cutoff luminaire and aimed and controlled such that directed light is directed inward to the property and confined to the object intended to be illuminated. Directional control

City of Emporia Zoning & Subdivision Ordinance

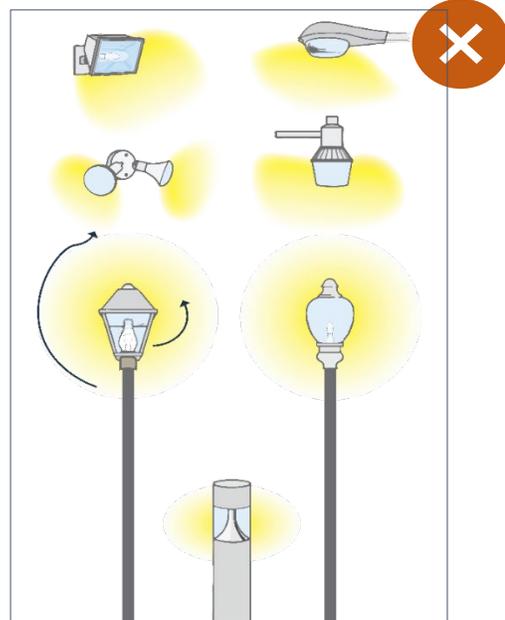
Article 8 – Community Design Standards

shields shall be used when necessary to limit stray light and prevent glare to adjacent properties and vehicular public rights-of-way. See Figure 8.1.

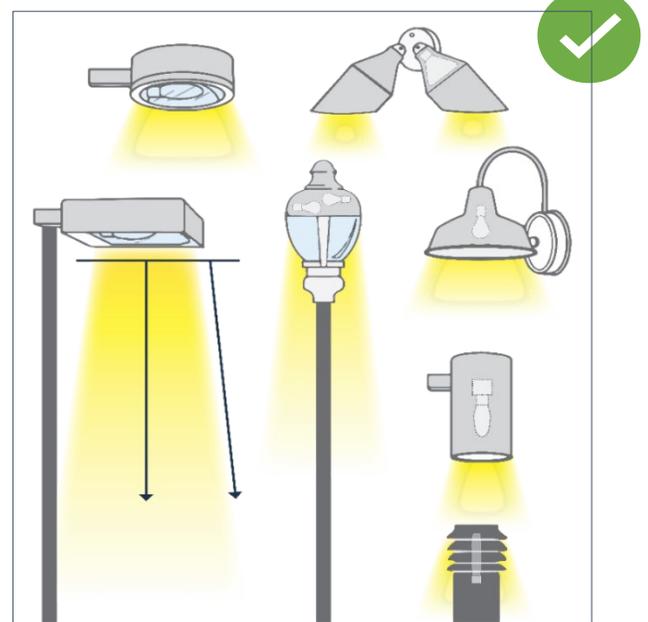
- (D) **Color Temperature.** All exterior lights shall be 3,000 Kelvin light color temperature or less.
- (E) **Type.** Low-pressure sodium vapor (LPS), high-pressure sodium vapor (HPS), or light emitting diode (LED) lights shall be the preferred type of exterior site lighting.
- (F) **Maximum Illumination Levels.**
 - (1) The maximum permitted average maintained illumination measured vertically and horizontally shall not exceed:
 - (i) 2.0 footcandles in residential and R-PRD districts; and
 - (ii) 5.0 footcandles in commercial and industrial districts.
 - (2) All lighting visible from outside, except for street lighting and pedestrian area lighting, must be designed and located so that the maximum illumination at any lot line abutting a residential district, dwelling, or any public right-of-way, does not exceed 0.5 footcandles.
- (G) **Canopy Lighting.** Light fixtures under any gasoline canopy or other structural canopy shall be recessed into the canopy ceiling with a flat lens to prevent glare.
- (H) **Height.** Any pole-mounted exterior lighting shall not exceed a height of 30 ft. in Industrial districts and 20 ft. in all other districts.

Figure 8.1 | Examples of Lighting

Un-shielded



Shielded/Full Cut-off



Division 2. Landscaping and Screening.

Section 8-2-1. Purpose and Intent.

- (A) The purpose of this Division is to establish standards for landscape architecture, site design, site buffering, and landscape screening. With the intent of preserving and promoting the health, safety, and general welfare of the City, this Division is intended to:
- (1) Preserve and enhance the aesthetic character and visual harmony of the City;
 - (2) Protect the quality of the City's natural rivers, streams, and wetlands;
 - (3) Enhance erosion control;
 - (4) Improve the relationship between adjacent properties through screening, buffering, and proper placement and design of landscaping and screening;
 - (5) Promote economic development in the City's commercial districts and main thoroughfares, and;
 - (6) Ensure the safety, security, and privacy of properties.

Section 8-2-2. Applicability.

- (A) **General.** The requirements of this Division shall apply to new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, Conditional Use Permit, or Zoning Permit specified by the Ordinance.
- (B) **Exemptions.** The following are exempted from the landscaping and screening standards of this Article:
- (1) Single- and two-family development on individual lots (not part of a Major Subdivision or Planned Development)
- (C) **Timing of Review.** Review for compliance with the standards of this Division shall occur as part of the review of an application for a Site Plan, Planned Development, Zoning Permit, Conditional Use Permit, or Variance.

Section 8-2-3. Landscape Plan Requirements.

- (A) **Landscape Plan Required.** A Landscaping Plan shall be required for all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, Conditional Use Permit, or Zoning Permit specified by the Ordinance. The Landscaping Plan shall:
- (1) Be prepared and/or certified by a certified professional or firm qualified to create such a plan.
 - (2) Cover the entire project area included in the overall Site Plan or development plan for which approval is sought.
- (B) **Landscape Plan Contents.** The landscape plan shall include:
- (1) Location, species, size, height, and number of proposed plantings;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (1) Planting specifications or installation details with consideration of the appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation;
 - (2) Information about the general location, composition, and extent of existing vegetation (plants, trees, shrubs, etc.) to be retained during construction, as well as protection measures to be implemented during construction;
 - (i) The information shall include the successional stage of the vegetation, a list of the primary tree species, a list of the prominent non-native invasive species, and a statement regarding the general age, health, and condition of the vegetation.
 - (3) Location, size, and other related design details for all hardscape improvements, ground-mounted signage, recreational improvements, and open space areas, fences, walls, barriers, and other related elements;
 - (4) Designation of required setbacks, yards, and screening areas;
 - (5) Location of other man-made site features, parking lots, overhead structures, and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements; and
 - (6) A preference to design and plant materials which are native and with reduced water needs.
- (C) **Landscape Plan Bond.** After a Landscape Plan has been approved, and before any planting or disturbance can occur, the developer shall furnish to the City an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as “performance bond”) from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.
- (1) The cost of required landscaping shall be determined by a bona fide estimate of cost prepared by a duly licensed landscape architect, engineer, or other licensed professional, and such estimate shall be provided at the expense of the developer.

Section 8-2-4. General Standards.

(A) Tree and Plant Standards.

- (1) Existing trees and vegetation shall be preserved to the greatest extent possible.
 - (i) Existing, healthy trees and shrubs shall be credited toward any minimum landscaping required by this Division, provided they meet minimum size standards of (B), below, and are protected before and during construction and maintained thereafter in a healthy growing condition.
 - (ii) Where existing vegetation is not adequate to achieve the required landscaping or screening, additional plants shall be installed as necessary to meet the objective, and in accordance with the standards of this Division.
- (2) Any required landscaping shall be installed prior to the issuance of a Certificate of Occupancy.

City of Emporia Zoning & Subdivision Ordinance
Article 8 – Community Design Standards

- (i) When the planting of required landscaping conflicts with the planting season, a Certificate of Occupancy may be issued subject to approval by the Administrator that a sufficient surety is in place.
 - (ii) The owner or developer shall provide a development agreement which sets a deadline by which the plantings will be installed to be approved by the Administrator.
 - (3) The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement.
 - (4) All plantings shall be maintained in perpetuity in such a way to ensure that the requirements of this Ordinance continue to be met.
 - (i) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner during the next viable planting season.
 - (5) Landscaping materials should generally be sustainable and biologically diverse with emphasis on trees and plants native to Virginia and the region.
 - (6) Plants shall be nursery grown and materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, as published by the American Association of Nurserymen, as amended.
 - (7) Landscaping shall not obstruct the view of motorists using any street, driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.
 - (8) Plant materials shall be installed via dig, ball, burlap, and transplant. Bare-root planting is not permitted for any tree.
- (B) Tree Measurement Standards.**
- (1) Caliper measurements shall be taken 6 inches above grade for trees under 4 inches in diameter. Caliper measurements shall be taken 12 inches above grade for trees 4 inches in diameter and larger.
 - (2) All required landscaping materials shall conform to the following minimum size or height standards provided in Table 8.1, Minimum Plant Measurements.

Table 8.1 | Minimum Plant Measurements

Plant Type	Minimum at Planting	Minimum at Maturity
Deciduous trees	2-inch caliper; no height minimum	50 ft. height
Evergreen trees	6 ft. height	
Ornamental and understory trees	4 ft. height	20 ft. height
Shrubs	18-inch spread or height	3 ft. spread or height

(C) **Tree Protection Standards.**

- (1) Trees which are to be preserved on site shall be protected before, during, and after the development process utilizing accepted practices. At a minimum, the tree protection practices set out in the Virginia Erosion and Sediment Control Handbook, as amended, shall be utilized.
- (2) Trees selected for preservation in order to obtain landscaping credits shall be shown on the landscape plan and clearly marked. In wooded areas, groups of trees shall be selected for preservation rather than single trees wherever possible.
- (3) Trees and groups of trees which are to be preserved shall be enclosed by a temporary fence or barrier to be located and maintained 5 ft. outside of their dripline during construction.
 - (i) Such a fence or barrier shall be installed prior to clearing or construction, shall be sufficient to prevent intrusion into the fenced area during construction, and in no case shall materials, vehicles, or equipment be stored or stockpiled within the enclosure.
 - (ii) Within the fenced area, the topsoil layer shall not be disturbed except in accordance with accepted tree protection practices.
- (4) No healthy deciduous tree(s) shall be removed from the site unless such trees are replaced.
 - (i) Such trees shall be shown on the Landscaping Plan.
 - (ii) These replacement trees shall be in addition to landscaping required by this Division.
 - (iii) No replacement tree shall have a caliper of less than 3 inches, measured 6 inches from the ground, at the time of planting.
- (5) The developer shall be responsible for notifying all construction personnel of the presence and purpose of clearing limits and protective fences or barriers and for ensuring that they are observed.
- (6) Where grade changes in excess of 6 inches from the existing natural grade level are necessary, permanent protective structures such as tree wells or walls shall be installed as recommended by the tree preservation and protection standards outlined in the Virginia Erosion and Sediment Control Handbook, as amended.
- (7) In determining which trees shall be preserved, consideration shall be given to preserving trees which:
 - (i) Are trees of 15-inch caliper or larger;
 - (ii) Are ornamental trees of any size;
 - (iii) Are trees within required setbacks or along boundaries unless necessary to remove for access, grading, circulation, utilities or drainage.
 - (iv) Are heritage, memorial, significant, and specimen trees;
 - (v) Complement the project design including the enhancement of the architecture and streetscape appearance;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (vi) Can tolerate environmental changes to be caused by development (i.e., increased sunlight, heat, wind, and alteration of water regime);
- (vii) Have strong branching and rooting patterns;
- (viii) Are disease and insect resistant;
- (ix) Complement or do not conflict with stormwater management and best management practice designs;
- (x) Are located in required buffer areas;
- (xi) Exist in natural groupings, including islands of trees;
- (xii) Do not conflict with necessary utility; and,
- (xiii) Have been recommended by the Commonwealth Department of Forestry, the Greenville County cooperative extension service, or a certified arborist or urban forester for preservation.

Section 8-2-5. Transitional Buffers.

(A) **Applicability.** The standards of this Section apply to:

- (1) All new development, except as provided in (B), below;
- (2) Major Subdivisions; and
- (3) A change of use of an existing structure is proposed that requires a Zoning Map Amendment (rezoning).

(B) **Exceptions.** A transitional buffer is not required:

- (1) For any single- or two-family dwelling not part of a larger development;
- (2) Between uses, buildings, or lots developed under a common plan or operated under common management; or
- (3) As exempt in Table 8.2, Transitional Buffer Type Required.

(C) **Screening Alternative.** The applicant may propose, and the Administrator may approve, a screening alternative where a building or screening has been specifically designed to minimize adverse effects through a combination of architectural and landscaping techniques, and the Administrator determines the building or screening is consistent with the purposes of this Section. See Table 8.4, Alternative Transitional Buffer.

(D) **Transitional Buffer Types Required.** Table 8.2, Transitional Buffer Type Required, identifies the type of transitional buffer, if any, required between a proposed use and adjacent property/development. Table 8.3, Minimum Plantings, provide the minimum width and planting standards for each transitional buffer type.

- (1) “Adjacent” includes land closer to the proposed use than the required buffer width, even if they are separated by a narrow strip of land with different zoning districts.

City of Emporia Zoning & Subdivision Ordinance
Article 8 – Community Design Standards

(2) Transitional buffers for planned developments will be determined as part of the rezoning process.

(E) Location and Design.

(1) Transitional buffers must be located along the boundaries of the adjacent district, as provided below, except where driveways or other openings are permitted.

(i) This includes any lot lines abutting the adjacent districts, including those separated by any public road.

(2) Transitional buffers may be located within the required minimum front, side, or rear setbacks.

(3) Type A and B buffers may be dispersed along the setback instead of planted in straight rows, to create a natural setting. However, the purpose and intent of this Division shall be met.

(4) Development within a transitional buffer is limited to the following:

(i) Fences and walls, including retaining walls, in accordance with Division 3 of this Article;

(ii) Sidewalks, trails, and other pedestrian/bicycle paths that intersect the transitional buffer yard at or near a 90-degree angle; and

(iii) Areas of ingress and egress, fire hydrants, utilities, and other public infrastructure; and

(iv) Flag poles and permitted signs.

(v) Development within a transitional buffer must not reduce required Parking Lot Landscaping.

Table 8.2 | Transitional Buffer Type Required

District of Proposed Development <i>or</i> Type of Development		Adjacent Property/Development/District				
		R-1, R-2	R-3	R-MH	DT, C-1, C-2	I-1, I-2
R-1 R-2	<i>non-residential uses</i>	Type A	Type A	Type A	n/a	
	<i>all other uses</i>	n/a				
R-3		Type A	n/a	Type B	n/a	
R-MH	<i>Manufactured Home Park</i>	Type B	Type B	Type B	Type B	Type B
	<i>all other uses</i>	Type A	Type A	Type A	n/a	
DT, C-1, C-2		Type B	Type B	Type B	n/a	
I, I-1		Type C	Type C	Type C	Type C	n/a
<i>n/a = transitional buffer not required</i>						

Table 8.3 | Minimum Plantings

Buffer Type	Minimum Buffer Width (in feet)	Number of Required Large Deciduous or Evergreen Trees (per 100 linear feet) ¹	Number of Required Ornamental or Understory Trees (per 100 linear feet) ¹	Required Shrubs (per 100 linear feet) ¹
A	10	2	1	6
B	15	3	3	8
C	30	4	6	10

¹ Where fractional numbers result, the required number of plantings shall be rounded up to the nearest whole number.

Table 8.4 | Alternative Transitional Buffer

Buffer Alternative	Minimum Height of Screening Alternative	Reduction ² in Minimum Buffer Width	Reduction in Required Plantings
Solid wall/fence ¹	6 ft.	10 ft.	25%
Evergreen plantings in an unbroken strip (at maturity)	6 ft. (planted) 50 ft. (maturity)		50%
Berm ³	6 ft., with a maximum slope of 2:1	No decrease	25%

¹ Walls and fences must comply with the standards in Division 3 of this Article.
² The minimum width of a transitional buffer must not be reduced below 10 ft.
³ Required plantings shall be located on the berm.

Section 8-2-6. Screening and Enclosures.

(A) Except on lots where the principal use is a single- or two-family dwelling or manufactured home, the following objects and areas shall be located to the side or rear of the principal structure, and shall be screened from public view at ground level, both on and off the premises, in accordance with this Section:

- (1) Large waste receptacles (dumpsters) and refuse and recycling collection points (including containers);
- (2) Loading and service areas;
- (3) Outdoor storage areas;
- (4) Utility and mechanical equipment, such as, generators, HVAC units, utility meters, junction and accessory boxes, and transformers; and
- (5) Stormwater management facilities;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (6) All other uses or elements where screening is required as identified in Article 7, Use Performance Standards, of this Ordinance.
- (B) Screening/enclosures shall be comprised singularly, or of a combination of:
 - (1) A solid masonry wall or opaque fence, in accordance with Division 3.
 - (2) A double, unbroken row of evergreens that, at maturity, blocks visibility of the object being screened.
 - (3) A planted berm.
- (C) Access to all grease containers, recycling and trash containers, and other outside storage shall be through gates capable of closure when not in use. All gates shall be closed and secured when not in use.

Section 8-2-7. Parking Lot Landscaping.

- (A) **General.**
 - (1) To provide shade, screen views, and mitigate stormwater runoff, all vehicle parking areas shall include landscaping as required in this Section.
 - (2) Parking lot landscaping for all developed, vacant, and abandoned commercial, industrial, or planned development shall be installed and continuously maintained by the owner according to the requirements contained in this Article.
 - (i) Grass and groundcover (not including shrubs, bushes, etc.) shall be maintained to grass height of no more than 6 in. from grade.
 - (ii) Grass areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
 - (iii) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner during the next viable planting season.
- (B) **Exemptions.**
 - (1) The landscape provisions of this Division shall not apply to off-street parking for individual single- or two-family residential dwellings or for parking garages or similar multi-level parking structures.
 - (2) In the case of redevelopment proposals, parking lot landscape requirements do not apply to those proposals that are not required to add parking spaces over those that are currently provided.
- (C) **Parking Lot Landscape Buffers.**
 - (1) Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a residential district or a public right-of-way, a landscaping strip of at least 10 ft. in width shall be located between the parking lot and the abutting property line.

City of Emporia Zoning & Subdivision Ordinance

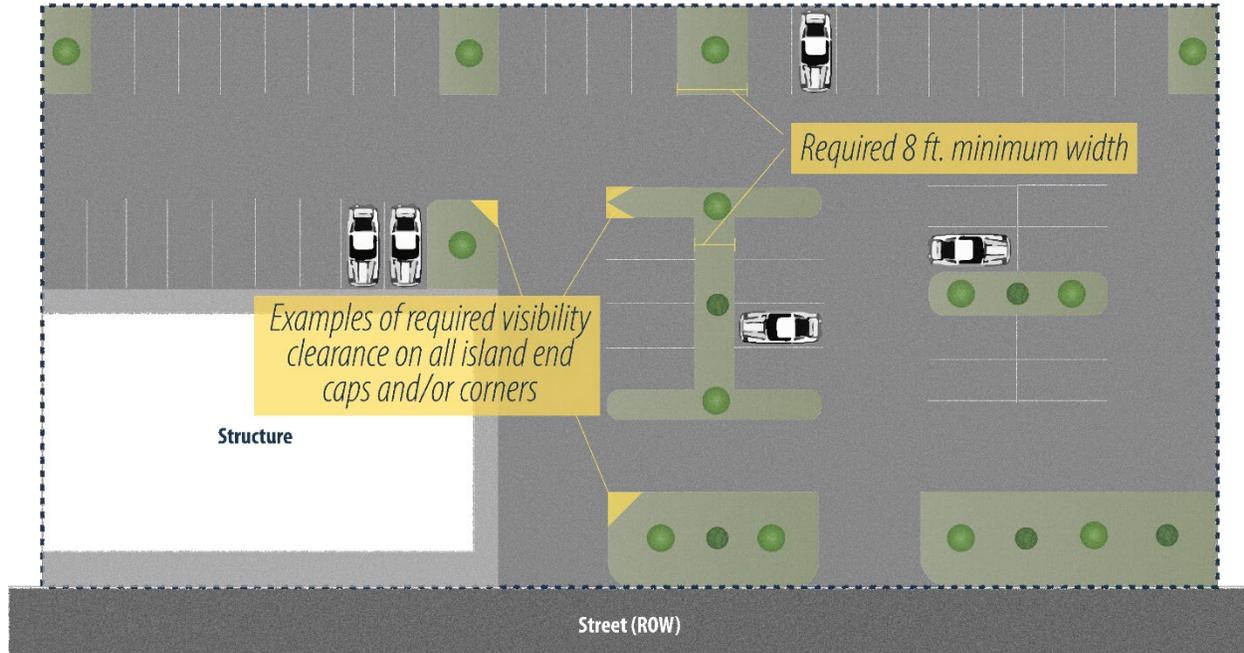
Article 8 – Community Design Standards

- (i) A minimum of 1 deciduous shade tree for each 50 ft. of contiguous property line shall be planted in the landscape strip.
- (ii) A minimum of 5 shrubs for each 50 ft. of contiguous property line shall be planted in the landscape strip.
- (iii) The landscape strip may include a sidewalk or trail. The remainder of the landscape strip must contain groundcover, turf, trees, or shrubs, or be mulched.
- (iv) The landscape strip shall maintain a visibility clearance of at least 3 ft. at all ingresses and egresses for vehicular traffic.

(D) Parking Lot Landscape Islands. *See Figure 8.2.*

- (1) Landscaped planting islands shall be provided in the interior of the following types of parking lots, unless the Administrator deems the requirements would pose unreasonable hardship on the applicant:
 - (i) The total size of the parking lot exceeds 30 total parking spaces; or
 - (ii) Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.
- (2) Landscaped planting islands minimum standards:
 - (i) Landscape planting islands shall be at least 10% of the parking area.
 - (ii) A minimum of 1 tree shall be provided for each 5 spaces of required parking. The remaining area of the island(s) shall be landscaped with shrubs, ground cover, lawn, or additional trees.
 - (iii) Planting islands shall have a minimum width of 8 ft. to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.
 - (iv) Planting islands shall maintain a visibility clearance of at least 3 ft. at both ends of the island to ensure vehicular traffic and pedestrian safety.
 - (v) The landscaped planting islands shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e., interior parking median or island) sufficient to protect and maintain all landscaping materials planted therein.

Figure 8.2 | Landscaped Planting Islands Standards



Section 8-2-8. Modifications.

- (A) Modifications to the layout and design standards contained herein may be approved through a waiver by the Administrator upon a determination that the following conditions exist:
- (1) The proposed layout and design provide landscaping which will have the same or increased screening impact, intensity, or variation throughout the year when viewed from adjacent properties or rights-of-way as that which would be required by strict interpretation of the standards contained in this Division.
 - (2) The proposed layout and design fully integrate and complement the existing trees to be preserved on the site.
 - (3) Any trees or shrubs installed or preserved on the site which exceed the minimum numerical requirements of this Division shall not be subject to the species mixture, locational, maintenance, or replacement requirements contained herein.

Division 3. Walls and Fences.

Section 8-3-1. Purpose and Intent.

The purpose of this Division is to provide standards to ensure that walls and/or fences used to provide buffering, privacy, separation, security, or for aesthetic reasons, will not create an unsightly or unsafe condition on or off the public or private property on which the fence or wall is proposed.

Section 8-3-2. Applicability.

- (A) The provisions of this Division shall apply to all construction, reconstruction, or replacement of walls and/or fences except:
- (1) Walls and/or fences required for the physical support of a principal or accessory structure;
 - (2) Walls and/or fences erected temporarily for construction sites or a similar purpose, provided that they comply with all relevant requirements of the Uniform Statewide Building Code and do not block sight distance;
 - (3) Landscaping berms without fences;
 - (4) Walls and/or fences necessary for soil erosion control;
 - (5) Walls and/or fences at government facilities;
 - (6) Customary fencing provided as part of a permitted tennis court, athletic field, and similar recreational facility will be exempt from the height standards; and
 - (7) Fences for tree protection (temporary and permanent).

Section 8-3-3. Location.

- (A) Walls and/or fences shall not:
- (1) Be located within the public right-of-way;
 - (2) Be installed in a manner, or in a location, so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan;
 - (3) Be constructed in a manner or in a location that impairs safety or sight lines for pedestrians and vehicles traveling on public rights of way; or
 - (4) Prevent immediate view of, or access to, fire hydrants or other fire-fighting water supply devices.
- (B) Walls and/or fences may be located within any required setback or yard.
- (C) Walls and/or fences located within an easement shall receive written authorization from the easement holder or the City (as appropriate).
- (1) The City shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.
- (D) Walls and/or fences within required transitional buffers shall be installed so as not to disturb or damage existing vegetation or installed plant material.

Section 8-3-4. Height.

- (A) **Maximum Height.** Walls and/or fences shall be permitted in accordance with the following standards:

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (1) No wall and/or fence between a street and a front building line shall be more than 4 ft. in height. In the case of fences within a front yard on a corner lot, the fence shall not be any closer to the street than the front building line.
 - (2) And not forgoing 8-3-4 (A) (1), above:
 - (i) Walls and/or fences in any residential or planned development district shall not exceed 6 ft. in height above the existing grade without approval of a Conditional Use Permit;
 - (ii) Walls and/or fences in any commercial zoning district shall not exceed 6 ft. in height above the existing grade without approval of a Conditional Use Permit; and
 - (iii) Walls and/or fences in any industrial zoning district shall not exceed 8 ft. in height above the existing grade without approval of a Conditional Use Permit.
- (B) **Measuring Height.** Wall and/or fence height will be measured parallel along the side of the fence from the highest point above grade to where the grade is lowest but excluding the height of any retaining wall directly beneath the fence or wall.

Section 8-3-5. Materials.

(A) **Permitted Materials.**

- (1) Walls and/or fences shall be constructed of any combination of:
 - (i) Treated or rot-resistant wood or similar composite wood material;
 - (ii) Wrought iron;
 - (iii) Vinyl (PVC);
 - (iv) Decorative metal materials; or
 - (v) Brick, stone, masonry materials, or products designed to resemble these materials.
 - (vi) Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.
 - (2) All wall and/or fence segments located along a single lot side shall be composed of a uniform style, material, and color compatible with other parts of the wall and/or fence.
- (B) **Prohibited Materials.** Walls and/or fences made of debris, junk, rolled plastic, sheet metal, plywood, barbed wire, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed into new building materials that resemble the customary materials listed in (A), above.

(C) **Chain Link Fencing.** Chain link fencing shall be allowed, subject to the following requirements:

- (1) Permitted in commercial and industrial districts, and long the side and rear yards of residential districts.
- (2) Coated or opaque fencing is required when a commercial or industrial zoned property or use is adjacent to a residential zoned property or use. The chain link fencing may include black or dark green opaque slats.

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (D) **Finished Side to Outside.** Wherever walls and/or fences are installed, if one side of the wall and/or fence appears more “finished” than the other (e.g., one side has visible support framing and the other does not), then the more “finished” side of the fence shall face the perimeter of the lot, rather than the interior of the lot.

Section 8-3-6. Maintenance.

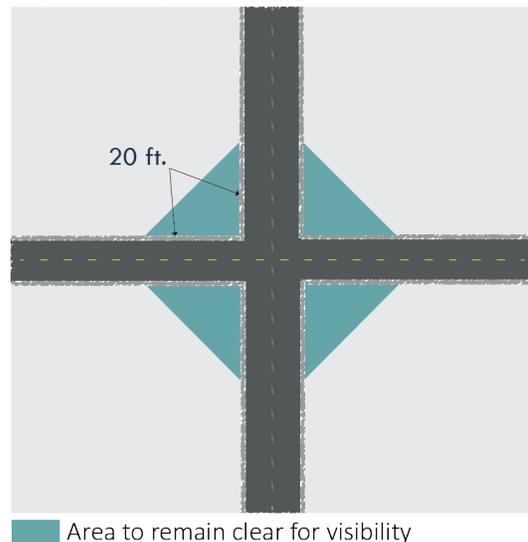
- (A) All walls and/or fences shall be maintained in good repair and in a safe and attractive condition.
- (B) The owner of the property on which wall and/or fences are located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

Division 4. Visibility Clearance.

Section 8-4-1. General.

- (A) For protection against traffic hazards, no planting, sign, structure, fence, or other obstruction to visibility greater than 3 ft. in height shall be erected, placed, allowed to grow, or maintained within a visibility triangle on any corner lot.
- (B) The apex of the triangle shall be at the intersection of the Department of Transportation, City or other designated right-of-way lines (extended in the case of rounded corners), the sides being 20 ft. in length along the right-of-way lines, and the base of the triangle running through the lot. *See Figure 8.3.*

Figure 8.3 | Visibility Clearance



Division 5. Parking and Loading.

Section 8-5-1. Purpose and Intent.

- (A) The purpose of this Division is to ensure efficient traffic flow and to reduce hazards to public safety by establishing standards for off-street parking and off-street loading areas. This Division is intended to:
- (1) Ensure adequate parking is designed and constructed during the erection of all new structures and the modifications to existing structures;
 - (2) Provide safe and convenient traffic flow and add to the beautification of the City;
 - (3) Provide for adequate but not excessive off-street parking and loading while accommodating alternative parking solutions for permanent, temporary, and seasonal demands;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (4) Minimize the environmental impact of vehicular parking by avoiding excessive paved surface areas, applying appropriate minimum parking requirements, and encouraging the use of permeable parking surfacing; and
- (5) Support walking and bicycling in appropriate locations through the provision of bicycle parking.

Section 8-5-2. General.

- (A) Off-street parking and loading shall be provided in accordance with the requirements of this Division.
 - (1) Off-street parking shall not be required for non-residential uses in the DT district, with the exception of hotels, motels, tourist homes, and bed and breakfast establishments.
 - (2) Any residential use in the DT district may be exempted or granted reduced parking requirements by the Administrator in conjunction with Site Plan approval. The applicant shall demonstrate sufficient public parking availability during peak hours of operation.
 - (i) The total number of required off-street parking spaces as set forth in the schedule of parking requirements in Section 8-5-8 may be reduced by one space for every 20 ft. of lot frontage on a street to the extent that on-street parking is permitted along the same frontage. The Administrator shall determine if on-street parking is permitted along the said frontage used for this reduction.
- (B) For purposes of this Division, off-street parking shall mean an improved surface not in a street or alley.
- (C) Parking and loading spaces shall be provided at the time of the erection of any building or structure, not less than the amount of parking and/or loading space(s) given in Section 8-5-8 and Section 8-5-12.
- (D) Parking space(s) shall be maintained and shall not be encroached upon unless in conformance with Section 8-5-4 and Section 8-5-5, below.
- (E) Loading space(s), as required in Section 8-5-11 and Section 8-5-12, below, shall not be construed as supplying off-street parking.

Section 8-5-3. Obligations of Owner.

- (A) The requirements for off-street parking space(s) and off-street loading space(s) shall be a continuing obligation of the owner of the real estate on which any structure or use is located as long as such structure or use is in existence, and the use requiring off-street parking or loading facilities continues.
- (B) It shall be unlawful for the owner of any structure or use affected by this Division to discontinue, change, dispense with, or cause the discontinuance or change of the required off-street parking or loading space, apart from the alternate off-street parking or loading space which meets with the requirements of, and complies with, this Division.

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (C) It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for off-street parking or loading space(s) which meets the requirements of, and complies with, this Division.

Section 8-5-4. Location to Use.

- (A) All parking spaces required herein shall be located on the same lot with the building or principal use served; except that:
- (1) A remote parking lot may be approved by a Conditional Use Permit and shall:
 - (i) Be located and maintained not to exceed 600 ft. from the principal building or use it serves; and
 - (ii) Be established by a recorded covenant or agreement as parking space(s) to be used in conjunction with the principal building or use and shall be reserved as such through an encumbrance on the title of the property.
 - (iii) Have an existing sidewalk or improved pathway and permanent access easement.
 1. If none exists, the developer shall establish a sidewalk or improved pathway and permanent access easement that connects the parking to the use.

Section 8-5-5. Joint/Shared Parking.

- (A) Required parking spaces can be used jointly by two (2) or more buildings, uses, or establishments, as provided below:
- (1) The shared parking space(s) may be used to meet no more than 75% of the required off-street parking requirement.
 - (2) The shared parking space(s) must be for those uses that the normal periods of peak use are different from the shared use.
 - (3) The use(s) for which parking is being shared shall be within 600 ft., as measured along lines of public access.
- (B) In the case of mixed or joint uses of a building or premises having different peak parking demands, the parking spaces required may be reduced up to 50% if approved by the Administrator, in conjunction with Site Plan approval.
- (1) In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently, and shared parking spaces are available to all uses sharing them, to not cause a parking demand problem.
- (C) In the case of joint use of a building or premises by more than one use having the same peak parking demand, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

Section 8-5-6. Reduction in Parking.

- (A) **Reduction in Required Spaces.** Off-street parking space(s) required under this Division may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change.
- (B) **Increase in Required Parking.** Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Division for an increase in parking spaces of 10% or more, such additional spaces shall be provided on a basis of the change or enlargement.
 - (1) Parking increases shall not be circumvented by a series of changes that together would meet, or exceed, the 10% requirement.

Section 8-5-7. Parking Design Standards.

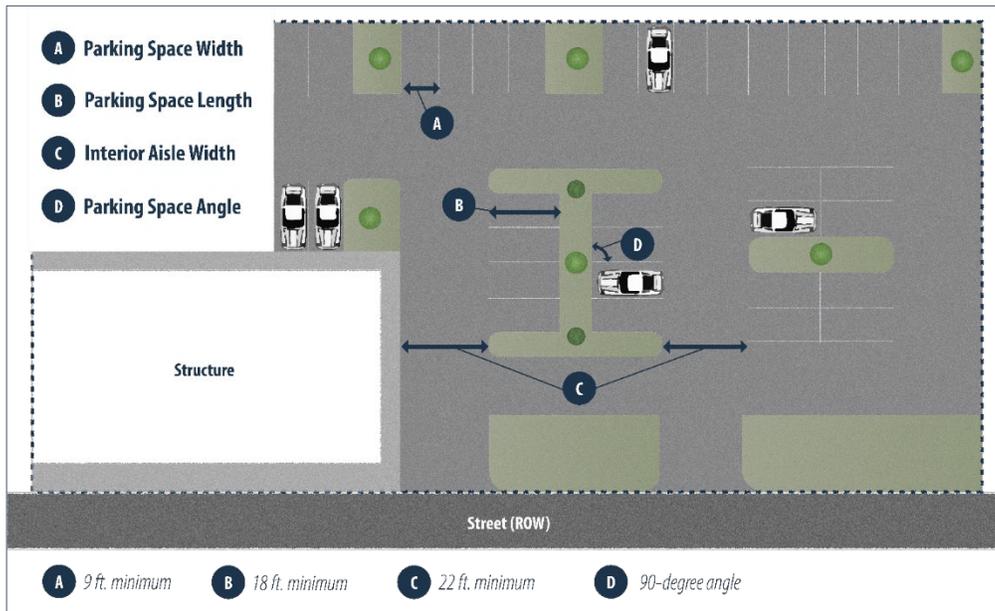
- (A) **Surfacing.**
 - (1) All driveways, aisles, and parking areas, including residential uses, shall have an improved surface to prevent soil erosion, abate dust, and provide an adequate driving surface.
 - (i) Improved surface shall mean concrete, asphalt, bituminous pavement, brick or stone pavers, or other hard, all-weather, dustless, permeable pavement system.
- (B) **Pervious and Semi-Pervious Materials.**
 - (1) The use of pervious or semi-pervious parking lot surfacing materials – including, but not limited to pervious asphalt and concrete, open joint pavers, and reinforced grass grids – may be approved for off-street parking and loading areas except on industrial and other sites where there is reasonable expectation that petroleum and other chemical products will be spilled, and provided such surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming).
 - (2) Any pervious or semi-pervious surfacing used for aisles within or driveways to parking and loading areas shall be certified by a design professional as capable of accommodating anticipated traffic loading stresses and maintenance impacts or as approved by the Director of Public Services.
 - (3) Reinforced grass grid parking permitted under certain circumstances:
 - (i) Reinforced grass grid parking areas are permitted for the following:
 - 1. Uses that require 10 or fewer parking spaces; or
 - (ii) All reinforced grass grid parking areas shall:
 - 1. Grass shall be maintained to height of no more than 6 in. from grade.
 - 2. Grass shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
 - 3. Travelways shall be appropriately marked to maintain egress.
 - (iii) All reinforced grass grid parking areas:

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

1. Cannot be permitted for any parking area that includes drive-through windows.
 2. Cannot be located in any existing or proposed landscaped area, stormwater management area, easement, or required yard.
- (4) Gravel parking is permitted for parking lots of 3 or fewer parking spaces.
- (C) **Marking.** For all paved parking areas, each parking space shall be striped and maintained. Parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.
- (1) For reinforced grass grid, and gravel parking, spaces shall be marked by signage and wheel stops. Signage and wheel stops must be maintained.
- (D) **Location.** Off-street parking areas shall be located in such a way to reduce visual impact from the street or pedestrian view. The preferred location for off-street parking areas is to the rear of the structure it is associated with, or the side of the structure as an alternative; if it can be demonstrated that the lot could not accommodate parking area(s) to the side or rear of the lot, the Administrator may waive this provision.
- (1) **Parking Space Dimensions.** *See Figure 8.4.* Off-street parking spaces, including residential uses, shall be a minimum width of 9 ft. and a minimum length of 18 ft; or in the case of parking spaces for trucks, buses, or special equipment, parking spaces of a minimum size to be determined by the Administrator based on the nature of the parked vehicles.
 - (i) Where more than 10 spaces are required by this Ordinance, a maximum of 20% of the required spaces may be reduced to a minimum width of 8 ft. and a minimum length of 16 ft., provided that such spaces are designated by appropriate signs as reserved for compact cars only.
- (E) **Arrangement of Interior Aisles.** *See Figure 8.4.* All aisles within parking areas shall have the minimum widths:
- (1) Parking spaces at a 90-degree angle: 22 ft.
 - (2) Parking spaces at a 60-degree angle: 18 ft.
 - (3) Parallel parking spaces: 15 ft.

Figure 8.4 | Parking Area Dimensions



- (F) **Handicap Accessible Parking.** Every land use shall include the number of handicap accessible off-street parking spaces in accordance with the requirements of the Virginia Uniform Statewide Building Code. These parking spaces shall be included within the required amount of parking spaces, as provided in Table 8.5.
- (G) **Entrances and Exits.** The location and design of entrances and exits shall meet the VDOT traffic safety and design standards. In general, there shall not be more than one (1) entrance and one (1) exit or one (1) combined entrance and exit along any one (1) street.
- (H) **Separation from Walkways and Streets.**
 - (1) Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by the required landscape buffer, a wall or fence, or curbing.
- (I) **Drainage and Maintenance.** Off-street parking areas shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee.
- (J) **Lighting.** Adequate lighting shall be provided in accordance with Division 1 of this Article.
- (K) **Landscaping.** Whenever a parking area for a commercial or industrial use is located in or adjacent to a residential district, it shall be effectively landscaped in accordance with Division 2 of this Article. However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit an alternative screening plan to be approved by the Administrator.
- (L) **Fleet Vehicles.** Whenever daily or overnight storage of fleet vehicles is proposed, these vehicles shall be screened or parked to block visibility from streets or adjacent properties; screening shall be in accordance with the requirements of Division 2 of this Article. These off-street parking spaces shall be identified on any approved Site Plan.

- (M) **Boats & Recreational Vehicles.** All boats and recreational vehicles must be parked and stored on an improved surface as described in Surfacing and Pervious and Semi-pervious above.

Section 8-5-8. Schedule of Required Parking Spaces.

- (A) Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, off-street parking space(s) shall be provided according to the requirements for individual uses in the following table.
- (B) Where fractional spaces result, the parking spaces required shall be increased to be the next highest whole number.
- (C) Exemptions to off-street parking requirements are contained in Section 8-5-5 and Section 8-5-6, above.
- (D) The parking requirements in this Division are in addition to any other parking requirements contained in the district or use standards of this Ordinance.
- (E) The parking requirements in this Division do not limit additional requirements that may be imposed for approval of a Conditional Use Permit.
- (F) For residential uses, the total number of off-street parking spaces provided inside a private garage shall be calculated based on the intended design of the garage.
- (G) Except as otherwise provided, the number of employees shall be compiled based on the maximum number of persons employed on the premises at one time, on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
- (H) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation, as determined by the Administrator.
- (I) In order to minimize the adverse impacts caused by improving large areas with impervious surfaces, including increased storm water run-off, urban heat island effects, and nonpoint source pollution, the total number of parking spaces serving a use may not exceed the minimum parking standards in Table 8.5 by more than 20%, unless one of the following apply:
- (1) Any spaces in excess of 20% of the minimum number required are located in a structured parking facility; or
 - (2) A Landscape Plan that provides additional pervious landscape surfaces and increases stormwater filtration has been reviewed and approved by the Administrator; or
 - (3) The applicant for the project shall apply and receive approval through a Conditional Use Permit.

Table 8.5 | Minimum Off-Street Parking Requirements

Use(s)		Minimum Number of Required Spaces
Residential Uses		
Adaptive Reuse Residential	0—1 bedroom:	1 per unit
	2 bedrooms:	1.5 per unit
	3+ bedrooms:	2.0 per unit
Bed and Breakfast; Short-Term Rental		1 per bedroom, plus 1 per owner/operator
Dwelling, Manufactured; Dwelling, Single-, Two-Family; Dwelling, Townhouse		2 per dwelling unit
Dwelling, Multi-Family	0—1 bedroom:	1 per unit, plus 1 visitor space in common area per 5 units
	2 bedrooms:	1.5 per unit, plus 1 visitor space in common area per 5 units
	3+ bedrooms:	2.0 per unit, plus 1 visitor space in common area per 5 units
Family Home Day Care (1-4 children)		1, plus residential requirement
Family Home Day Care (5-12 children)		3, plus residential requirement
Group Home (Large and Small) Life Care Facility		1 per 4 residents, plus 1 per 2 employees
Manufactured Home Park		2 per dwelling unit, plus 1 per owner/operator
Shelter, Residential		1 per 500 sq. ft.
Public/Civic/Recreational Uses		
Club		1 space per 10 persons based on maximum occupancy
Cultural/Community Facility		1 per 500 sq. ft. of floor area, plus 1 per employee on largest shift
Education Facility, College/University		1 per employee on largest shift, plus 1 per 10 full-time students
Education Facility, Primary/Secondary		1 per each employee on largest shift, plus 1 for each 10 seats in the largest assembly room
Recreation Facility, Neighborhood		1 per 5 members, based on the design capacity of the facility
Public Parks and Recreation; Recreational Facility, Noncommercial		1 per 4 visitors at peak service
Religious Assembly		1 per 10 fixed seats in main assembly area, <i>or</i> 10 per 500 sq. ft. of assembly floor space without fixed seating
Commercial Uses		
Brewery or Distillery; Micro- Brewery, Distillery, or Winery		1 per 150 sq. ft. of food beverage preparation and consumption area, plus 1 per 800 sq. ft. of operations
Automobile Sales and Rental; Automobile Service; Car Wash; Gas Station		3 per bay, stall, rack, or pit, plus 1 per gasoline pump; minimum 5 spaces
Business Support Services; Consumer Repair Services; Personal Services		1 per 500 sq. ft. of floor area
Commercial Laundry; Construction Material Sales; Manufactured / Modular Home Sales		1 per 500 sq. ft.
Day Care Center		1 per employee on largest shift, plus 1 per 10 children; plus an unobstructed pick-up space with a stacking area for 8 vehicles
Equipment Sales, Rental, and Repair (Heavy)		1 per 1,500 sq. ft. of display area, plus 3 per bay/stall
Event Venue		10 per 1,000 sq. ft. of floor

City of Emporia Zoning & Subdivision Ordinance
 Article 8 – Community Design Standards

Use(s)	Minimum Number of Required Spaces
Farmer’s Market; Outdoor Sales, Seasonal/Temporary	6, plus 1 per 250 sq. ft.
Financial Institution	1 per 500 sq. ft. of floor area
Funeral Home	1 per 100 sq. ft. of main assembly area; 30 spaces minimum
Hospital	1 per 3 patient beds
Hotel	1 per guest room or unit, plus required parking for any additional uses on site (restaurant, event venue, etc.)
Kennel, Commercial; Veterinary Hospital	1 per 400 sq. ft. of floor area
Nursing Home	1 per 4 residents, plus 1 per 2 employees
Office, General; Offices, Medical/Clinic	1 per 400 sq. ft. of floor area; 10 spaces minimum for a clinic
Recreation/Entertainment, Commercial Indoor	1 per 3 persons based on maximum occupancy, plus 1 per employee on largest shift
Recreation/Entertainment, Commercial Outdoor	<i>If a facility with fixed seating:</i> 1 per 3 seats, plus 1 per employee on maximum working shift
	<i>If a facility without fixed seating:</i> 1 space per 300 sq. ft. of floor area of enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity
Restaurant, General	1 per 150 sq. ft. of floor space, including outside seating
Self-Storage Facility	1 per 5 rental units, plus 1 for each employee, plus 1 for manager/operator
Store, All Types	1 per 400 sq. ft. of floor area
Tradesperson Service	2, plus 1 per employee on maximum working shift
Industrial Uses	
Construction Yard; Manufacturing, Light; Manufacturing, Small-Scale	1 per employee on maximum working shift
Laboratory, Research, and Development; Manufacturing, Heavy; Warehousing and Distribution	1 per 1,000 sq. ft. <i>or</i> 1 per employee on maximum working shift
Miscellaneous Uses	
Mixed use structure	1 per 250 sq. ft. of commercial floor area, plus 1 space per dwelling unit

Section 8-5-9. Bicycle Parking.

(A) **When Required.** Bicycle parking shall be required for the following:

- (1) All commercial developments in the DT, C1, and C2 districts requiring 25 or more parking spaces; and
- (2) All multi-family developments.

(B) **Required Spaces.**

- (1) 4 bicycle parking spaces for the first 25 required off-street parking spaces, as shown in Table 8.5, above. Each additional 50 parking spaces shall require one additional bicycle space.

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (2) The minimum number of bicycle parking spaces provided at each site shall be 4 and the maximum shall be 20.

(C) **Standards.**

- (1) A bicycle rack, bicycle loops, or other device as approved by the Administrator shall be installed to secure bicycles within the bicycle parking area.
- (2) Each rack must:
 - (i) Allow for the securing of the frame and at least one wheel of a bicycle in a bicycle parking space to the rack with an industry-standard U-shaped bike lock;
 - (ii) Provide each bicycle parking space with support for a bicycle in a stable position with direct support to the bicycle frame;
 - (iii) Be securely anchored to the ground or to a structural element of a building or structure; and
 - (iv) Be constructed of materials designed to withstand cutting, severe weather, and permanent exposure to the elements, such as powder-coated steel or stainless steel.
- (3) Bicycle parking must be visible from the main entrance of the building it serves, unless the Administrator determines that another location provides better security for users.
- (4) The location of the bicycle parking area, when fully occupied, shall not obstruct any pedestrian way and a 5 ft. wide pedestrian path shall be maintained at all times.
- (5) A bicycle parking area may not be located in any minimum front, side, or rear setbacks, or required landscaping or transitional buffer.

Section 8-5-10. Joint/Shared Off-Street Loading.

Where a building is used for more than one use, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces, but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for the use in the building for which the most spaces are required. In such cases, the Administrator may make reasonable requirements for the location of required loading.

Section 8-5-11. Off-Street Loading Design Standards.

- (A) **Minimum Size.** For the purpose of the regulations of this Division, a loading space is a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, and having a minimum width of 10 ft., a minimum length of 25 ft., and a vertical clearance of at least 15 ft.
- (B) **Location.** All required off-street loading areas shall be located on the same lot as the use served and shall not obstruct required off-street parking spaces, any public street, or any fire lane or emergency access route during the loading or unloading of vehicles. All loading spaces shall be located only within side or rear yards, or shall be screened from view of the public right of way.
- (C) **Surfacing.** All loading areas shall have an improved surface to prevent soil erosion, abate dust, and provide an adequate driving surface.

City of Emporia Zoning & Subdivision Ordinance
Article 8 – Community Design Standards

- (D) **Screening.** Whenever an off-street loading area is located in or adjacent to a residential district, it shall be effectively screened in accordance with Division 2 of this Article. However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit a screening plan to be approved by the Administrator.
- (E) **Entrances and Exits.** Location and design of entrances and exits shall be in accordance with VDOT traffic safety and design standards.
 - (1) Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide a least one off-street loading space.
 - (2) Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot without impeding the public-right-of-way or any parking space or parking lot aisle.

Section 8-5-12. Schedule of Required Off-Street Loading Spaces.

- (A) Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, enlarged, or increased in capacity to the extent of increasing the floor area by 50% or more, or any building is hereafter converted, for the uses and floor areas listed below, accessory off-street loading spaces shall be provided as required in Table 8.6, below.
- (B) Space allocated to any off-street loading use shall not be used to satisfy the space requirements for any off-street parking area or portion thereof.
- (C) The loading space requirements in this Division do not limit other loading requirements contained in the district or use standards of this Ordinance.
- (D) The loading space requirements in this Division do not limit additional requirements that may be imposed in connection with uses permitted by approval of a Conditional Use Permit.

Table 8.6 | Minimum Off-Street Loading Requirements

Use(s)	Floor Area (in sq. ft.)	Loading Space(s) Required
All Commercial and Industrial Uses; Dwelling, Multi-family	0-1,500	0
	1,501-15,000	1
	15,001-100,000	1 space, plus 1 space for each 15,000 sq. ft.
	100,001-200,000	3 spaces, plus 1 space for each 40,000 sq. ft. in excess of 100,000 sq. ft.

Division 6. Signs.

Section 8-6-1. Purpose and Intent.

- (A) The purpose of these sign regulations is to define, permit, and control the size, material, location, and condition of signs in a manner that, as its first priority, protects those who travel in and through the City; and to regulate the markets through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and design requirements. The

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

City Council finds that the regulations in this Division advance the significant government interests identified herein and are the minimum amount of regulation necessary to achieve those interests. These sign regulations are intended to achieve the following community goals and objectives:

- (1) Protect the health, safety, and welfare of the public;
- (2) Promote the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with the surrounding buildings and landscape;
- (3) Balance public and private objectives by allowing adequate signage for business identification.
- (4) Prevent property damage and personal injury from signs which are improperly constructed or poorly maintained;
- (5) Safeguard the public use and nature of the streets and sidewalks;
- (6) Protect and enhance the visual environment of the City;
- (7) Discourage the diminishing of property values in the City;
- (8) Minimize visual distractions to motorists using the public streets;
- (9) Promote the economic growth of the City by creating a community image that is conducive to attracting new business and industrial development;
- (10) Permit reasonable effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk, density, and area;
- (11) Promote the safety of persons and property by requiring that signs not create a hazard due to collapse, fire, decay, or abandonment;
- (12) Ensure that signs do not obstruct fire-fighting efforts or create traffic hazards by confusing or distracting motorists or by impairing drivers' ability to see pedestrians, obstacles, other vehicles, or traffic signs; and
- (13) Promote commerce and trade, with recognition of the effects of signage on the character of the community.

Section 8-6-2. Administration.

(A) Interpretation.

- (1) The regulations of this Division shall apply to all new signs, replacement signs, and their modification(s) established after the effective date of this Ordinance.
- (2) Signs not expressly permitted are prohibited.
- (3) Signs containing noncommercial speech are permitted anywhere that advertising or commercial signs are permitted, subject to the same regulations of such signs.
- (4) This Division shall be interpreted in a manner consistent with the First Amendment guarantee of free speech.

(B) Application and Permit.

- (1) **Sign Permit Required.**

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (i) No sign shall be erected, installed, altered, modified, refaced, re-hung, or replaced, without obtaining a permit pursuant to this Division, except as otherwise provided in this Division.
 - (ii) No permit shall be issued by the Administrator except upon a determination that a proposed sign is in conformity with the requirements of this Division and, where applicable, in conformity with the requirements of an approved Site Plan for the property upon which the sign is to be placed.
 - (iii) More than one sign on one building or group of buildings located on the same parcel of land may be included on one application provided that all such signs are applied for at one time.
 - (iv) After the issuance of an approved sign permit, the applicant may install and display the approved sign(s). Once installed, the Administrator may inspect the sign(s) for conformance with the approved sign permit and this Ordinance.
- (2) **Application.** An application for a sign permit shall:
- (i) Include the name, address, and contact information of the applicant, and property owner (if different);
 - (ii) Include the name of person, firm, or business erecting the sign and/or any related electric work;
 - (iii) Specify the type of sign to be constructed and the zoning district in which this sign is to be located;
 - (iv) Be accompanied with plans including a survey of the property, including measurements of the lot frontage;
 - (v) Indicate the square footage and location of all existing signs on the property;
 - (vi) The area, size, structure, design, location, lighting, and materials for the sign; and
 - (vii) Contain written consent of the owner or lessee of the land or building upon which the sign is to be erected, if not owned by the applicant.
- (3) **Duration and Revocation of Permit.**
- (i) Any sign permit shall be null and void if any sign for which the permit was issued is not installed in accordance with the permit within 6 months of the date of approval.
 - (ii) A sign permit shall become null and void if the use to which it pertains is not commenced within 6 months after the date the sign permit is issued.
 - 1. Upon written request and for good cause shown, the Administrator may grant one 6-month extension.
 - (iii) Whenever the use of a building or land is discontinued by the specific business, the sign permit shall expire and all signs pertaining to that business shall be removed by the property owner within 30 calendar days of the discontinuance.

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (iv) The Administrator shall revoke a sign permit if the sign does not comply with applicable regulations of this Division, building code, or other applicable law, regulation, or Ordinance.

Section 8-6-3. Prohibited.

- (A) The following types of signs are prohibited in all zoning districts, unless otherwise specifically permitted in this Ordinance:
 - (1) Any sign affixed to, hung, placed, or painted on any cliff, rock, tree, or other natural feature; public utility pole or structure supporting wire, cable, or pipe; or radio, television, or similar tower;
 - (i) This prohibition shall not affect official traffic, parking, or informational signs placed on utility poles by the City.
 - (2) Any sign or banner within or across a public right-of-way, unless specifically approved by the Virginia Department of Transportation (VDOT) and the City of Emporia City Council;
 - (3) Any sign that, due to its size, illumination, location, or height, obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property;
 - (4) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized City official as a nuisance;
 - (5) Signs which obstruct any window or door opening used as a means of egress, prevents free passage from one part of a roof to any other part thereof, or interferes with an opening required for ventilation;
 - (6) Signs attached, painted, or mounted to unlicensed, inoperative, or generally stationary vehicles and/or trailers. Vehicles and/or trailers shall not be used primarily as static displays, advertising a business, product, or service, nor utilized as storage, shelter, or distribution points for commercial products or services for the general public;
 - (7) Signs extending above the roofline of a structure, building, or parapet wall;
 - (8) Any flashing sign or signs with intermittent lights or lights of changing degrees of intensity or color, or with non-shielded illumination within 200 ft. of a residential district, except those officially erected for safety purposes;
 - (i) This prohibition shall not apply to electronic or digital displays that display messages in intervals of at least 10 seconds.
 - (9) Any strings of lights, either outlining any part of a building or affixed to any ornamental feature thereof, except for seasonal holiday displays which are limited to 45 days.
 - (10) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, or gas;
 - (11) Any sign representing or depicting illegal activity, or specified sexual activities and/or specified anatomical areas or sexually oriented goods;

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (12) Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of this Ordinance.
- (13) Off-site signs, unless specifically permitted by this Division; and
- (14) Any signs greater in size, quantity, or window coverage other than as provided for in the Sections below.

Section 8-6-4. Exemptions.

- (A) The following signs are exempt from the provisions of this Division and may be erected or constructed without a permit but shall be in accordance with all other provisions of this Ordinance and the structural and safety requirements of the City of Emporia Building Code.
 - (1) **Governmental Body or Required by Law.** Signs erected by a governmental body or required by law, including official traffic signs or sign structures and provisional warning signs or sign structures, and temporary signs indicating danger.
 - (2) **Changeable Message Content.** The changing of message content, including message content on a changeable message sign if permitted in the district.
 - (3) **Small signs.**
 - (i) **Portable Signs.** One portable sign per street frontage/business, each portable sign not to exceed 12 sq. ft. in area.
 - 1. Portable signs shall in no way obstruct vehicular travel, public parking, and/or pedestrian movement along sidewalks and are removed when the establishment is closed for business.
 - (ii) **Minor Signs.** Two minor signs per street frontage, each minor sign not to exceed 3 sq. ft. in area.
 - 1. A minor sign is any wall or freestanding sign not exceeding 3 sq. ft. in area, not exceeding 4 ft. in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.
 - (iii) **Temporary Signs.**
 - 1. Temporary signs for events/non-recurring activities, not exceeding 40 sq. ft. in area and erected for not more than 30 consecutive days.
 - 2. On a property under construction or renovation, for sale, or for rent, temporary signs not exceeding 16 sq. ft. for single- and two-family residential properties or 40 sq. ft. for all other residential, nonresidential, or mixed-use properties.
 - (iv) **Memorial Plaques and Building Cornerstones.** Memorial plaques and building cornerstones not exceeding 6 sq. ft. in area and cut or carved into a masonry surface or other noncombustible material and made an integral part of the building or structure.
 - (4) **Flag Signs.** Flag signs, subject to the following:

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (i) Residential, planned development, and DT districts: Limit of 2 per parcel at a maximum of 60 sq. ft. in size, and a maximum of 30 ft. in height.
 - (ii) C-1, C-2, and industrial districts: Limit of 3 per parcel at a maximum of 96 sq. ft in size, and a maximum of 45 ft. in height.
 - (iii) The minimum setback for a flagpole is the longest dimension of the pole, in order to prevent the flag or pole falling into the property of another or into a public street, trail, or sidewalk.
 - (iv) Flag signs shall not be located within any right-of-way.
- (5) **Window Signs.**
- (i) Windows in the DT district are permitted on the first floor of a building and shall not exceed a total area of 2 sq. ft. for each foot of frontage of the business.
- (6) **Recreation/Sports Facility Fence Signs.** Signs affixed to the interior of a permanent fence of a recreational or sports facility.
- (7) **Murals and Decorations.** Art, murals, and holiday or seasonal decorations which are not commercial in nature.

Section 8-6-5. Measurement and General Sign Standards.

(A) **Sign Area Calculation – One Sided.**

- (1) The sign area permitted under this Division is determined by measuring the entire face of the sign, including any background incidental to its decoration, but excluding support elements for the sole purpose of supporting the sign.
- (2) The sign area shall be calculated using the smallest rectangle, circle, or triangle that can enclose the sign face.
 - (i) Rectangle formula: sign area = length (L) x width (W)
 - (ii) Circle formula: sign area = πr^2
 - (iii) Triangle formula: sign area = $\frac{1}{2} \times \text{base (B)} \times \text{height (H)}$
- (3) The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.

(B) **Sign Area Calculation – Multi-Sided.**

- (1) Whenever one sign contains information on both sides (back-to-back and not more than 42 in. apart), sign area shall be calculated based on the largest sign face. Faces are not totaled.
- (2) Whenever one sign is multi-faceted (3-d objects, greater than 42 in. apart, etc.), sign area shall be calculated by adding together the area of all sign faces visible from any one point.

(C) **Sign Height.**

- (1) The maximum height for signs shall be as provided in Table 8.7, Table 8.8, and Table 8.9, provided in Section 8-6-7, below.

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (2) The height of a sign shall be computed as the distance from the base of the sign at average grade to the top of the highest attached component of the sign.
- (D) **Sign Setbacks.** The minimum setback from any right-of-way, unless otherwise specified, is half (1/2) the height of the sign.
- (E) **Illumination.**
- (1) All permitted signs may be internally or externally lit.
 - (1) No sign shall be illuminated in such a way that light may shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling.
 - (2) Any electrical sign shall display the required UL, ETL, CSA, or ULC label.
 - (3) Illumination shall be no greater than 1,000 nits from sunrise to sunset, or 500 nits from sunset to sunrise and be equipped with automatic brightness control which can dim the display brightness when ambient conditions exist.
 - (4) Electronic service lines shall be underground.

Section 8-6-6. Special Sign Standards.

- (A) **Changeable Signs.** Within any commercial or industrial district, 1 changeable sign per lot shall be permitted, subject to the following requirements:
- (1) The changeable sign may be an existing or proposed freestanding, wall, or projected sign.
 - (2) The message shall not be changed more than once every 10 seconds, move, flash, or display animation, as prohibited in this Article.
 - (3) Any changeable message sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired, covered, or disconnected by the owner or operator of such sign within 24 hours of Notice of Violation.
- (B) **Projecting Signs.**
- (1) Signs projecting over public walkways, including doors and entryways, shall be a minimum height of 8 ft. from average grade to the bottom of the sign.
 - (2) Projecting signs shall not extend more than 4 ft. beyond the face of the building or greater than 2 ft. from the curb line towards the building the sign is attached to.
 - (3) Signs, architectural projections, or sign structures projecting over vehicular access areas shall have a minimum vertical clearance of 14 ft.
- (C) **Temporary Signs.**
- (1) Each temporary sign shall be maintained in good, safe condition, securely affixed to a building or the ground.
 - (2) Any temporary sign pertaining to an event must be removed within 10 days after the event.
 - (3) No temporary sign shall be illuminated.

Section 8-6-7. Permitted Signs by District.

(A) The following standards, shown in Table 8.7, Maximum Sign Dimensions – Residential Districts, Table 8.8 Maximum Sign Dimensions – C-1 and DT Districts, and Table 8.9, Maximum Sign Dimensions – C-2 and Industrial Districts show the maximum sign dimensions, per type of sign, permitted in each district for all by-right and conditional uses, subject to all other requirements of this Ordinance.

(1) Signs requiring a sign permit within planned developments will be determined as part of the rezoning process.

(B) Sign area square footage limits are provided per sign, unless specified as a total.

(1) Total area is calculated as an aggregate of all signs of that type.

(C) See Article 11, Definitions, of this Ordinance, for the definitions of the sign types provided in the Tables of this Division.

(D) For the purposes of Table 8.7, the Residential Uses shall be those under the Residential category in Table 6.1, Use Matrix, and Non-Residential Uses shall be those under the Public/Civic/Recreation, Commercial, Industrial, and Miscellaneous category of Table 6.1, Use Matrix.

Table 8.7 | Maximum Sign Dimensions – Residential Districts

Sign Type	Residential Uses			Non-Residential Uses ²		
	Number	Area (square feet)	Height (feet)	Number	Area (square feet)	Height (feet)
Freestanding	1 per street frontage; 2 permitted if for subdivision entrance	12 ¹	6	1 per street frontage	16	6
Projecting	Not permitted			1 per street frontage	10	equal to the eave line, or the bottom of a second story window sill, whichever is lower
Wall	1 per street frontage	12	n/a	1 per street frontage	2 sq. ft. for every 1 LF of building face	n/a

¹Subdivision monument signs may be a maximum of 20 sq. ft.
²Hospital and Emergency Care signs may be a maximum of 50 sq. ft. and 12 ft. in height.

Table 8.8 | Maximum Sign Dimensions – C-1 and DT Districts

Sign Type	Number	Area (square feet) LF = Linear Foot	Height (in feet)
Freestanding (1 business)	1 per street frontage	50	6
Freestanding (2+ businesses with coordinated access point(s))	1 per street frontage, per access point	75 ¹	25
Projecting	1 per establishment	15	equal to the eave line, or the bottom of a second story window sill, whichever is lower
Wall	Unlimited	2 sq. ft. for every 1 LF of building face occupied by the tenant	n/a
Canopy	1 per street frontage	1 sq. ft. per LF of canopy fascia on which the sign is mounted	shall not extend above, or be suspended below, the horizontal plane of the canopy fascia

¹ Provided that any 2 signs on the same public street are at least 75 ft. apart.

Table 8.9 | Maximum Sign Dimensions – C-2 and Industrial Districts

Sign Type	Number	Area (square feet) LF = Linear Foot	Height (in feet)
Freestanding (1 business)	1 per street frontage	150	90
Freestanding (2+ businesses with coordinated access point(s))	1 per street frontage, per access point	175 ¹	90
Projecting	1 per establishment	15	equal to the eave line, or the bottom of a second story window sill, whichever is lower
Wall	Unlimited	2 sq. ft. for every 1 LF of building face occupied by the tenant	n/a
Canopy	1 per street frontage	1 sq. ft. per LF of canopy fascia on which the sign is mounted	shall not extend above or be suspended below the horizontal plane of the canopy fascia

¹ Provided that any 2 signs on the same public street are at least 75 ft. apart.

Section 8-6-8. Nonconforming Signs.

(A) Nonconforming Signs.

- (1) Any sign legally existing at the time of the effective date of this Ordinance that does not conform in use, location, height, or size with the regulations of the district in which such sign is located, shall be considered legally nonconforming and shall be permitted to continue in

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

- (i) A nonconforming sign shall not be enlarged, nor shall any feature of a nonconforming sign such as, illumination, be increased.
 - (ii) A nonconforming sign shall not be moved for any distance on the same lot or to any other lot unless:
 1. Such change in location will make the sign meet all current requirements of this Division; or
 2. Such change in location is to conform to required setbacks of this Ordinance.
 - (iii) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its sign area, may be restored within 2 years after such destruction or damage but shall not be enlarged in any manner.
- (2) If such a sign is destroyed or damaged to an extent exceeding 50%, it shall not be reconstructed but may be replaced with a sign that meets all current requirements of this Division.
 - (3) Notwithstanding any contrary provision in this Ordinance, no nonconforming sign is required to be removed solely by the passage of time.

Section 8-6-9. Maintenance and Enforcement.

(A) Maintenance, Repair, and Removal.

- (1) Every sign permitted by this Division shall be kept in good condition and repair. All signs shall be maintained, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of such signs.
- (2) If a sign is in violation of the provisions of this Ordinance, the owner shall correct such violations and make the sign conform with the provisions of this Division, within 10 days of a Notice of Violation from the Administrator. Signs in violation may include:
 - (i) Any that becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Administrator; or
 - (ii) Any sign that is unlawfully installed, erected, or maintained in violation of any of the provisions of this Ordinance.
- (3) If within 10 days the Notice of Violation is not complied with, the Administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner of the sign.
- (4) If a sign presents an imminent and immediate threat to life or property, then the Administrator may abate, raze, or remove it, and may bring an action against the responsible party to recover the necessary costs incurred for abating, razing, or removing the sign.

Section 8-6-10. Removal of Abandoned Signs.

- (A) Except as otherwise provided in this Division, any sign that is located on a property which becomes vacant and is unoccupied for a period of 3 months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned.
 - (1) Business signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed abandoned unless the property remains vacant for a period of 12 months or more.
- (B) If the owner or lessee fails to remove such sign, the Administrator shall give the owner 30 days' written notice to remove it.
- (C) Upon failure to comply with this notice, the Administrator may remove the sign at cost to the property owner.

Division 7. Open Space.

Section 8-7-1. Purpose and Intent.

- (A) The standards in this Division are intended to ensure that a minimum amount of required open space is provided in new development for the use and enjoyment of the development's residents, employees, and users in a manner that:
 - (1) Preserves the City's natural resources;
 - (2) Provides open areas for use as active and passive recreation;
 - (3) Reduces the heat island effect of developed areas;
 - (4) Provides civic and meeting spaces for use by the public;
 - (5) Preserves trees and strands of older growth;
 - (6) Enhances stormwater management; and
 - (7) Provides other public health benefits.

Section 8-7-2. Applicability.

- (A) **General.** Unless exempted in accordance with 8-7-2 (B), below, all new development within residential and planned development districts in the City must comply with the standards in this Division.
- (B) **Exemptions.** The following development is exempted from the standards in this Division:
 - (1) Single- and two-family development on individual lots (not part of a Major Subdivision or Planned Development);
 - (2) Minor Subdivisions;
 - (3) Utility uses; and
 - (4) Development within the DT district.

- (C) **Timing of Review.** Review for compliance with the standards of this Division will occur during review of an application for a planned development, Zoning Permit, Conditional Use, Building Permit, Certificate of Occupancy, Site Plan, or Subdivision Plat, as appropriate.
- (D) **Open Space Plan Required.** All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which shall designate all open-space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

Section 8-7-3. Amount of Open Space Required.

- (A) Development subject to these standards must provide required open space in an amount that meets or exceeds the minimum provided in Table 8.10, Minimum Open Space Required, based on the district where the development is proposed.

Table 8.10 | Minimum Open Space Required

District	Minimum Open Space Required	Stipulation
R-1, R-2	15%	of the required percentage, a minimum of 10% shall be for active or passive recreation
R-3	20%	
R-PRD	25%	of the required percentage, a minimum of 20% shall be for active or passive recreation

Section 8-7-4. Areas Counted as Open Space.

- (A) The features and areas identified below shall count toward required open space as required by this Division.
 - (1) **Natural Features.**
 - (iv) **Description.** Native mixed forests, existing and healthy wooded areas, and natural vegetation.
 - (v) **Limitation.**
 1. A maximum of 50% of the required open space shall be comprised of natural features.
 2. These areas shall not include streams, rivers, ponds, lakes, wetlands, steep slopes, drainageways, or flood hazard areas.
 - (2) **Passive Recreation Areas.**
 - (i) **Description.** Planned and regularly maintained open areas that provide passive recreation opportunities, including arranged plantings, gardens, community gardens, picnic shelters, gazebos, and similar structures.
 - (ii) **Design Requirements.** Passive recreation areas must have at least 1 direct access to a building or to a street or walkway accessible to the development’s residents and users.
 - (3) **Active Recreation Areas.**

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (i) **Description.** Land occupied by areas and facilities used for active recreational purposes, such as ballfields, playgrounds, tennis courts, pools, jogging trails, and community buildings and clubhouses.
 - (ii) **Design Requirements.** Land must be compact and contiguous unless used to link or continue an existing or planned open space resource. Areas must have at least 1 direct access to a building or to a street or walkway accessible to the public or the development’s residents and users.
- (4) **Required Landscaping and Buffers.**
- (i) **Description.** All areas occupied by required landscape areas and transitional buffers, except for parking lot landscaping.
 - (ii) **Design Requirements.** As provided in Division 2 of this Article.
- (5) **Stormwater Management Areas/Facilities Treated as Site Amenities.**
- (i) **Description.** Stormwater management features that are incorporated into a site amenity (e.g., with low fencing, vegetative landscaping, gentle slopes, fountain or other visible water circulation device, and pedestrian access or seating).
 - (ii) **Limitation.** A maximum of 75% of the land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices) may be included as open space.
 - (iii) **Design Requirements.** To qualify, stormwater management facilities must support passive recreation uses by providing access, pedestrian elements such as paths and benches, gentle slopes, and vegetative landscaping.
- (6) **Public Access Easements.**
- (i) **Description.** Public access easements that include paths or trails that are available for activities such as walking, hiking, running, and/or biking.
 - (ii) **Design Requirements.** Such access easements must include at least 1 improved access from a public street, sidewalk, or trail that includes signage designating the access point.
- (7) **Squares and Plazas.**
- (i) **Description.** Flat, open areas immediately in front of a building/group of buildings or framed by buildings or streets that provide gathering places, opportunities for outdoor dining, and other similar activities.
 - (ii) **Design Requirements.** A square or plaza must be at least 200 sq. ft., but no more than one acre, in area. It must have at least 1 direct access to a principal building, or to a street or walkway accessible to the public or the development’s residents and users. Surrounding principal buildings must be oriented toward the square or plaza where possible.

Section 8-7-5. Areas Not Counted as Open Space.

- (A) The following features and areas will not be counted as required open space for purposes of this Division:

City of Emporia Zoning & Subdivision Ordinance

Article 8 – Community Design Standards

- (1) More than 50% of open space comprised of natural features, as provide in 8-7-4 (A) (1), above.
- (2) Yards on lots containing a single- or two-family dwelling, or manufactured homes;
- (3) Street rights-of-way, private access easements, or utility easements, including sidewalks located within those rights-of-way or easements;
- (4) Parking areas and driveways, including parking lot landscaping and walkways;
- (5) Land covered by structures, unless designed for active or passive recreational uses;
- (6) Designated outdoor storage areas and mechanical yards; and
- (7) Stormwater management facilities not located and designed as a site amenity, as described in 8-7-4 (5), above.

Section 8-7-6. Design and Development Standards.

(A) Location.

- (1) Required open space must be readily accessible by residents and users of the development to the maximum extent practicable.
- (2) To the extent practicable, a portion of the open space should provide focal points for the development through prominent placement or direct visibility from streets.

(B) Configuration.

- (1) Required open space must be compact with a minimum of 40% of the required open space contiguous unless:
 - (i) A linear configuration is needed to continue an existing trail or accommodate preservation of natural features; or
 - (ii) It can be demonstrated that a different configuration provides better access to usable open space for intended users of the open space.
- (2) If the development site is adjacent to existing or planned public trails, parks, or other public open space area, the required open space must, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other public open space area.
- (3) Pedestrian access to required open space must be provided from sidewalks or other pedestrian ways within or adjacent to the development.

(C) Limitations.

- (1) Development within required open space shall be appropriate to the purposes of the type of required open space.
- (2) All structures within required open space shall comply with setback and other dimensional requirements of the district for which the development is located.

Section 8-7-7. Ownership and Maintenance.

- (A) All required open space must include deed restrictions, covenants, or other legal instruments that ensure continued use of the land for its intended open space purposes and provide for the continued and effective management, operation, and maintenance of the land and facilities.
 - (1) Stormwater management facilities treated as site amenities must be maintained to provide for the effective management of stormwater and as a passive recreation.
 - (2) Adequate liability insurance shall be secured for the intended purposes of the land.
- (B) Required open space must be maintained by the developer or owner of the project or by a property owners' association comprising owners of the property in the project.
 - (1) If property is conveyed to the property owners' association:
 - (i) Deed restrictions and covenants, in a form satisfactory to the City Attorney, must provide that any assessments, charges, or costs of maintenance of required open space constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.
 - (ii) The association must be organized prior to the sale of any lots.
 - (iii) Membership in the organization shall be mandatory for all property owners, present or future, and such organization shall not discriminate in its members or shareholders.
- (C) Required open space may be dedicated to the City for public use only in a manner and form approved by the City.
- (D) Maintenance of natural features is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions, and the clearing of debris from trails.

ARTICLE 9. – Nonconforming Uses, Lots, and Structures.

Division 1. General.

Section 9-1-1. Intent.

With the adoption of this Ordinance or subsequent amendments, there exists lots, structures, and use of land and structures in combination which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue as established prior to Ordinance adoption and in accordance with the Code of Virginia § 15.2-2307, as amended.

Section 9-1-2. General.

Except as otherwise provided in this Ordinance, any lawful use, building, or structure existing at the time of an amendment to this Ordinance may be continued even though such use, building, or structure may not conform to this Ordinance’s provisions and shall be deemed nonconforming. A change in occupancy or ownership shall not affect the right for the nonconforming use to continue or the nonconforming building or structure to remain.

Division 2. Nonconformities.

Section 9-2-1. Nonconforming Uses.

(A) A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for below:

- (1) A nonconforming use may change to a conforming use.
- (2) The nonconforming use may be extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this Ordinance provided there are no structural alterations, expansion, or enlargement except those required by law or lawful order.
- (3) A nonconforming use may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- (4) The land area or building footprint dedicated to a nonconforming use may be reduced in size. Whenever a nonconforming use’s footprint has been reduced, such use shall not thereafter be changed to a greater footprint.
- (5) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article 6 and Article 7.

City of Emporia Zoning & Subdivision Ordinance

Article 9 – Nonconforming Uses, Lots, and Structures

- (6) No nonconforming use shall be moved on the same lot or to any other lot which is not properly zoned to permit such use.
- (7) A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this Ordinance when:
 - (i) The nonconforming use is discontinued for a period of 2 years, regardless of whether or not equipment or fixtures are removed and shall be deemed abandoned.
 - (ii) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.
 - (iii) The structure in which a nonconforming use is carried out is removed; removal of the structure shall eliminate the nonconforming status of the land, and the nonconforming use may not continue in a new structure.
- (8) The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.
- (9) When evidence available to the Administrator is deemed to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals (BZA) after public notice and hearing and in accordance with the rules of the BZA.

Section 9-2-2. Nonconforming Lots of Record.

- (A) If a lot of record existing on or before July 1, 2024 does not meet the minimum area, length, or width standards for the district it is in, it may be used without appeal, if:
 - (1) The lot can meet all setbacks and other requirements of this Ordinance.
 - (2) If the lot *cannot* meet setback and other requirements, a variance shall be obtained through the variance processes outlined in Article 3, Permits and Applications, of this Ordinance.
- (B) A developed nonconforming lot may continue in existence but may not be altered except in accordance with this Article.
- (C) Any lot which is reduced in size and becomes less in area or width than the minimum required by the zoning district, as the result of the widening or realignment of any City, State, or Federal roadway or by voluntary or required dedication of right-of-way along an existing City, State, or Federal roadway by reason of any condemnation proceedings, shall be considered a nonconforming lot of record.
- (D) A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the zoning district in which the lot is located through the following actions:
 - (1) A consolidation of the nonconforming lot with an adjacent lot;
 - (2) A boundary adjustment between two contiguous lots, one being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot

City of Emporia Zoning & Subdivision Ordinance

Article 9 – Nonconforming Uses, Lots, and Structures

- nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity;
- (3) A boundary adjustment between two contiguous nonconforming lots, combining the two lots to create one conforming lot; or
 - (4) Rezoning to a different zoning district to meet the lot size, lot width, and lot frontage requirements of that district.

Section 9-2-3. Nonconforming Structures, Buildings, and Improvements.

- (A) The construction of a nonconforming building for which a permit was issued legally prior to the adoption of this Ordinance may proceed, in accordance with Article 1, Division 4, of this Ordinance.
- (B) A nonconforming structure or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided in this Section.
- (C) A nonconforming building or structure shall include those circumstances where the City has:
 - (1) Issued a building permit or other permit authorizing construction and the building or structure was constructed in accordance with the building permit, and upon completion, the City issued a certificate of occupancy; or
 - (2) The owner of the building or structure has paid real estate taxes to the City for such building or structure for a period of more than the previous 15 years.
- (D) Additionally, a nonconforming building or structure shall include those circumstances where:
 - (1) A permit was not required, an authorized governmental official informed the property owner that the structure would comply with the Zoning Ordinance, and the improvements were then constructed accordingly.
 - (2) However, in any proceeding when the authorized City official is deceased or unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized City official made such statement.
- (E) A nonconforming structure may be changed to make it a conforming structure.
- (F) A building or structure nonconforming only as to height, area, or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.
- (G) Any nonconforming building or structure may be brought into compliance with the Uniform Statewide Building Code without affecting the nonconforming status of the building or structure.
- (H) If a nonconforming structure is demolished or removed, no nonconforming structure shall be reestablished, except as provided under Section 9-2-4 Repairs and Maintenance.
- (I) If a nonconforming structure is removed for any reason to another parcel of land, regardless of distance, or the lot lines of the parcel on which it is located change, the structure shall thereafter conform to the requirements of the district in which it is located.

City of Emporia Zoning & Subdivision Ordinance
Article 9 – Nonconforming Uses, Lots, and Structures

- (J) In no instances shall the nonconforming circumstance of the structure relate, or provide nonconforming status, to a use. Nonconforming uses are established as outlined in Section 9-2-1 above.

Section 9-2-4. Repairs and Maintenance.

- (A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months if:
- (1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
 - (2) Such repair constitutes minor alterations, cosmetic modifications, interior renovations, and similar changes.
 - (3) The cubic content of the structure, as it existed at the time of passage or amendment of this Ordinance, shall not be increased.
- (B) Nothing in this Ordinance shall permit a complete rebuild of a non-conforming structure, nor serve to circumvent the requirements of this Article, except for necessary rebuilds in accordance with Section 9-2-4 (D), below.
- (C) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.
- (D) If a nonconforming building or structure is damaged or destroyed, even if 50% or greater, by fire, natural disaster or other act of God, such building or structure may be repaired, rebuilt, or replaced provided that:
- (1) The nonconforming features are eliminated or reduced to the extent possible, without the need to obtain a variance;
 - (2) The owner shall apply for a building permit and any work done to repair, rebuild, or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code;
 - (3) The requirements of the Floodplain District of this Ordinance are met, if applicable; and
 - (4) The work is done within 2 years unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended to four years.
- (E) Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this section.
- (F) If a nonconforming manufactured home is removed other than by natural disaster or public action, it may not be replaced except as provided for below unless it complies with regulations within the Ordinance. Any such replacement home shall retain the valid nonconforming status of the prior home.

City of Emporia Zoning & Subdivision Ordinance
Article 9 – Nonconforming Uses, Lots, and Structures

- (1) Nothing in this section shall be construed to prevent the landowner or homeowner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.
- (2) The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.

ARTICLE 10. – Subdivision.

Division 1. General.

Section 10-1-1. Title.

This Article is a portion of the Zoning and Subdivision Ordinance of the City of Emporia, Virginia. It shall be permitted, for convenience, to be referred to as the “Subdivision Ordinance of the City of Emporia, Virginia” or “Ordinance.”

Section 10-1-2. Recording of Ordinance.

In accord with the Code of Virginia § 15.2-2252, as amended, a certified copy of the adopted Subdivision Ordinance of the City of Emporia, Virginia and any and all amendments thereto shall be filed in the office of the Subdivision Agent (Agent) and in the Clerk's Office of the Circuit Court of Greensville County, Virginia.

Section 10-1-3. Amendments.

- (A) Per the Code of Virginia, § 15.2-2251 and § 15.2-2253, as amended, this Article may be amended in whole or in part by the City Council; provided, that any such amendment shall either originate with or be submitted to the Planning Commission for recommendation; further provided, that no such amendment shall be adopted without a public hearing having been held by the City Council in accordance with the Code of Virginia § 15.2-2204, as amended.
- (B) In no instance shall an amendment be adopted by the City Council without first seeking the recommendation of the Planning Commission. If no recommendation is made by the Planning Commission, the City Council may take action 60 days from their inquiry.

Section 10-1-4. Repeal.

Upon the adoption of this Ordinance, all Subdivision Ordinances heretofore adopted by the Emporia City Council are hereby repealed.

Section 10-1-5. Applicability.

- (A) This Article shall apply to the subdivision of all lots, tracts, or parcels of land within the City of Emporia, unless specifically exempt, as provided in Section 10-1-7, below.
- (B) No person shall subdivide any tract of land, or complete a Boundary Line Adjustment, consolidation or easement, that is located within the City of Emporia except in conformity with the provisions of this Article, the Zoning and Subdivision Ordinance, and the provisions of Virginia law relating to land subdivision and development.
- (C) Plats of Boundary Line Adjustments, consolidations, or easements shall follow the Final Plat requirements of Division 8 of this Article and may be administratively approved.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (D) This Article bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing a private easement, covenant, agreement, or restriction implied herein to the City of Emporia.

Section 10-1-6. Circumvention.

- (A) Development of multiple adjoining Minor or Single Lot Subdivisions, over any amount of time, for the purpose of circumventing subdivision requirements, shall not be permitted.
- (B) Development of multiple adjoining Major Subdivisions for the purpose of circumventing preliminary plat requirements, shall not be permitted.
- (C) Creative lot layout, for the purpose of circumventing design requirements, shall not be permitted.

Section 10-1-7. Exemptions.

- (A) The following are exempt from this Article, but this does not mean the parcels are exempt from the other Articles of the Zoning and Subdivision Ordinance:
 - (1) **Existing Parcels.** The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel.
 - (2) **Utility Rights-of-Way; Public, Private Rights-of-Way.** A bona fide division of a tract of land in order that 1 or more of the resulting parcels may be used as part of a public or private right-of-way. If a parcel resulting from such division is ever to be used as a building site for other than a hereinabove described right-of-way, then before a Building Permit may be issued for such other use, the minimum requirements of this Article shall be met.
 - (3) **Wills, Court Action.** The partition of lands by will, by partition deed of intestate land, by the descendants of the deceased former owner or through action of a court of competent jurisdiction.

Section 10-1-8. Appeals and Variances.

- (A) Appeals to any decisions made by the Agent, regarding the requirements of this Article, shall be taken to the Planning Commission for recommendation and final decision by the City Council in accordance with Article 3, Permits and Applications, Division 11, Public Hearings and Notifications, of this Ordinance.
- (B) Variances to any provision of this Article shall be taken to the Board of Zoning Appeals in accordance with Article 3, Permits and Applications, Division 5, Variances, of this Ordinance.

Division 2. Types of Subdivisions.

Section 10-2-1. Major Subdivisions.

Major Subdivisions are subdivisions of more than 10 lots or other divisions of land or division of property that involves the creation of new street(s) or the extension of street(s), and therefore will have greater impact on the environment, highways, and surrounding communities than will minor subdivisions. Due to the potential impacts, these subdivisions are required to submit a preliminary

plat, when they include more than 50 lots, and are reviewed by Planning Commission and approved or denied by City Council.

Section 10-2-2. Minor Subdivisions.

Minor Subdivisions are subdivisions of 10 lots or less, do not include the creation or extension of street(s) and have reduced impact on the environment, highways, and surrounding communities than major subdivisions. These subdivisions may submit a preliminary plat. The subdivider shall, however, submit an application and fulfill all requirements to obtain approval of the final plat. Minor subdivisions are administratively reviewed and approved.

Division 3. Design Requirements.

Section 10-3-1. Conformity to Plans and Regulations.

- (A) Comprehensive Plan. Proposed subdivision plats shall conform to the officially adopted city comprehensive plan. Whenever a tract to be subdivided embraces a part of any major highway system on the Comprehensive Plan, such part of any highway or street shall be platted by the subdivider in the location and of the width indicated on the Plan.
- (B) Zoning. Proposed subdivision plats shall conform to the officially adopted city zoning ordinance.

Section 10-3-2. Suitability of Land.

- (A) If the Agent finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate utilities, soil, light, air, and other such conditions which may endanger health, life or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public, the land should not be developed for the purpose proposed, the Agent shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.
 - (1) Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.
 - (2) The arrangement, character, extent, width, grade, construction and location of all building sites, lots, streets, drainage, sewer, water lines, and other facilities, public or private, shall conform to any floodplain regulations, laws, or ordinances established by local, state, or federal authorities and their subsequent amendments.
- (B) In investigating the suitability of land for subdivision, the Agent may require the subdivider to furnish topographic maps, soil reports, established 100-year flood plain studies, wetlands delineation, and other information relevant to such determination.

Section 10-3-3. Land for Public Purposes.

- (A) The Agent shall require, by dedication or reservation, subdividers of residential developments to set aside land or its monetary equivalent for parks, playgrounds, open spaces, libraries, municipal

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

facilities or other public use installations and for the protection of access to such facilities or land, subject to the dedication and reservation requirements of Article 8, Community Design Standards, Division 7, Open Space, of this ordinance.

- (B) In addition to Article 8, Community Design Standards, Division 7, Open Space the following regulations apply:
- (1) **Dedication.** When in the opinion of the Agent there is not a good or workable site within the subdivision for dedication, the subdividers shall be required to post an amount of money equal to the minimum open space required of the developed sale price of the entire subdivision for the purchase by the city of a park, playground, or open space for the use of the residents of the area in which the subdivision is located.
 - (2) **Reservation.** Where a school or other public use facility is shown on an officially adopted element of the Comprehensive Plan of the City to be located in whole or in part in a proposed subdivision, reservation of the area shown, shall be required by the Agent. The subdivider shall not be required to hold the land longer than 24 months following the recording of the plat for such purchase. If the land is not purchased within the 24 months, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

Section 10-3-4. Lots.

(A) Lot Size.

- (1) Lot area and width shall be in accordance with Article 4, Primary Zoning Districts, of this Ordinance.
- (2) Greater lot areas may be required by the Virginia Department of Health, if needed to adequately accommodate septic tanks, drain fields, and water systems.

(B) Lot Shape.

- (1) 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 requirements of this Ordinance.
- (2) Lots shall not contain peculiarly shaped elongations which would be substantially unusable for normal purposes solely to satisfy necessary square footage or frontage requirements; to provide for drainage fields or septic areas; or to provide access to any lot that would otherwise not have road frontage.

Section 10-3-5. Remnants.

All remnants of lots below minimum size, left over after subdividing a tract, must be added to adjacent lots rather than allowed to remain unusable parcels.

Section 10-3-6. Frontage.

- (A) Unless otherwise stated, all lots or parcels of land shall front on an existing or proposed street or right-of-way in accordance with the provisions of this Ordinance.
- (B) Double frontage and reversed frontage residential lots shall in general be avoided except where essential to provide residential separation from arterial streets or to overcome other disadvantages of orientation or topography.

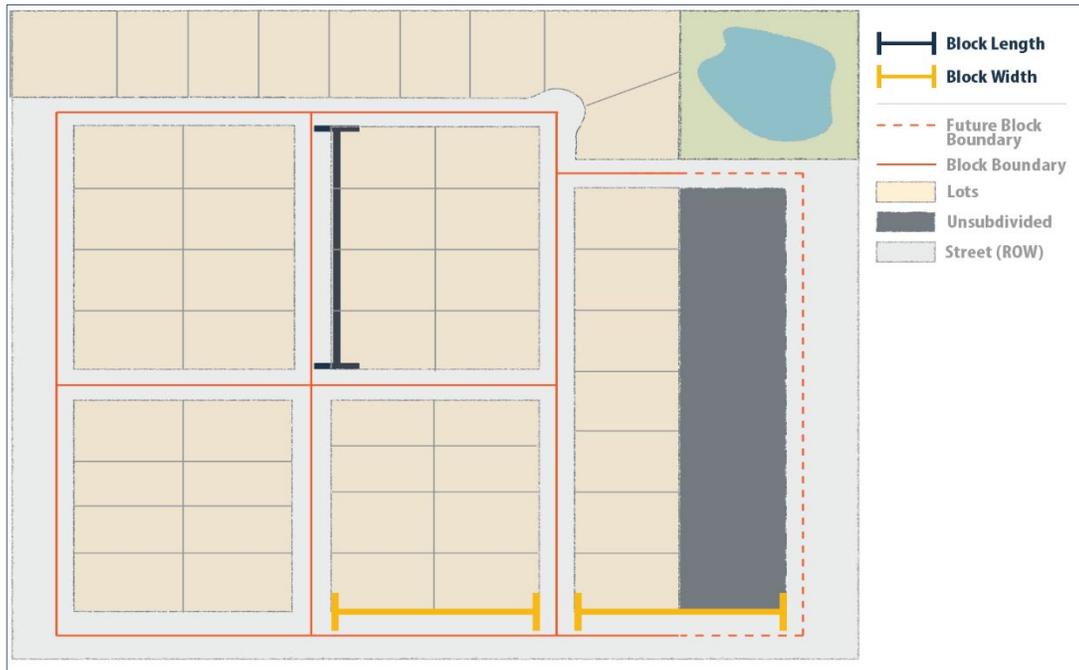
Section 10-3-7. Access.

- (A) **General.** The following shall apply to all Subdivisions:
 - (1) The design of a subdivision shall be made to interconnect streets within the subdivision to promote grid pattern development, avoid dead end streets unless provided in accordance with Section 10-3-9, Streets, of this Ordinance, and to arrange streets to provide access to adjoining parcels to promote orderly development of the City.
 - (2) Adequate easements shall be provided for the development of future streets and such easements shall include restrictions that assure the adequacy of the easement, including building setback lines, to ensure the future viability of the easement.
 - (3) Streets between adjoining properties shall be required to interconnect where the ability to interconnect streets has been created through right-of-way construction and dedication.
 - (4) If there are corner lots created in the subdivision of property that meet the road frontage requirements on existing public roads, then such lots are required to access the interior subdivision road and they shall not access the existing public road.

Section 10-3-8. Blocks.

- (A) **Length.** No block in a subdivision shall exceed 1,000 feet in length except where permitted by the Agent and all other provisions of this Section have been met.
- (B) **Width.** Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, except where prevented by topographical conditions or size of the property, in which case the Agent may approve a single tier of lots of minimum depth. *See Figure 10.1.*
- (C) **Intersections.** To ensure intersections of streets and to achieve a grid pattern, all blocks shall be separated by an intersection.

Figure 10.1 | Block Length and Width



Section 10-3-9. Streets.

- (A) **Street Names and Signs.** The following standards shall apply to all new streets, whether public or private:
- (1) **Names.**
 - (i) Street names shall comply with the recommendations of the Agent.
 - (ii) A proposed street which is aligned with an existing street shall bear the same name as the existing street and names of existing streets shall not be changed.
 - (iii) In no case shall the name of proposed streets duplicate existing street names, regardless of the use of the suffix (e.g., Avenue, Boulevard, Drive, Way, Place, Lane, or Court).
 - (iv) Street names shall be subject to approval by the Agent and conform with the city's specifications on signs. No name shall be used which duplicates or is likely to be confused with the name of an existing street.
 - (2) **Signs.** Street name signs and other safety regulations shall be erected and located in accordance with the specifications of the Agent.
- (B) **Public Streets.** For purposes of this Ordinance, public streets are those that are dedicated to and accepted by the City of Emporia.
- (1) **When Required.** All streets in any subdivision created after the effective date of this Ordinance shall front on or construct public streets.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (2) **Existing Public Streets.** In cases where subdivision lots are created on an existing public street having a total width of less than 50 ft., a dedication of additional right-of-way to the City of Emporia shall be provided.
- (3) **New Public Streets.** All new public streets shall be constructed with a compacted 6 in. stone base and in accordance with alignment, approach angle, access, width, grading, paving, and other specifications established by the City of Emporia in effect at the time the subdivision is approved.
 - (i) When the City of Emporia does not define specifications the Virginia Department of Transportation specifications shall rule.

(C) **Grade.**

- (1) Major streets shall conform to the contours to avoid grades in excess of three percent (3%), unless because of special conditions, the Agent permits otherwise.
- (2) Other streets and alleys shall avoid grades in excess of 10%.
- (3) No street shall have a minimum grade of less than 0.5%.

(D) **Width.**

- (1) Collector, commercial, and industrial street width shall meet the collector street requirements of the Virginia Department of Transportation.
- (2) Local streets shall meet the secondary street requirements of the Virginia Department of Transportation.

(E) **Intersections.** The following standards shall apply to all new streets:

- (1) All streets shall intersect as near to a 90-degree angle as is practical. If a street intersects at less than 90 degrees, the angle shall be rounded by a curve of sufficient radius to permit easy turning movements of vehicles and as acceptable by the Virginia Department of Transportation.
- (2) Curb radius at street intersections shall be constructed as required by the Virginia Department of Transportation. Concentric curves on the property line may be required by the Agent.
- (3) Driveways from parking areas shall be the minimum distance from intersections of arterial or collector streets as required by the Virginia Department of Transportation and located to cause the least interference with traffic movement.

(F) **Cul-de-Sacs.** Any street which terminates at a point not intersecting another street shall be considered a cul-de-sac. The following standards shall apply to cul-de-sacs on any new streets:

- (1) Cul-de-sac streets are strongly discouraged but warranted when they protect natural features or match the surrounding area and provide inclusivity.
- (2) Cul-de-sac streets shall be:
 - (i) 400 ft. or less in length.
 - (ii) 50 ft. or more in width.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (iii) Terminated in a circular right-of-way with a minimum right-of-way radius of 50 ft.
 - (3) On streets intended for future extension, temporary turnarounds shall be provided by means of easements over private land adjoining the street. Such easements shall revert to the landowners at such time as the street road is extended.
- (G) **Curbs, Gutter, and Sidewalks.** The following standards apply to all new streets.
- (1) Pursuant to the Code of Virginia § 15.2-2241, curbs, gutters, and sidewalks shall be required on:
 - (i) All streets in all zoning districts.
 - 1. The Agent may approve sidewalks to be constructed on only one side of subdivisions when adjacent parcels contain sidewalks on only one side and such construction is in keeping with the Comprehensive Plan.
 - 2. The Agent may approve dedication of right-of-way for curb, gutter, and sidewalks without construction when adjacent properties do not contain curb, gutter, and sidewalks and when such development is in keeping with the Comprehensive Plan.
- (H) **Alleys.**
- (1) Alleys shall be required in commercial and industrial districts where needed for rear entry garages, service vehicles, deliveries, access to loading areas, and similar purposes and shall be 24 ft. in width.
 - (2) When provided in the rear of residential lots, alleys shall be a minimum of 20 ft wide and may be required by the Agent when the lot is less than 75 ft wide.
- (I) **Alignment and Layout.** The following standards shall apply to all new streets:
- (1) As required by § 15.2-2241 of the Code of Virginia, as amended, the arrangement of streets in new subdivisions shall make provisions for the continuation and coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area.
 - (i) Where appropriate, streets shall be extended to the subdivision boundary so that future extensions can be made into adjoining properties, which may be subdivided.
 - (ii) Dedication of half-streets, those streets with a portion of the required right-of-way in the proposed subdivision and with the required minimum balance anticipated to be provided by the adjoining owner, shall not be permitted.
 - (iii) Overall street layout shall provide for safe movement of vehicular traffic while discouraging through traffic on residential streets.
 - 1. Streets for industrial subdivisions shall connect with collector or arterial streets so that no industrial traffic will be directed into any local street.
 - (2) The street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.

Section 10-3-10. Easements.

- (A) In accordance with the Code of Virginia § 15.2-2241(2), as amended, the City of Emporia or its Agent shall require that easements for drainage through adjoining property be provided by the subdivider when needed to adequately provide for drainage or flood control.
- (B) In accordance with the Code of Virginia § 15.2-2241(6), as amended, once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision and a request is made to use the easement for said purpose, the developer shall grant the easement within 30 days or mutually agree on an alternate location for an easement.
- (C) Where alleys are not provided in the plat, public utility easements of not less than 10 ft. in width, five (5) ft. on each side of the rear or side lot lines, shall be granted to the City of Emporia by the owner for utilities and drainage. Easements of greater width may be required along lot lines or across lots when necessary for the extensions of main sewers or other utilities.
- (D) No buildings or structures shall be permitted on easements.

Section 10-3-11. Utilities and Other Improvements.

- (A) **Water.** Every subdivision shall be connected to the public water supply system.
 - (1) The subdivision water distribution system shall be adequate for the type of development proposed and for existing or potential surrounding development to form a logical part of a coordinated system, minimizing potential water supply problems for the general area.
 - (i) All provided water systems shall be planned and constructed to meet the specifications of the city, including connections for each lot and appropriately spaced fire hydrants.
 - (ii) All new or replacement water supply systems, together with attendant facilities proposed to be located in the floodplain as defined and designated in chapter 90 shall be designed and constructed so as to minimize or eliminate flood damage, infiltration or inflow of floodwater into the system, and discharges or overflows from the systems into floodwaters.
 - (iii) Before construction commences, plans and specifications shall be reviewed and approved by the Agent.
 - (2) Where public water supply is not available, the subdivider shall supply acceptable private water systems which shall be constructed to facilitate later connection with the public system. Privately provided general and individual water supply systems shall be permitted only when approved by the state health department and the Agent.
- (B) **Sewer.** Every subdivision shall be connected to the public sanitary sewer system.
 - (1) the subdivision sanitary sewage collection system shall be adequate for the type of development proposed and for existing or potential surrounding development to form a logical part of a coordinated system, minimizing potential sanitary sewerage problems for the general area.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (i) All sewer systems, other than individual, shall be planned and constructed to meet the specifications of the city including adequately serving all lots, including lateral connections to the public system.
 - (ii) All new or replacement sanitary sewage systems, together with attendant facilities proposed to be located in the floodplain as defined and designated in chapter 90 shall be designed and constructed so as to minimize or eliminate flood damage, infiltration or inflow of floodwater into the system, and discharges or overflows from the systems into floodwaters.
 - (iii) Before construction commences, plans and specifications shall be reviewed and approved by the Agent.
- (2) Where a public sanitary sewer system is not reasonably accessible, the subdivider shall provide a central treatment plant for a group or an individual disposal system for each lot within the subdivision. Privately provided general and individual sewage systems shall be permitted only when approved by the state health department and the Agent and shall be constructed to facilitate later connection with the public system.
- (i) The state health department may prohibit certain types of systems in areas to which they are not adapted, may require the use of other systems, may specify increases in lot sizes above those generally required if necessary to make such systems effective, and may specify the way such systems are to be located or designed to meet the needs of particular sites or areas.
- (3) Combinations of sanitary sewers and storm sewers shall be prohibited.
- (C) **Utilities.** Except as provided in this section, transmissions, distribution, and customer service utility facilities carrying or used in connection with electric power, streetlights, telephone, telegraph, cable television, or petroleum, shall be placed below the surface of the ground.
- (1) Except:
 - (i) Equipment such as electric distribution transformers, switchgear, meter pedestals, telephone pedestals, meters, service connections and the like normally installed above the ground in accordance with accepted utility practices for underground distribution.
 - (ii) Temporary overhead facilities required for construction purposes.
 - (iii) High tension transmission lines of 50,000 volts or more.
 - (2) All installations shall be in accordance with applicable codes and the specifications of the office of public works, and shall be in accordance with charges as approved by the State Corporation Commission.
 - (3) All new or replacement gas or electrical distribution systems, together with attendant facilities of the floodplain as defined and designated in chapter 90 shall be designed, located, and constructed so as to minimize or eliminate flood damages.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (D) **Drainage.** A drainage system shall be provided for by means of culverts under roadways, side, lead and outlet ditches and other structures that are necessary to provide adequate drainage of both natural water and stormwater for all streets within the subdivision and adjoining properties.
- (1) The Agent shall have the authority to determine what shall be adequate with respect to storm sewer facilities within a subdivision.
 - (2) All storm drainage shall be designed and installed in accordance with the city's specifications.
 - (3) Before construction commences, plans and specifications shall be reviewed and approved by the Agent.
- (E) **Streetlights.** Streetlights shall be provided on all collector, arterial, and local streets within or contiguous to a subdivision, and in such other locations found by the Agent to require such lighting in the interest of safety and security to persons, property, and traffic.
- (1) The streetlight layout shall be in accordance with the VDOT Subdivision Street Guide (24VAC-30-91-160).
 - (2) Each streetlight shall conform to the requirements of Article 8, Community Design Standards, Division 1, Lighting of this ordinance and:
 - (i) Be installed with associated wiring underground.
 - (ii) Consist of a uniform style within the subdivision and to adjacent streetlights.
 - (iii) Be full cutoff luminaires and aimed and controlled such that light is directed and confined to the object intended to be illuminated.
 - (3) Before construction commences, plans and specifications shall be reviewed and approved by the Agent.
- (F) **Landscaping.** Trees shall be provided by the subdivider in all subdivisions where curbs, gutters, and sidewalks are required in accordance with standards and specifications of Article 8, Community Design Standards, Division 2, Landscaping and Screening of this ordinance.
- (1) Before construction commences, plans and specifications shall be reviewed and approved by the Agent.

Section 10-3-12. Monuments.

- (A) **Property Monuments.** In accordance with the Code of Virginia § 15.2-2241, as amended, permanent reference monuments shall be provided at all street corners, points where street lines intersect exterior boundaries, and at angle points and points of curvature and tangency in each street.
- (1) Monuments shall be:
 - (i) Made of a permanent material, such as stone or concrete;
 - (ii) 24 inches in length and 6 inches square with a brass bolt or plate at the top; and
 - (iii) Set not less than three (3) nor more than 9 inches below the finished grade and anchored or embedded to prevent movement.

- (2) The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the developer.
- (3) Upon completion of subdivision street, sewer, and other improvements, the developer shall make certain that all monuments required by this Ordinance are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Agent before any improvements are accepted by the City Council.
- (4) Any person, developer, builder, firm, or corporation shall take the necessary precautions to protect all monuments and metal markers during construction.

Division 4. Improvement Plans, Obligations, and Procedure.

Section 10-4-1. Improvement Plan.

- (A) The plans and specifications for all the required physical improvements to be installed in a subdivision shall be prepared by a surveyor or engineer duly authorized by the commonwealth to prepare such plans and specifications.
 - (1) Improvements to be shown on the plan include all required improvements and any water, sewer, electric light or power works, pipes, wires, fixtures or systems, or any telephone or community antenna television systems or the like, in, on or under any streets, alleys or easements within the subdivision, and all other general improvements to be provided by the subdivider or his Agent, including preparation of land by grading, clearing, filling, or drainage.
 - (2) To the extent that specifications have been established by the city or other public agency having jurisdiction concerning a particular type of improvement, they may be included by reference and need not be restated in relation to a particular plan.
- (B) Three copies of such plans and specifications shall be submitted to the Agent for local review, approval, inspection and recording, plus one (1) copy for return to the subdivider or his Agent, bearing certification of approval by the appropriate officials, if approved, or if disapproved, indicating the reasons for such disapproval.

Section 10-4-2. Obligations of Improvements.

- (A) All improvements and facilities required by this Article shall be installed by the developer at their cost and is not the responsibility of the locality, as outlined in the Code of Virginia § 15.2-2268, as amended, unless the City agrees to cost-sharing or other means of participation, and this agreement is formally entered into before final plat approval.
- (B) As allowed by the Code of Virginia, § 15.2-2243, as amended, the City of Emporia may require a subdivider or developer of land to pay the pro rata share of the cost of providing reasonable and necessary road improvements, sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by them but necessitated or required, at least in part, by the construction or improvement of the subdivision or development as per City of Emporia water and sewer regulations and Comprehensive Plan.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (C) Any improvements, which are installed and constructed as part of a subdivision or development, which are not required but will come under control of the City of Emporia, shall be installed and constructed in accordance with good engineering practices and approved by the Agent.
- (D) Inspection during and after installation of improvements will be made by representatives of the City of Emporia and approving agencies to ensure conformity with approved plans and specifications.
 - (1) The subdivider shall notify the City of Emporia in writing at least three (3) days before commencing construction or installation on any item of improvement and of each phase of street construction.
 - (2) The subdivider shall also notify the City of Emporia upon completion of each improvement item or phase of street construction.
 - (3) The subdivider shall provide adequate competent supervision on the project site during construction of the required improvements.
 - (4) The subdivider shall keep one (1) set of approved plans, profiles, and specifications on the project site at all times when work is being performed.

Section 10-4-3. Environmental Obligations.

The subdivider must disclose all information related to contamination and other adverse environmental conditions, pursuant to the Code of Virginia § 15.2-2242.

Section 10-4-4. Procedure for Plan Approval and Revisions.

The approval and revision process for plans shall follow those outlined in Article 3, Permits and Applications, Division 6, Site Plans of this Ordinance.

Division 5. Guarantees.

Section 10-5-1. Types of Guarantees.

- (A) The developer shall provide a guarantee to the City for acceptance by the Agent or City Attorney, such guarantee may be a:
 - (1) **Performance Bond.** A performance bond shall be executed by a surety company licensed to do business in the state of Virginia.
 - (2) **Letter of Credit.** A letter of credit shall be executed by a bank licensed to do business in the state of Virginia.
 - (3) **Cash Escrow.** The applicant shall provide to the City of Emporia a cash or cashier's check.

Section 10-5-2. Required to be Guaranteed.

- (A) Pursuant to the Code of Virginia § 15.2-2245 and as provided in this Ordinance, prior to approval of the final plat, all improvements required in this Article shall be constructed prior to the granting of the final plat approval by the Agent; or the subdivider shall furnish the Agent with a surety or

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

certified check for the amount of the estimated construction cost for the ultimate installation and initial maintenance of the improvements.

- (1) The bond shall be payable to, and held by, the City Council.
 - (2) In accordance with Code of Virginia § 15.2-2241 (B), as amended, any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this Article shall only apply to, or include the cost of, any facility or improvement shown or described on the approved Final Plat or plan of the project for which such guarantee is being furnished. The guarantee shall remain in full force and effect until released, in accordance with the provisions of this Ordinance.
- (B) **Guarantees for Dedicated Public Uses.** In accordance with Code of Virginia § 15.2-2241.1, as amended, provided the developer and the City Council have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.
- (C) **Guarantees for Other Improvements.** Other improvements requiring a guarantee include, but are not limited to:
- (1) Structures necessary to ensure stability of critical slopes, and for stormwater management facilities;
 - (2) Erosion and sediment control measures required as a condition to grading, building, or other permits;
 - (3) Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, paving, and private recreational facilities required by this Ordinance but not completed prior to issuance of a Certificate of Occupancy.

Section 10-5-3. Amount.

- (A) The guarantee shall be provided in the following amount:
- (1) Total estimated cost of construction based on unit prices, approved by the Agent;
 - (2) Plus, an additional 10% of the total estimated cost of construction to cover administrative costs, inflation, and potential damage to existing roads or facilities, as permitted by the Code of Virginia § 15.2-2241, as amended.

Section 10-5-4. Release.

- (A) As outlined in the Code of Virginia § 15.2-2245, as amended, the subdivider may apply for the periodic partial and final, complete release of any bond required under this Article.
- (B) **Periodic Partial Release.** Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Agent for a partial release of such guarantee.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (1) The Agent may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
 - (2) The Agent shall not refuse to make a periodic partial or final release of guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other guarantee.
 - (3) The Agent shall act upon the written request for a partial release within 30 days of receipt.
 - (4) If no action is taken by the Agent within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the developer.
 - (5) Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the City or other agency having jurisdiction.
- (C) **Final Release.** Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.
- (1) The Agent may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
 - (2) The Agent shall either accept the facilities, request and receive the defect bond, and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.
 - (3) If the Agent fails to act within the 30-day time period, then the applicant may make an additional request in writing for final release, sent by certified mail to the City Manager.
 - (i) The City Manager shall act within 10 working days of the request.
 - (ii) If no action is taken, the request shall be deemed approved and final release granted to the applicant.
- (D) For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, as amended, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the State agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.
- (E) **As-built Plans.** These plans shall be required prior to the release of any guarantee and the Developer shall certify that all agreed upon standards have been met.
- (1) If a periodic release is requested, the As-builts Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.
- (F) **Defect bonds.** A defect bond or other surety shall be provided at the time any improvement is proposed to be accepted for dedication, maintenance, or operation by the City.
- (1) The amount of the bond shall be five percent (5%) of the total construction cost of the improvement or a bond with surety satisfactory to the city attorney in an amount sufficient for coverage costs of remedy of defects appearing in such improvements within two (2) years.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (2) The defect bond shall be released at the end of two (2) years from the date of city acceptance of responsibility.
 - (i) Such release shall be in full if no defects have been found to exist, or if defects found to exist have been corrected by the owner or developer.
 - (ii) If defects found to exist have been corrected by action of the city, the costs of such action shall be deducted from the defect bond.
 - (iii) If defects found to exist within the two-year period have not been corrected after proper notice by the end of such period, the Agent shall make an estimate of cost of correction and such cost shall be deducted from the defect bond, and any balance remaining as a result of lesser actual than estimated cost shall be paid to the owner or developer.

Section 10-5-5. Extensions for Completion.

- (A) The maximum period for the developer to complete guaranteed improvements shall be 24 months, unless extended in accordance with Section 10-5-5 (B), below.
- (B) If guaranteed improvements are not completed in a timely manner acceptable to the City, the Agent may proceed via the provisions for default or allow an extension of time for the completion of facilities, not to exceed one (1) year, provided that:
 - (1) All surety consents have been acquired and approved by the City;
 - (2) The owner has submitted an acceptable revised schedule for completion; and
 - (3) Inspection of existing physical improvements is found to be satisfactory.

Section 10-5-6. Default.

- (A) In the event of default in the construction of guaranteed facilities, the Agent is authorized to take such action as may be required to protect the City of Emporia including, but not limited to:
 - (1) Draw or make demand on the owner or developer's security;
 - (2) Contract for the completion of the work, following the rules for public procurement; and
 - (3) Bring an action at law against the owner, developer, financial institution, or surety.

Division 6. Platting Requirements, Generally.

Section 10-6-1. Preapplication Meeting.

- (A) Before filing an application for approval of a subdivision plat, the subdivider shall confer with the Agent and agencies of the city as he deems advisable concerning the general proposal. Such action shall not require formal application, fees, or filing of a plat, and is not to be construed as application for approval of a plat in computing time limitations of approval.
- (B) The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance and the criteria and standards contained therein; and to familiarize the developer with the standards set forth in the City's Erosion and Sediment Control Ordinance, the Comprehensive

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

Plan, the parks and open space requirements, and the flood control, drainage, sewer, and water systems for the city. The subdivider shall, at the preapplication meeting, submit a sketch plan, legibly drawn at a suitable scale, containing the following information in accordance with the Code of Virginia:

- (1) The proposed subdivision in relation to existing community facilities, thoroughfares, and other transportation modes, shopping centers, manufacturing establishments, residential developments and easements, and existing natural and manmade features, such as soil types, vegetation, contours, and utilities in the neighboring area.
 - (2) The layout and acreage of streets, lots, and any nonresidential sites such as commercial, manufacturing, school or recreational uses within the proposed subdivision.
 - (3) The location of utilities in the proposed subdivision, if available, or the locations of the nearest sources for water and public facilities for the disposal of sewage and stormwater.
 - (4) The scale and title of the subdivision, a north arrow, and the date.
 - (5) The 100-year flood elevation data.
 - (6) Name, address, and phone number of the owners and the developer.
- (C) The Agent, at the preapplication meeting, may:
- (1) Determine the proposed subdivision plat to be a minor subdivision. Such a determination shall exempt the subdivider from the requirements of filing a preliminary plat or the preliminary supplementary information as provided in Division 7 of this Article;
 - (2) Determine the proposed subdivision plat to be a major subdivision. Such a determination shall require a preliminary plat for those that are more than 50 lots and all major subdivisions require review and approval by the Planning Commission and City Council;
 - (3) Advise the developer of existing City plans which might affect the proposed subdivision;
 - (4) Check the existing zoning of the tract and make recommendations if a zoning change is necessary or desirable; and
 - (5) Inspect the site or otherwise determine its relationship to existing and proposed streets, utility systems and adjacent land uses and determine any known problems.

Section 10-6-2. Approval Before Sale.

- (A) No person shall sell, convey, or record a deed to land subdividing off a parcel without making and recording a Final Plat of such subdivision and without fully complying with the provisions of this Article.
- (B) No Final Plat shall be approved unless all lots shown thereon comply with all applicable requirements of this Ordinance.

Section 10-6-3. Subdivision Name.

If applicable as determined by the Agent, every subdivision shall be given a name which shall not duplicate or closely approximate that of any other subdivision existing or planned.

Section 10-6-4. Separate Ownership.

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneous with the recording of the plat. Said deed is to be deposited with the Agent and held with the plat until the subdivider is ready to record same, and they both shall then be recorded together.

Section 10-6-5. Changes to Plats.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after approval has been endorsed, in writing, on the plat or sheets, unless authorization for such change has been granted in writing by the Agent.

Division 7. Preliminary Plat.

Section 10-7-1. Applicability.

- (A) In accordance with the Code of Virginia § 15.2-2260, all proposed subdivisions involving more than 50 lots must submit a Preliminary Plat for approval.
- (B) Preliminary Plats are not required for:
 - (1) Major Subdivisions which are less than 51 lots but include new street(s) or extension of street(s);
 - (2) Minor Subdivisions; or
 - (3) Boundary Line Adjustments.
- (C) For any of those instances in (B), above, the developer may have a preliminary conference and voluntarily provide a Plat, as outlined in Section 10-6-1, prior to submission of a Final Plat.

Section 10-7-2. Application for Approval.

- (A) The subdivider, after the preapplication stage, shall submit to the Agent an application in writing for approval of the preliminary plat and three (3) copies of the preliminary plat, together with all required supplementary information specified in this Article.
- (B) The preliminary plat, accompanied by the proper filing fee, as provided by the Emporia Fee Schedule, shall be considered officially filed on the day it is received in the office of the Agent and shall be so dated.

Section 10-7-3. Preliminary Plat Form and Content.

- (A) The preliminary plat shall be drawn to a scale of not less than 100 feet to the inch and shall be one (1) or more sheets not exceeding 24 by 36 inches in size. The plat and the supplementary

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

information shall be prepared by an engineer or surveyor duly authorized by the commonwealth to prepare such plan and shall contain the following information:

- (1) a Title block denoting the type of application, tax map number(s), the total number of sheets, and a signature line for the approving authority.
 - (2) Proposed name of the subdivision.
 - (3) Names, addresses, and phone numbers of the owner, subdivider, and registered engineer and surveyor who prepared the plat, and appropriate registration numbers and seals.
 - (4) Date of survey.
 - (5) Scale of the plat and north point.
 - (6) Vicinity map.
 - (7) Boundaries of the subdivision and its acreage.
 - (8) Names of adjacent subdivisions, owners of adjoining parcels of unsubdivided land, and the location of their boundary lines.
 - (9) Locations, widths, and names of all existing platted or proposed streets, railroad rights-of-way, easements, parks, permanent buildings, and corporation lines; location of wooded areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet.
 - (10) Location, names, and widths of proposed streets and easements.
 - (11) Layout, numbers, and approximate dimensions of each lot.
 - (12) Building setback lines with dimensions.
 - (13) Zoning classification of the tract and adjoining properties and a description of proposed zoning changes, if any.
 - (14) Existing sewers, water lines, culverts, and other underground structures, and power transmission poles and lines, within and adjacent to the tract.
 - (15) Proposed method of water supply and sewage disposal, location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system.
 - (16) All parcels of land to be dedicated for public use, pursuant to the Code of Virginia §15.2-2260.
 - (17) The 100-year flood elevation data.
 - (18) Drainage districts and burial sites, pursuant to the Code of Virginia §15.2-2258.
 - (19) The location of all monuments and their type of materials.
- (B) The following information shall be supplied unless waived by the Agent as insignificant to the application:

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (1) Statement of proposed use of lots, giving type and number of dwelling units and type of business or industry.
- (2) Topographic map at a suitable scale and properly correlated to the United States Geological Survey datum. The map shall indicate existing contours at an interval of not greater than two (2) feet if the slope of the ground is 15% or less; and not greater than five (5) feet where the slope is more than 15%.
- (3) Profile of each street with tentative grades.
- (4) Provision for collecting and discharging surface drainage and preliminary designs for any bridges or culverts.
- (5) Location and approximate dimension of all existing buildings.
- (6) Proposed methods to be utilized in minimizing potential erosion and sediment, both during construction and upon completion of the subdivision. Such plan and control methodology shall be developed in accordance with Town of Emporia Code of Ordinances, Chapter 34, Article 4. Where duplication of required information exists between this section and others of this Ordinance, such information need only be supplied once.
- (7) For commercial and industrial development, the location, dimensions, and approximate grade of proposed parking and loading areas, alleys, pedestrian walks, streets, and the points of vehicular ingress and egress to the development.
- (8) Description of proposed covenants and restrictions.

Section 10-7-4. Review of Preliminary Plats.

- (A) In addition to the items below, the Agent, Planning Commission, and City Council will act accordingly with regard to timeframes of resubmittals and other agency reviews, as outlined in the Code of Virginia § 15.2-2259, as amended.
 - (1) The Agent shall record the date of submission and shall, only after determining that all Preliminary Plat requirements and fees have been met, schedule the Plat for review by the Planning Commission at a meeting to be held within 60 days of submission.
 - (2) Upon receipt of a complete submission, the Agent shall forward copies of the preliminary subdivision plat and related data to such officials and agencies as may be necessary for the purpose of study and recommendation. Recommendations from officials and agencies shall be submitted to the Agent not later than 15 days before the Planning Commission meeting at which the Preliminary Plat will be reviewed.
 - (3) After receipt of reports from such officials and agencies, the Agent shall incorporate all comments together with the results of the staff review and forward the same with the Preliminary Plat to the Planning Commission for consideration.
- (B) Review by Planning Commission and City Council.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (1) The Planning Commission shall transmit its recommendation to the City Council. If recommended for disapproval, the Planning Commission or Agent shall set forth in writing the reasons for denial, with reference to the specific Section(s) of the Zoning and Subdivision Ordinance with which it does not comply and shall state what corrections or modifications will be required for approval.
 - (2) The City Council shall approve or disapprove all plats referred to it by the Planning Commission. If disapproved, the Council or Agent shall set forth in writing the reasons for denial, with reference to the specific Section(s) of the Zoning and Subdivision Ordinance with which it does not comply and shall state what corrections or modifications will be required for approval.
- (C) Effect and Validity.
- (1) Approval of a Preliminary Plat shall not constitute approval of the Final Plat. It shall be deemed as an expression of approval of the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat.
 - (2) As dictated by Code of Virginia § 15.2-2260, as amended, an approved Preliminary Plat shall be valid for a period of five (5) years, provided the developer:
 - (i) Submits a Final Plat for all or a portion of the property within one (1) year of such approval; and
 - (ii) Thereafter diligently pursues approval of the Final Plat. “Diligent pursuit of approval” means that the developer has incurred extensive obligations or substantial expenses relating to the submitted Final Plat or modifications thereto.
 - (iii) If, as determined by the Agent, approval of the Final Plat is not diligently pursued after a period of three (3) years, the Agent shall provide the subdivider with 90 days written notice by certified mail that because approval has not been diligently pursued, the approval of the Preliminary Plat has been revoked.
 - (3) Once an approved Final Plat for all or a portion of the property is recorded, the underlying Preliminary Plat shall remain valid for a period of five (5) years from the date of the latest recorded Final Plat of subdivision for the property.

Section 10-7-5. Changes to Preliminary Plats.

(A) Technical Changes.

- (1) If it becomes necessary for an approved Preliminary Plat, or accompanying data sheets, to be changed, the Agent may, at the applicant’s request, administratively approve technical changes to such Plat. The nature of technical changes are those that:
 - (i) Do not alter the basic design or layout of the subdivision;
 - (ii) Do not alter the functional interrelationship of the individual features of the subdivision to each other and surrounding properties; and

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (iii) Comply with the provisions of this Article or other applicable Articles of this Ordinance, in effect at the time of Preliminary Plat approval:
- (2) Technical changes include:
 - (i) Changes to correct demonstrated errors;
 - (ii) Changes to name of the subdivision or the name of a street;
 - (iii) Adjustment of the location of lot lines;
 - (iv) Relocation or addition of utility easements;
 - (v) Changes in response to amendments to City ordinances; or
 - (vi) Other changes which are clearly of a similar technical nature.
- (3) A request for approval of a technical change shall be made in writing to the Agent on an application provided by the Agent. The request shall fully describe the change and provide reasonable justification for the granting of the change.
- (4) The Agent shall either approve or disapprove the change within 10 days of the request.
- (B) **Major Changes.** Any change to an approved Preliminary Plat or accompanying data sheets, beyond those technical changes provided in (A), above, shall require review of the Plat under the procedures of this Ordinance for original review and approval.

Division 8. Final Plat.

Section 10-8-1. Applicability.

- (A) **When Required.** Final Plats are required for all subdivisions.
 - (1) If a subdivision requires a Preliminary Plat, as provided in Section 10-7-1 of this Article, Final Plat submission shall be after the Preliminary Plat is approved.

Section 10-8-2. Final Plat Form and Content.

- (A) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq.
- (B) The final plat shall be legibly drawn in waterproof black ink on tracing cloth or other material of equal permanence. It shall be drawn at a scale not less than 100 feet to the inch, and shall be one (1) or more sheets 24 by 36 inches in size. If more than one sheet is needed, each sheet shall be numbered and the relation of one sheet to another clearly shown.
- (C) The final plat and the supplementary information shall be prepared by an engineer or surveyor duly authorized by the commonwealth to prepare such plan, and in addition to the preliminary plat requirements specified in Section 10-7-3 of this Article, the final plat shall contain the following:

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (1) A vicinity map at a scale of not less than 2,000 feet to the inch shall be shown on, or accompany, the final plat. This map shall show all existing subdivisions, roads, and tract lines and the nearest existing thoroughfare.
- (2) Sufficient data to readily determine the location, bearing and length of every street line, lot line, block line and boundary line and to reproduce the same on the ground from permanent monuments. Linear dimensions shall be in feet and decimals to the closest 1.01 of a foot; angular measurements shall be expressed by bearings or angles. All dimensions, both linear and angular, shall be determined by an accurate control survey which must close and balance within a limit of one (1) foot in 5,000 feet.
- (3) The radii, central angles, tangent distances, tangent bearings, and arc lengths of all curves. The curve data shall be expressed by a curve table lettered on the face of the plat, each curve being tabulated and numbered to correspond with the respective numbered curves shown throughout the plat.
- (4) Lots numbered in numerical order. In tracts containing more than one (1) block, the blocks shall be lettered in alphabetical order. In case there is a resubdivision of lots in any block, such resubdivision shall be numbered numerically beginning with the number following the highest lot number in the block.
- (5) The location and description of permanent reference monuments.
- (6) All bearings, referred to the true meridian where geodetic control has been completed. Where the magnetic meridian is used, the declination shall be stated.
- (7) All parcels of land to be dedicated for public use, pursuant to the Code of Virginia §15.2-2260.
- (8) The names of all streets and the name of the subdivision, location by section, range, and jurisdiction.
- (9) In accordance with the Code of Virginia § 15.2-2258, as amended, the location of any drainage district, grave, object or structure marking a place of burial shall be identified.
- (10) The final subdivision plat shall also contain a statement to the effect that the subdivision (insert a correct description of the land subdivider) as appears on the plat is with the free consent and in accordance with the desire of the owners or proprietors of the land subdivided and the trustees in any deed of trust, mortgage or other instrumentality imposing a lien upon such land, if any, which shall be signed by such owners, proprietors and trustees, and shall be duly acknowledged before some officer authorized to take acknowledgement of deeds.
- (11) If a zoning change is involved, certification from the Agent shall be required indicating that the change has been approved and is in effect.
- (12) Certification shall be required showing that all required improvements have been either installed or approved by the proper officials or agencies, and that a bond or other surety has been furnished assuring installation and initial maintenance of the required improvements.

Section 10-8-3. Review of Final Plats.

- (A) The Agent will act accordingly with regards to timeframes of resubmittals and other agency reviews, as outlined in the Code of Virginia § 15.2-2259, as amended.
- (1) Upon receipt of all necessary data, recommendations, and applications, a Final Plat shall be reviewed by the Agent to determine its conformity to this Ordinance, the Comprehensive Plan, and all other ordinances and regulations in force which affect subdivisions. In addition, based on the type of plat the following apply:
 - (i) Major Subdivisions of more than 50 lots.
 1. The Agent shall also review based on the City Council Preliminary Plat approval.
 2. A final plat may constitute only a portion of the area contained in the approved preliminary plat provided that the public improvements constructed in the area covered by the plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, and convenience of the proposed residents therein and for adequate access to contiguous areas.
 - (ii) Major Subdivisions of less than 51 lots.
 1. The Agent shall provide the plat for recommendation to the Planning Commission and approval by the City Council.
 - (iii) Minor Subdivisions and all other plats, as provided in Section 10-1-5, Applicability do not have to be reviewed by Planning Commission and Town Council unless the Agent deems it of such complex nature to require such review.
 - (2) The developer shall transmit copies of the Final Plat, or appropriate portions thereof, to the City Manager, Utility Department Heads, appropriate utility companies, Soil Conservation Agent, and other pertinent City and State Officials and agencies as deemed necessary by the Agent for recommendations.
 - (3) These recommendations shall be submitted to the Agent within 10 days.
 - (4) The Agent shall confirm that provisions for required guarantees, as provided in Division 4, Improvement Plans, Obligations, and Procedure and Division 5, Guarantees, of this Article, are met.
 - (5) The Agent shall within 60 days of its submission, unless the time is extended by the Agent in agreement with the developer, either approve or disapprove the Final Plat.
 - (6) After the Agent reviews the Final Plat, such review and the date thereof shall be noted on the plat.
 - (7) If the plat is disapproved, the Agent shall set forth in writing the reasons for denial, with reference to the specific Section(s) of the Zoning and Subdivision Ordinance and/or the City Council approved Preliminary Plat with which it does not comply and shall state what

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

corrections or modifications will be required for approval. The Agent shall maintain a copy of such record and shall forward a copy to the subdivider.

- (8) The Agent shall act on any proposed plat that it has previously disapproved of within 45 days after the plat has been modified, corrected and resubmitted for approval.
- (9) If the Agent does not act in accordance with the time constraints or disapproves a plat and the subdivider contends that the disapproval was not properly based, then the subdivider may seek approval as provided in the Code of Virginia § 15.2-2259, as amended.
- (B) The signature of the Agent approving the plat shall constitute final approval of the platting of the area shown on the final plat, but the owner shall cause such plat to be recorded in the Office of the Clerk of the Circuit Court of Greensville County.
- (C) Approval of the final plat shall not be deemed the acceptance by the City of Emporia of any street, alley or other public space shown on the plat for maintenance, repair or operation thereof.

Section 10-8-4. Recording.

- (A) As required by the Code of Virginia, §15.2-2254, as amended, any owner or developer of any tract of land situated within the City of Emporia who subdivides the same shall cause a plat of subdivision to be made and recorded in the Office of the Clerk of Circuit Court of Greensville County.
 - (1) However, no such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Agent in accordance with the regulations set forth in this Article.
- (B) As directed by the Code of Virginia § 15.2-2241 (8), as amended, after the Agent has approved the final plat, the subdivider shall file such plat for recordation in the Clerk's Office of the Circuit Court within 6 months after approval thereof; otherwise, such approval shall become null and void.
 - (1) However, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the City Council or Agent, or where the developer has furnished a guarantee to the City Council or Agent by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one (1) year after final approval or to the time limit specified in the approved guarantee agreement, whichever is greater.
- (C) To entitle a final plat to be entered in the proper books in the Office of the Clerk of Circuit Court of Greensville County, the certificate of consent as outlined in the Code of Virginia, § 15.2-2264, as amended, together with the certificates of approval of the Agent, shall accompany it.
 - (1) These certificates shall be lettered or printed legibly on the face of the final plat. After the final plat shall have been approved by the Agent, the Clerk of Circuit Court shall sign the plat and cause a certified copy of the resolution approving such plat to be attached to the plat and returned to the Subdivider.

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

- (D) A recorded plat or final site plan shall be valid for a period of not less than five (5) years from the date of approval of said plat or plan, as required by the Code of Virginia § 15.2-2261, as amended. If a recorded subdivision plat dedicates real property to the City of Emporia, then the approved final subdivision plats shall remain valid indefinitely.
- (E) Recordation of plats shall act as transfer of streets, termination of easements and rights-of-way to the City of Emporia as outlined in the Code of Virginia § 15.2-2265, as amended. However, nothing shall obligate the City of Emporia to install or maintain such facilities unless otherwise agreed to by the City.
- (F) If the provisions of a recorded plat or final site plan, which was specifically determined by the City Council and not its Agent, to be in accordance with the zoning conditions previously approved pursuant to the Code of Virginia §§ 15.2-2296 through 15.2-2303, as amended, conflict with any underlying zoning conditions of such previous rezoning approval, the provisions of the recorded plat or final site plan shall control, and the zoning amendment notice requirements of the Code of Virginia § 15.2-2204, as amended, shall be deemed to have been satisfied.

Division 9. Vacation of Plats.

Section 10-9-1. Vacation of Plats.

- (A) **Vacation.** Pursuant to Code of Virginia, § 15.2-2278, as amended, any recorded plat of subdivision may be vacated as outlined in the items below, taken from the Code of Virginia, § 15.2-2270 et seq, as amended. The effects of such vacations are outlined in the Code of Virginia, § 15.2-2274, as amended.
- (B) **Boundary lines.** As allowed by the Code of Virginia, § 15.2-2275, as amended, the Agent may approve the boundary lines of any lot or parcel of land to be vacated, relocated, or altered as part of an otherwise valid and properly recorded plat of subdivision or re-subdivision:
 - (1) Approved as provided in this Article; or
 - (2) Properly recorded prior to the applicability of this Article and executed by the owner or owners of the land.
 - (3) The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.
- (C) **Interest to the City of Emporia.** Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to the City of Emporia as a condition of the approval of a site plan may be vacated by the City Council according to the two methods listed in the Code of Virginia, § 15.2-2270, as amended.
- (D) **Before sale of lot.** An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by the City Council utilizing the procedures set forth in the Code of Virginia, § 15.2-2271, as amended.

City of Emporia Zoning & Subdivision Ordinance
Article 10 – Subdivision

- (E) **After sale of lot.** An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by the City Council utilizing one of the two methods specified in the Code of Virginia, § 15.2-2272, as amended.
- (F) **Duties of the Clerk.** According to the Code of Virginia, § 15.2-2276, as amended, the Clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

Division 10. Enforcement, Violations, and Fees.

Section 10-10-1. Enforcement.

- (A) As provided in the Code of Virginia § 15.2-2254, as amended, the following applies:
 - (1) No person shall subdivide land without making and recording a Final Plat of the subdivision and without fully complying with the provisions of the Code of Virginia and this Ordinance.
 - (2) No Final Plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the Agent or City Council in accordance with the provisions of this Article.
 - (3) No person shall sell or transfer any land of a subdivision, before a Final Plat has been duly approved and recorded as provided by this Article, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance. However, nothing contained in this Ordinance shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
 - (4) As of the effective date of this Ordinance, the clerk of the Circuit Court shall not file or record a Final Plat of a subdivision until such plat has been approved as required by this Article. Penalties provided by Code of Virginia § 17.1-223, as amended, shall apply to any failure to comply with the provisions of this Section.
 - (5) On lands where a Final Plat is required to be approved and recorded as provided in this Article, until compliance with this Article and other applicable provisions of this Ordinance are met:
 - (i) No Building Permit shall be issued, nor shall construction be authorized by the City; and
 - (ii) No Certificate of Occupancy shall be issued regarding the use of any structure or land.

Section 10-10-2. Violation and Penalty.

- (A) Violations of this Article shall be in accordance with Article 2, Administration, of this Ordinance.
- (B) The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

Section 10-10-3. Fees.

- (A) Pursuant to the Code of Virginia § 15.2-2273, there shall be a charge to compensate the City for the costs incurred during the examination and approval or disapproval of every subdivision plat or

City of Emporia Zoning & Subdivision Ordinance

Article 10 – Subdivision

lot required to be reviewed by the Agent or City Council. The applicant should refer to the City of Emporia Schedule of Fees to determine the charge.

- (B) The City of Emporia retains authority to charge a fee for the plat vacation process, pursuant to the Code of Virginia, § 15.2-2273.
- (C) All fees shall be payable to the Treasurer of the City of Emporia, in such amount as set by City Council.

ARTICLE 11. – Definitions.

Division 1. Word Usage.

Section 11-1-1. General.

(A) For the purposes of this Ordinance, certain words or terms shall be defined as follows:

- (1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.
- (2) The word "shall" or "must" is always mandatory; the word "may" is permissive.
- (3) The words "used for" include "designed for," "arranged for" or "occupied for."
- (4) The word "building" includes "structures" and shall be construed as if followed by the phrase "or part thereof."
- (5) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization" or other similar entities.
- (6) The word "erected" shall be deemed also to include "constructed, reconstructed, altered, placed, or moved".
- (7) The word 'State' means the Commonwealth of Virginia.
- (8) The word 'City' means the City of Emporia, Virginia.
- (9) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building".
- (10) Unless otherwise specified, the term 'day' means a calendar day.
- (11) Unless otherwise specified, all distance shall be measured horizontally and at right angles to the line in relation to which the distance is tied.
- (12) The terms "architect," "engineer," "landscape architect," and "surveyor," or other profession listed, refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.
- (13) The words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

Division 2. General Terms.

Section 11-2-1. General.

Access. The right of pedestrians and vehicles to cross to or from a public right-of-way and private property.

Accessory Structure. A building or structure subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

which is not attached by any part of a common wall or roof to the main building. The term "accessory structure" also includes, but is not limited to, portable storage containers, gazebos, carports, private greenhouses, and sheds which may be modular in nature and are delivered to the site and which may or may not have a foundation. Accessory building or structure does not include motorhomes, travel trailers, or other recreational vehicles.

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

Act of God. Any natural disaster or phenomena including, but not limited to, a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire.

Adaptive Reuse Residential. The redevelopment and adaptive reuse of existing structures to a multiple family dwelling. In the case of adaptive reuse, the existing structure was originally designed for fully-commercial uses, or ground-level commercial use --with upper-floor residential uses.

Adjacent. To be separated by common property lines, lot lines, streets, or roads; also known as: abutting, adjoining, contiguous, or touching.

Administrator. The official, or an authorized agent thereof, responsible for administering and enforcing the Zoning Ordinance of the City, also referred to in this Ordinance as the Zoning Administrator.

Adult Use. Any premise from which minors are excluded and in which features the viewing, retail sale, and/or rental of books, magazines, newspapers, digital media, movie films, devices, or other photographic or written productions. Additionally, any premise from which minors are excluded and operates as a nightclub, bar, restaurant, or similar establishment that regularly features live performances that have a dominant theme or purpose intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

Agent. The representative of the city council who has been appointed to serve as the agent of the council in approving the subdivision plats.

Alley. A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.

Amateur Radio Tower. Amateur radio antennas means a freestanding or building mounted structure, including any base, tower or pole, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

Amendment. A change in the text or in the official Zoning Map which is a part of this Ordinance.

Application. A request completed on a form or forms with all accompanying documents, exhibits, and fees required, indicating a desire to be granted a permit, amendment, or other action under the provisions this Ordinance.

Area, buildable. The portion of a lot or site, exclusive of required setbacks, landscaping, or open space within which a structure may be built.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Area, gross. The total area within a lot before dedication for roads, open spaces, or other public uses – but not including rights-of-way, easements owned by others, or floodplains/wetlands within a development.

Arterial street or major highway. A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route.

Automobile Sales and Rental. A lot arranged, designed or used for the storage and display for sale, lease, or rent of any new or used automobile capable of independent operation or any type of boat, travel trailer, and recreation vehicle, provided the travel trailer and recreation vehicle is unoccupied, and where warranty repair work and other major and minor repair service is done wholly within an enclosed building as an accessory use.

Automobile Service. A facility for major body, engine, and transmission repairs of automobiles, commercial vehicles, or trucks, and trailers, but does not include a junkyard as defined by this Ordinance. Typical uses include, but are not limited to, automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, painting, or other similar uses where installation or repair activities are conducted.

Bare-root planting. Planting of perennial plants whose roots are not wrapped via balling and burlap, and whose roots are exposed when planted.

Base floor or lowest floor. The level of the lowest floor of a building, or basement, if included in the building.

Basement. Any area of the building having its floor surface sub-grade (below ground level) on any side.

Bed and Breakfast. A single family dwelling, that is occupied by the owner or agent who resides on premises, that provides temporary lodging. Food service shall be at least one meal per day, to each person to whom overnight lodging is provided.

Bicycle parking rack. A stationary fixture to which a bicycle can be supported upright, provide two points of contact, and be securely attached (typically using a bicycle lock) to prevent theft.

Block. An area of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of the City of Emporia.

Board of Zoning Appeals (BZA). A quasi-judicial board appointed to review appeals and requests for variances made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance and to authorize, upon appeal, variances from the terms of this ordinance when justified by special conditions.

Boundary. A line, which may or may not follow a visible feature, that defines the limits of a geographic entity such as a zoning district, block, census tract, city, county, or place.

Boundary Line Adjustment. The alteration of property lines between two adjacent lots.

Brewery, Distillery, or Winery. An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of more than 1,000 barrels per year; or primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of more than 5,000 gallons of finished product per year; or primarily engaged in the crushing,

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

fermentation, bulk aging/storage, and bottling of grapes that are primarily brought in and not grown on-site, at a capacity of more than 5,000 gallons per year. The development may include other accessory uses such as a standard restaurant, tasting room, or live entertainment.

Brewery, Distillery, or Winery, Micro- An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of not more than 1,000 barrels per year; or primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of not more than 5,000 gallons of finished product per year; or primarily engaged in the crushing, fermentation, bulk aging/storage, and bottling of grapes that are primarily brought in and not grown on-site, at a capacity of less than 5,000 gallons per year. The development may include other accessory uses such as a standard restaurant, tasting room, or live entertainment.

Buffer, transitional. A strip of land, with plantings, designed to set apart and protect one space or activity from an adjacent space or activity.

Building. Any structure having a roof supported by columns, walls, or other means. If separated by dividing walls from the ground up without openings, each portion of a building shall be deemed a separate building.

Building height. The vertical distance from the level of the curb, or established curb grade that is opposite the front of the structure to the highest point of the roof or the median between ridge and hip, as shown in Figure 4.1 of Article IV.

Business Support Services. The use of land for the sale, rental, or repair of office equipment and supplies or the provision of services used by office and service establishments. Typical uses include, but are not limited to, office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, or information technology support services.

Caliper. A measure of tree size, determined by measuring the diameter of the tree at breast height.

Canopy (attached). An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

Canopy (freestanding). A freestanding structure composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

Car Wash. A structure or portion thereof, standalone or accessory to gas station, containing facilities for washing and/or waxing motor vehicles, typically using production-line automated or semiautomated methods for washing, whether or not employing a chain conveyor, blower, steam cleaning or similar mechanical devices operated either by the patron or others. Car washes are a separate use and not treated as accessory to gasoline stations, automobile service, or other similar uses.

Catering Facility. An establishment in which food and meals are prepared on premises, and where such food and meals are delivered to another location for consumption for a fee.

Cemetery, Public. Any land or structure used or intended to be used for the interment of human remains. Additionally, a cemetery includes mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas (Code of Virginia § 15.2-2288.5). The sprinkling of ashes or their

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

Certificate of Occupancy. The permit issued by the Building Official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

City Council. The City's governing body. City Council members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing City policy. The City Council adopts the comprehensive plan, zoning, and subdivision regulations.

Club. A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

Collector street. A street which primarily carries traffic from local street to arterial streets, including the principal entrance and circulation routes within residential subdivisions.

Commercial Laundry. Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Commission. See Planning Commission.

Communications Services. An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms. Excluded from this use type are facilities classified as utility services, major or broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

Community/Cultural Center. A place, structure, or other facility used for the public display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, arts performance venues, recreational programs, cultural centers, or interpretive sites, but does not include commercially-operated theatres and event venues.

Comprehensive plan. The document as required by the Code of Virginia § 15.2-2223 et seq. and as approved and adopted by the City Council.

Concept Plan. A generalized plan indicating the boundaries of a tract or tracts of land, and presenting the general arrangement of proposed facilities, uses, structures, and improvements.

Conditional use permit. A permit issued by the City Council after recommendation by the Planning Commission for a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration and restrictions relating to its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

Conditional Zoning. A method for rezoning that permits the reasonable and orderly development and use of land with special restrictions in those situations in which unique, specific circumstances indicate that the existing zoning district regulations are not adequate.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Construction Material Sales. Establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but this use shall not include automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

Construction Temporary Uses. A manufactured home or other similar structure used as a temporary office to meet a short-term need in conjunction with a construction project.

Construction Yard. Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

Consumer Repair Services. An establishment or place of business primarily engaged in the provision of repair services to individuals, rather than businesses, but this use shall not include automotive and heavy equipment repair use types. Typical uses include repair of electronics, shoes, watches, jewelry, or musical instruments, vacuum cleaners, power tools, electric razors, and refrigerators.

Crematorium. A commercial establishment that specializes in the cremation of corpses, including pets.

Cul-de-sac. A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

Day Care Center. Any facility operated for the purpose of providing care, protection, and guidance during only part of a 24 hour day. This term includes nursery schools, preschools, day care centers for individuals, including adults, and other similar uses. Excluded are public and private educational facilities, family day home, or any facility offering care to individuals for a full 24 hour period.

Developer. Any person, group or persons, corporation, or other legal entity who, having an interest in land directly or indirectly sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development any lot, tract, parcel, site, unit or interest for residential, commercial or industrial development.

Development. Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Density. The number of dwelling units that are allowed on a given unit of land, which shall be permitted to include dedicated streets contained within the development. Density is determined by dividing the total number of residential units or lots to be located on the parcel by the area of the base parcel.

District. See Zoning District.

District, Commercial. A zoning district intended primary for commercial activity, which allows specified commercial, recreational, and public uses; includes DT, C-1, and C-2 districts.

District, Industrial. A zoning district intended primary for industrial activity, which allows specified industrial and other uses; includes I-1 and I-2 districts.

District, Overlay Zoning. A district which addresses special land use circumstances or environmental safeguards by superimposing additional standards and regulations over the underlying Primary Zoning District. Permitted uses in the underlying Primary Zoning District shall continue subject to compliance with the regulations of the Special Zoning District.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

District, Planned Development. A zoning district that is designated for and contains a Planned Development, as defined by this Ordinance.

District, Primary Zoning. A district which includes a specifically delineated area in the City, within which regulations and requirements uniformly govern the use, placement, spacing, size, and other requirements of land and structures.

District, Residential. A zoning district intended primary for residential activity, which allows specified residential, recreational, and public uses; includes R-1, R-2, R-3, and R-MH districts.

Drive-Through Window. Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Driveway. A private access route from a public street, private road, or alley to the interior of a lot or parcel of land.

Dwelling, Manufactured Home. A "single-wide," "double-wide," or "triple-wide" structure that is transportable in one (1) or more sections, is eight (8) feet or more in width and forty (40) feet or more in length in the traveling mode, is built on a permanent chassis and is designed for use as a dwelling unit with or without a permanent foundation when connected to the required utilities. For purposes of this Ordinance, a Manufactured Home must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR Part 3280, including the ANSI standards incorporated therein by reference. For purposes of this chapter, a Manufactured Home must bear a data plate declaring that it meets HUD standards.

Dwelling, Multi-Family. A building arranged or designed to be occupied by three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type but not limited to would be garden apartments, low-and high-rise apartments, apartments for elderly housing, and condominiums.

Dwelling, Single Family. A site built or modular building designed for and used exclusively as one dwelling unit for permanent occupancy by one family, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

Dwelling, Townhouse. A row of three or more dwelling units, each separated from one another by a continuous vertical wall without opening from basement floor to roof between units, which is commonly known as a firewall, and each on a separate parcel.

Dwelling, Two-Family. Also referred to as a duplex; a building arranged or designed to be occupied by two families, having only two dwelling units.

Educational Facility, College, University, Business or Trade. An educational institution authorized by the Commonwealth of Virginia toward certificate, license, associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls and other physical plants associated with the college, university, business or trade school use.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Educational Facility, Primary or Secondary. A public, private, or parochial school offering instruction at the primary, elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Equipment Sales, Service, and Repair (Heavy). Establishments primarily engaged in the sale, rental, or repair of tools, tractors, construction equipment, commercial equipment, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Event Venue. A business where the primary use is to host events such as weddings, wedding receptions, bridal receptions, rehearsal luncheons and dinners, anniversary celebrations, galas, birthday parties, family reunions, ordinations, funeral receptions, fundraisers, retirement parties, corporate meetings, conferences, trade shows, speaker luncheon series, auctions, museum exhibits and similar events. An event venue may be indoors or outdoors. Event venues may also be accessory or ancillary uses to other uses, such as, hotels or restaurants. Event venues shall not include government and military services.

Family Day Home (1-4 Individuals). A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for up to four children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

Family Day Home (5-12 Children). A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for between five and twelve children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

Family Health Care Structure, Temporary. As required by and pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, or in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.).

Farmers Markets. Farmers market means retail sale of fresh fruits and vegetables, and other food and related items, at a facility with spaces occupied by several different temporary tenants on a short-term or daily basis; indoor or outdoor.

Fence. A barrier of man-made construction preventing movement across a boundary, including walls that do not support a roof, but not retaining walls.

Financial Institution. An establishment whose principal purpose is the provision of financial services, including but not limited to, an insured depository institution, a credit union, a Federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Fleet vehicle. A vehicle that is owned or leased by a business, government agency, or other organization rather than by an individual.

Footcandle. A measure of light falling on a surface. One footcandle equals the amount of light generated by one candle shining on one square foot surface located 1 ft. away. Footcandle measurements must be made with a photometric light meter.

Frontage, building. The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

Funeral Home. A building used for and engaged in undertaking services such as preparing the dead for burial and arranging and managing funerals.

Gas Station. Any place of business with fuel pumps and underground or aboveground storage tanks that provides fuels and oil by individual sale for motor vehicles and equipment. A store associated with automobile fuel sales shall be considered a gas station.

Glare. The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance.

Governing Body (also referred to as Legislative Body). The City Council of Emporia, Virginia.

Grade, established curb. The elevation of the established curb, or centerline of the street, in front of a building or structure.

Group Home, Large. As provided by Code of Virginia § 15.2-2291, a licensed residential facility in which nine or more mentally ill, intellectually disabled, or developmentally disabled persons or more than nine aged, infirmed or disabled persons reside, with one or more resident counselors or other resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia §54.1-3401. Such facility shall be licensed by the Commonwealth of Virginia Department of Behavioral Health and Development Services (Code of Virginia §15.2-2291).

Group Home, Small. As provided by Code of Virginia § 15.2-2291, a licensed residential facility in which no more than eight mentally ill, intellectually disabled, or developmentally disabled persons or no more than eight aged, infirmed or disabled persons reside, with one or more resident counselors or other resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia §54.1-3401. Such facility shall be licensed by the Commonwealth of Virginia Department of Behavioral Health and Development Services (Code of Virginia §15.2-2291).

Hazardous Materials, Storage and Distribution. The storage and/or distribution of any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety of the environment.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

High-pressure sodium vapor. A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor. High-pressure sodium vapor lamps emit a broader spectrum of light than low-pressure lamps.

Home Occupation. Any occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling and which is carried on wholly or in part within a main building or accessory building by a member of the immediate family residing in the home.

Hospital. Pursuant to § 32.1-123 of the Code of Virginia, any facility licensed in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as children's hospitals, sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

Hotel. The use of land for transitory lodging or sleeping accommodations offered to transients for compensation, typically by the day or week. Typical uses include hotels, motels, travel lodges, or hostels, but not including a Bed and Breakfast or Short-term Rental.

Improved surface. A surface made of asphalt, concrete, brick, stone pavers, or an equivalent hard, dustless, and bonded material.

Interior aisle. A portion of a parking area which abuts, on one or more sides, parking spaces to which it provides access, and which is not used for the parking of vehicles.

Junkyard/Salvage Yard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling scrap metal, or for the maintenance or operation of an automobile graveyard. The definition does not include litter, trash, and other debris scattered along or upon roadways, or temporary operations and outdoor storage of limited duration.

Jurisdiction. The area or territory subject to the legislative control of the Governing Body.

Kelvin light color temperature. A light bulb color temperature's unit of absolute temperature, noted by the symbol K. The higher the Kelvin rating, the whiter the light will be. The Kelvin scale is generally as follows: 2700K (warm incandescent), 3000K (warm white halogen) and 3500K (household fluorescent).

Kenel, Commercial. Any location where raising, grooming, caring for, dog day care services, or boarding of three or more dogs, cats, or other small animals over four months of age for commercial purposes is conducted.

Laboratory, Research, and Development. Laboratory, research and development means an establishment whose principal purpose is the research, compounding and/or packaging of scientific products, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes and light manufacturing may be associated with this use.

Landscaping. The finishing and adornment of unpaved yard areas. Materials and treatment include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features, and contouring of the earth.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Life Care Facility. A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents.

Light emitting diode. A semiconductor light source that emits light when current flows through it. Also referred to as an LED.

Loading space. A space within the main structure or on the same lot therewith, providing for the standing, loading, or unloading of trucks and other vehicles, and which has access to a street, alley, or other appropriate means of ingress and egress.

Lot. An occupied or vacant parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law.

Lot, corner. A lot abutting on two or more streets at their intersection.

Lot, double frontage. An interior lot that has frontage on two streets; sometimes referred to as a through lot.

Lot, interior. Any lot other than a corner lot.

Lot, irregular. A lot whose location, shape, or orientation is such that the application of general measurements cannot be reasonably applied; an irregular lot typically has opposing property lines that generally are not parallel.

Lot, regular. A lot that is located, shaped, and oriented to adjacent lots in such a way that the application of general measurements can be reasonably applied, and the location of front, side, and rear setbacks is logically determined by, and related to, adjacent streets and setback patterns.

Lot area. The total horizontal area included within the lot lines of a lot.

Lot coverage. The percentage of a lot, when viewed from above, that would be covered by a structure or structures (or any part thereof), including driveways, decks, stairs, eaves, and other improvements.

Lot depth. The distance between the front lot line and rear lot line of a lot, measured along a straight line.

Lot frontage. The horizontal distance between the side lot lines of a lot, measured at the street or road right-of-way.

Lot line, front. A lot line connecting the foremost points of the side lot lines and delineating the lot from the abutting street or road.

Lot line, rear. A lot line which is opposite and most distant from the front lot line and connecting the rearmost points of the side lot lines.

Lot line, side. Any lot line not considered a front or rear lot line.

Lot of record. A lot shown on a plat or other legal description of which has been recorded in Circuit Court Clerk's Office of Greensville County, Virginia, prior to the effective date of this Ordinance.

Lot width. The horizontal distance between the side lot lines of a lot, measured at the front setback.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Low-pressure sodium vapor. A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor. Low-pressure sodium vapor lamps only give monochromatic yellow light and so inhibit color vision at night.

Luminaire. A complete electric light unit.

Luminaire, directionally shielded. An outdoor light fixture that contains visors, louvers, and other types of shields or lenses designed to direct light onto a targeted area and to minimize stray light.

Luminaire, full cut-off. An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected down below the fixture.

Luminaire, outdoor. A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign

Manufactured Home Park. An area designed, constructed, equipped, operated, and maintained for the purpose of providing spaces for two or more manufactured homes intended for use as occupied dwelling units and meeting or exceeding all applicable requirements for manufactured home parks as stipulated by this Ordinance and the Commonwealth of Virginia.

Manufactured/Modular Home Sales. Establishments engaged in the sale or rental of manufactured and modular homes.

Manufacturing, Heavy. The processing and/or converting of raw, unfinished material and/or products into articles or substances of a different character or for use for a different purpose. Uses may have significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in manufacturing or other processes. Uses may include, but are not limited to, asphalt plants, concrete plants, lumber mills, and planing mills.

Manufacturing, Light. Establishments primarily engaged in the on-site production of goods by hand manufacturing, assembly, packaging or fabrication of materials and products within enclosed structures without significant external effects such as smoke, noise, soot, vibration, odor, and the like. Uses may include, but are not limited to, a machine shop, bottling, electronic equipment, business machines, furniture, medical appliances, tools or hardware, any other product of a similar nature. Retail sales may be incidental to the manufacturing use.

Manufacturing, Small-Scale. An establishment where shared or individual tools, equipment, or machinery are used to make products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale sales and distribution of such products. Typical small-scale production establishments include, but are not limited to the making of electronics, prints, leather products, jewelry and clothing/apparel, metal work, glass, ceramic or paper, together with accessory uses such as training or educational programs.

Mixed-Use Structure. A building that contains a variety of complementary and integrated uses, including but not limited to residential, office, research and development, production, retail, public, entertainment, conference, and lodging uses arranged in a compact urban form.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Nit. A measurement of candelas per square meter (cd/m²) and used frequently to describe sign luminance and to measure sign brightness.

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

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

Nonconforming use. The otherwise legal use of a building, structure, or a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located – either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance. Any use that was unlawful on the Date of Adoption of this Ordinance shall remain unlawful and shall not be a nonconforming use.

Nursing Home. A use providing bed care and in-patient services for the aged and infirm that require regular physical and mental medical attention, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and assisted living facilities. This use does not include a facility providing surgical or emergency medical services or a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease; nor does this include Life Care Facility uses and activities, as defined in this Ordinance.

Office, General. The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to accounting, tax-preparation, lenders and securities brokers, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate and travel. Retail Sales do not comprise more than an Accessory Use of the primary activity of a General Office. This definition does not include Medical/Clinic Office as defined by this Ordinance.

Office, Medical/Clinic. The use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia.

Off-street parking. Space provided for vehicular parking outside the dedicated street right-of-way.

Open space. Land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, outdoor recreation areas, and those elements provided in Article VIII of this Ordinance.

Outdoor Sales, Seasonal/Temporary. Any business or use (primary or accessory) that is conducted primarily out of doors, which may include but not be limited to: retail sales of fruits, vegetables, plants, flowers, Christmas trees, fireworks; or retail sales of used goods, such as rummage sales or garage sales.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Outdoor storage. The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

Parking lot. An off-street, ground level area that is used to provide for the required parking spaces, and associated aisles, as provided in Article VIII of this Ordinance.

Parking Lot, Commercial. A site for surface parking use which is fee based and provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this Ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

Parking space. A designated space designed to park a vehicle; such space being exclusive of necessary drives, aisles, entrances and exits and being fully accessible for the parking or storage of permitted vehicles.

Personal Services. Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; tattoo shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

Planned Development. A form of development, on a contiguous land area, that is characterized by unified site design, intended to allow for a variety of housing types and densities, clustering of buildings, common open space, and/or a mix of building types and land uses, in which project planning and density calculations are performed for the entire development rather than on an individual lot basis. Including but not limited to, developments within and meeting the requirements of the R-PRD district of this Ordinance.

Planning Commission. A board of the local government consisting of such appointed members whose functions include advisory or nontechnical aspects of planning and may also include such other powers and duties as may be assigned to it by the City Council.

Proffer. A voluntary offer that addresses an impact or impacts from use of property or development, tendered by an applicant for conditional rezoning.

Public hearing. A meeting announced and advertised for soliciting formal public comment on matters under consideration.

Public Parks and Recreation. Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses. This use shall not include Public Use as defined in this Ordinance.

Public Use. Public use means facilities or the use of land, exclusively for public purposes, by any department or branch of the federal government, Commonwealth or any political subdivision, public authority, or any combination thereof. This use shall not include Educational Facilities, Public Parks and Recreation, or Utility Service (major or minor) as defined in this Ordinance.

Recreation, active. Recreation which requires physical alteration to the area in which they are performed. This generally includes recreation or recreation areas such as playgrounds, ball courts, golf courses, and swimming pools.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Recreation/Entertainment, Commercial Indoor. An establishment which provides an enclosed building for indoor sports and spectator uses, and may include multiple coin operated amusement or entertainment devices or machines as an incidental use of the premises. Typical uses include bowling alleys, ice- and roller-skating rinks, indoor racquetball, swimming, billiard halls, game rooms, video arcades, movie theaters, and concert or music halls.

Recreation/Entertainment, Commercial Outdoor. Participant or spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, paintball facilities, sports arenas, and outdoor movie theaters or drive ins.

Recreation Facility, Neighborhood. An indoor or outdoor recreation facility that is managed and operated by an HOA or developer, and that is to be used specifically by the residents and guests of a particular residential development, planned development, or residential neighborhood.

Recreation Facility, Noncommercial. Privately owned, not for profit park and recreation facilities that are open to the public. These uses may charge a fee but not for commercial gain. This use includes parks, picnic areas, playgrounds, active or passive recreation facilities, outdoor shelters, amphitheaters, open spaces, and other similar uses. This use does not include Recreation/Entertainment, Commercial Indoor or Outdoor; Recreation Facility, Neighborhood; Public Parks and Recreation, or Public Use, as defined by this Ordinance.

Recreation, passive. Recreation that involves existing natural resources and/or minimal development and has a minimal impact. This generally includes walking, hiking, picnicking, birdwatching, and enjoyment of open areas such as parks.

Religious Assembly. A use located in a permanent building or in outdoor spaces and providing regular organized religious worship and related incidental activities. This use shall not include Educational facility, primary/secondary schools and Day care facilities.

Residential Yard Sale. A use, accessory to a dwelling, that includes display and noncommercial sales for the disposal of personal property accumulated by the family of a residential dwelling unit.

Restaurant, General. An establishment in which, for compensation, food or beverages are dispensed for consumption on and/or off the premises, including, among other establishments, bars, cafes, tearooms, confectionery shops, eat-in delis, and fast-food restaurants. Excluded from this definition is Restaurant, Mobile, and Micro Brewery or Distillery.

Restaurant, Mobile Food Unit. A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, service, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts and shall not apply to those selling in short bursts of 30 minutes or less at a single location and moving to multiple properties through the course of a business day.

Retaining wall. A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a slope.

Right-of-Way (ROW). An area of land that is dedicated to public use for pedestrian and vehicular movement, which may also accommodate public utilities infrastructure (including but not limited to water lines, sewer lines, power lines, and gas lines.)

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Screening. Landscaping, solid fencing, or masonry walls, or combination thereof, that physically and visually shields uses or their appurtenances, such as dumpsters and mechanical equipment, from adjacent property or uses.

Self-Storage Facility. A building or groups of buildings divided into separate compartments designed to provide rental storage space. Each storage space shall be enclosed by walls and ceiling and may have a separate entrance for the loading and unloading of stored goods, and shall not be pre-fabricated structures arranged on a lot. The conduct of sales, business, or any other activity within the individual storage units, other than storage, shall be prohibited.

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

Setback, front. The minimum distance from the front lot line to the nearest point of the allowable structure(s), measured perpendicular to the front lot line. For Stem Lots, the front setback is the minimum distance from the edge of the right of way or “end” of the stem portion.

Setback, rear. The minimum distance from the rear lot line to the nearest point of the allowable structure(s), measured perpendicular to the rear lot line.

Setback, side. The minimum distance from the side lot line(s) to the nearest point of the allowable structure(s), measured perpendicular to the side lot line(s).

Shelter, Animal. A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Shelter, Residential. A facility providing temporary housing and feeding for one or more individuals who are otherwise temporarily or permanently homeless. Ancillary community support services may be provided including, but not limited to, child care, counseling, food distribution, or vocational training.

Short-Term Rental. The accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term, transient rental purposes in exchange for a charge for the occupancy. This use type does not include bed-and-breakfast establishments and does not apply to month-to-month extensions following completion of a year’s lease.

Sign. Any object, device, display, structure, fixture, painting, emblem, or visual that uses words, figures, designs, graphics, fixtures, logos, colors, illumination, symbols, numbers, letters, or projected images for the purpose of communicating a message on the part of an institution, organization, business, product, service, event, or location.

Sign, abandoned. A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by State law.

Sign, animated. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs, as defined and regulated by this Ordinance, include the following types:

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

- ***Electrically Activated.*** Animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
 - ***Flashing.*** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this Ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds ten seconds.
 - ***Patterned Illusionary Movement.*** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

Sign area. The entire area enclosing the extreme limits of writing, representation, pictorial elements, emblems, or a figure of similar character, together with all material, color, or lighting forming an integral part of the display or used to differentiate the Sign from the background against which it is placed.

Sign, banner. A sign utilizing a banner or flexible substrate as its display surface for copy or graphics. Banners are temporary in nature and do not include flags or pennants.

Sign, canopy. A sign displayed on or attached flat against the surface or surfaces of a canopy. Illuminated canopies, if translucent, are considered part of the total canopy sign area.

Sign, changeable. A sign that includes any changing of the message either electronically or manually in which the message is stationary and does not fluctuate in size or brightness.

Sign, double-faced. A sign with two faces, back-to-back.

Sign, exterior. Any sign placed outside a building.

Sign face. The particular area of the sign structure upon which a message, copy, or advertisement is displayed for viewing.

Sign, fascia. See "Wall Sign."

Sign, flag. Flags, including the official flags of the federal, state, county, and municipal governments, are deemed to be signs and shall be subject to the provisions of this Ordinance.

Sign, flashing. See "Sign, animated, electrically activated."

Sign, freestanding. A sign supported by structures or supports that are placed on, or anchored in, the ground; and that is independent and detached from any building or other structure.

Sign, height. The height of a sign shall be computed as the distance from the base of the sign at average grade to the top of the highest attached component of the sign.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Sign, illuminated. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

Sign, interior. Any sign placed within a building, but not including "signs, window" as defined by this Ordinance. Interior signs, except for window signs as defined, are not regulated by this Ordinance.

Sign maintenance. To prevent through preservation, repair, or restoration, the development of any rust, corrosion, rot, chipping, peeling, or other deterioration in either the physical appearance or the safety of every sign.

Sign, minor. A wall or freestanding sign not exceeding 3 sq. ft. in area, not exceeding 4 ft. in height, and not illuminated. Examples include not trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.

Sign, monument. A "sign, freestanding" having the appearance of a solid, rectangular, or cylindrical base.

Sign, nonconforming. A sign lawfully existing as of the effective date of this Ordinance, and which does not conform to the provisions of this Ordinance.

Sign, off-site. A sign which directs attention to a business, commodity, service, activity, or entertainment conducted, sold, or offered on a parcel of land other than the one on which the sign is located.

Sign, on-site. A sign erected, maintained, or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of the property on which it is displayed.

Sign, portable. Any sign not permanently attached to the ground or to a building or building surface. For example, an A- or T-frame sign.

Sign, projecting. A sign that is attached to, or projects from, a building face or wall, and whose faces are generally not parallel to the building face or wall, not to include signs located on a canopy, awning, or marquee.

Sign, roof. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.

Sign structure. Any structure supporting a sign.

Sign, temporary. A sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Examples include real estate signs, yard sale signs, contractor's signs, and special or one-time event signs.

Sign, vehicle. Any sign that is painted, mounted, adhered, magnetically attached, or otherwise permanently affixed to or incorporated into a vehicle or trailer, except those unlicensed, inoperative, or generally stationary vehicles and/or trailers. This does not include the use of incidental business logos, identification, or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Sign, wall. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 15 inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building or to the face or faces of the architectural projection to which it is affixed and exteriors of windows. This sign type does not include canopy signs which are defined in this ordinance.

Sign, window. A sign affixed to the interior surface of a window with its message intended to be visible to and readable from the public way or from adjacent property. Signs affixed to the exterior of the surface of a window are considered wall signs. Signs painted on windows or doors shall be considered window signs.

Site Plan. A professionally-prepared plan, to scale, showing accurately and with complete dimensions, showing all proposed improvements to the site in accordance with this Ordinance.

Solar Energy, Medium-Scale. A solar facility that is attached to a structure or incorporated into building materials for structures, such as shingles or roofs, or as ground mounted equipment. It may be a principal or accessory use and generates electricity from sunlight on an area adequate to support a rated capacity of greater than 500 kilowatts (500 KW) and less than five megawatts (5 MW) alternating current. Generated electricity may be used for on-site consumption, provided to electric cooperative member-customers (non-retail, from behind the meter), or distributed for commercial consumption.

Solar Energy, Small-Scale. A solar facility that is attached to a structure or incorporated into building materials for structures, such as shingles or roofs, or as ground mounted equipment. It may be a principal or accessory use and generates electricity from sunlight on an area adequate to support a rated capacity of 500 kilowatts (500 KW) alternating current or less. Generated electricity may be used for on-site consumption and/or provided to electric cooperative member-customers (non-retail, from behind the meter).

Store, Large. An establishment that is 3,000 square feet or more in total floor area and serves for the display and sale of merchandise at retail.

Store, Small. A small-scale retail use less than 3,000 square feet in total floor area and serves for the display and sale of merchandise. Small Stores shall not include fuel pumps or the selling of fuel for vehicles.

Stormwater management facility. A control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

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

Street. A public way which affords the principal means of access to abutting properties. The term "street" includes all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and may be referred to as a street, highway, thoroughfare, parkway, throughway, expressway, road, drive, court, avenue, boulevard, lane, place, circle, or however otherwise designated.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Structure. Anything constructed or erected, which requires location on the ground, or attached to something having location on the ground.

Structure, accessory. A subordinate structure, use of land, building, or a portion of a main building or use which is clearly incidental to or customarily found in connection with and located on the same lot as the principal structure or use.

Structure, mixed-use. A building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed-use structure should not be confused with a mix of uses each in separate structures in a single development.

Structure, non-residential. A building or structure, or part of a building or structure, not occupied in whole or in part for the purpose of human habitation. Examples include warehouse and industrial buildings, commercial buildings, buildings for public entertainment, hotels, restaurants, educational buildings, health buildings, etc.

Structure, principal. A building in which is conducted the primary use of the lot on which it is situated, or where a lot contains residential uses, the principal structure on the lot shall mean the largest building that contains any dwelling unit.

Structure, residential. A building containing a complete set of living accommodations suitable for occupancy by one or more persons, consisting of sleeping, bathroom, and complete kitchen facilities for the exclusive use of such occupants.

Subdivision Agent (Agent). The administrative official, or an authorized agent thereof, responsible for administering and enforcing the Subdivision portion of the Zoning Ordinance of the City, also referred to in the Subdivision Article, as the Agent.

Telecommunications Facility. Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are defined separately. Also excluded are wireless communication antennas which fit the definition of Small cell facility and “Administrative review-eligible project” as defined in the Code of Virginia §15.2-2316.6 and supplied as Utility service, minor by this ordinance.

Telecommunications Facility, Small Cell. A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services (Code of Virginia §15.2-2316.4).

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Tradesperson Service. Tradesperson service means an establishment or place of business primarily engaged in providing a specific trade service to individuals. Typical uses include plumbing, electricians, blacksmith, welding, and taxidermy. This definition does not include Vehicle Sales/Service, Construction Material Sales, or Home Occupations as otherwise defined in this Ordinance.

Transportation Services. Individual modal or multimodal conveyances and terminals; facilities may be of local, regional, or statewide importance. Examples of facilities are highways, rail transit lines, and transit stations. Uses may also include vehicle services such as limousine, taxi service, or bus transportation.

Tree, deciduous. A tree that loses its leaves at the end of its growing season and becomes dormant during the winter.

Tree, evergreen. A tree that doesn't shed its leaves in the winter but stays green all year.

Tree, ornamental. A tree that is typically a deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark, or shape.

Tree, protected. Any healthy tree to be preserved on site shall be protected before, during, and after the development process utilizing accepted practices; see Article VIII for the preference for which trees are to be protected on a given site.

Tree, understory. A tree that is small enough, and sufficiently shade tolerant, to thrive under the canopies of other, taller trees.

Truck/Freight Terminal. An area of land used for the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of freight.

Use. The activity occurring on a lot or parcel for which land, or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Use, accessory. Uses of land and buildings that are found on the same parcel as the principal use but are subordinate and incidental, including parking.

Use, principal. A use that fulfills a primary function of a household, establishment, institution, or other entity.

Utility Service, Major. Service of a regional nature which normally entails the construction of new buildings or structures such as electric generating plants and sources; electrical switching facilities and stations or substations; community wastewater treatment plants; water towers; sanitary landfills; and similar facilities. All overhead transmission lines are included in this definition.

Utility Service, Minor. A service that is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as “Administrative review-eligible project” as defined in the Code of Virginia §15.2-2316.3, transformers, and relay and booster devices.

Variance. A reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would result in unnecessary and undue hardship which is not created by the owner, relief or remedy is not available through this ordinance, and such need for a variance

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this Ordinance.

Veterinary Hospital/Clinic. An establishment rendering surgical and medical treatment of animals. This use includes the incidental keeping of animals. Commercial Kennels are considered a separate use as defined by this Ordinance.

Vested right. Any written order, requirement, decision, or determination regarding the permissibility of a specific use, structure, or density of a landowner's property that constitutes a significant affirmative governmental act pursuant to Code of Virginia, §15.2-2307 and is issued in strict accordance with the requirements of this Ordinance.

Visibility Triangle. A triangular area that is included between the lines of an intersecting public street or private driveway, extended to the point where the lines intersect, and, at points on each line 20 ft. distant from that point, a straight line connecting them.

Warehousing and Distribution. Uses including storage, warehousing, and dispatching of goods within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and moving/storage firm.

Yard. An open space between building or use and the adjoining lot lines, unoccupied or unobstructed by any portion of a structure or use.

Yard, front. An open space on the same lot as a building between the front line of the building (excluding steps) and the front of the lot and extending across the full width of the lot.

Yard, rear. An open, unoccupied space extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear line of the building, excluding open steps and stoops, on the lot.

Yard, side. An open, unoccupied space extending from the front setback line to the rear setback line, along the side of a lot, the depth of which is the distance between the side lot line and the side line of the building, excluding open steps and stoops.

Zoning Administrator. See Administrator.

Zoning approval. Includes conditional use permit, exception, conditional zoning, variance, administrative modifications, substantial accord, rezoning, and zoning permit approvals.

Zoning district. A specifically delineated section of the City in which the regulations are uniform and so designated on the Zoning Map.

Zoning Permit. A permit issued by the Zoning Administrator on an appropriate form or certificate which certifies that a building or use of property complies with the regulations of the Zoning District in which the building or use is located.

Zoning Map. A legally adopted map depicting the location of each zoning district of the City and all amendments thereto.

Division 3. Overlay District Terms.

Section 11-3-2. Definitions for Article 5 – Flood Hazard Overlay District.

For the purposes of the Flood Hazard Overlay District, the following terms shall have the meaning ascribed to them, unless the context clearly requires otherwise:

100-Year Flood. The flood having a 1% chance of being equaled or exceeded in any given year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

Base Flood. For the purposes of this Division, the 100-year flood. The flood having a 1% chance of being equaled or exceeded in any given year.

Base Flood Elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this Division, the 100-year flood or 1% annual chance flood.

Basement. Any area of the building having its floor surface sub-grade (below ground level) on any side.

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

Elevated Building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (post and piers).

Encroachment. For the purposes of this Division, the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction. Structures for which the start of construction commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."

Existing Structure. See Existing Construction.

Federal Emergency Management Agency (FEMA). An independent agency of the United States government that provides a single point of accountability for all federal emergency preparedness and mitigation and response activities.

Fill. The placing of any material which results in increasing the natural ground surface elevation.

Flood or Flooding.

(A) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

(3) Mudflows which are proximately caused by flooding as defined in (L) (1) (ii), above, and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (L) (1) (i), above.

Flood Hazard District. The land located within the base flood area which includes the floodway and the approximated floodplain district.

Flood Insurance Rate Map (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow and/or flood-related erosion hazards.

Floodplain or Flood-prone Area. Any land susceptible to being inundated by water from any source.

Floodproofing. A combination of design modifications that results in a building or structure that is subject to flooding, including the attendant utility and sanitary facilities, being watertight with walls substantially impermeable to the passage of water.

Floodway The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

Floodway Fringe. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the base flood elevation by more than 1.0 foot at any point.

Freeboard. A factor of safety usually expressed in inches or feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. Any structure that is:

(A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

- (B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as defined by the Secretary of the Interior; or,
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Hydrological and Hydraulic Engineering Analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation (DCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC). An official FEMA determination, by letter, that amends or revises an effective FIRM or FIS. Letters of map change include:

- (A) **Letter of Map Amendment (LOMA).** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective FIRM and establishes that a land as defined by metes and bounds, or structure is not located in a special flood hazard area.
- (B) **Letter of Map Revision (LOMR).** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. To qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (C) **Conditional Letter of Map Revision (CLOMR).** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

Lowest Adjacent Grade. The lowest natural elevation of the ground surface next to the walls of a structure.

Lowest Floor. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access, or limited storage provided that such enclosure is not built to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR §60.3.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after February 2, 1989, and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the City of Emporia and includes any subsequent improvements to such structures.

Post-FIRM Structures. A structure for which construction or substantial improvement occurred on or after February 2, 1989.

Pre-FIRM Structures. A structure for which construction or substantial improvement occurred on or before February 2, 1989.

Recreational Vehicle. A vehicle which is:

- (A) Built on a single chassis;
- (B) 400 square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or towable; and
- (D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive Loss Structure. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe Repetitive Loss Structure. A structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in Section 5-2-15 of Article V.

Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of

City of Emporia Zoning & Subdivision Ordinance

Article 11 – Definitions

piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (B) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Violation. The failure of a structure or other development to be fully compliant with the City of Emporia's floodplain management regulations in this Division. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(d)(3) of the National Flood Insurance Program regulations, is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zone, A. Those areas for which no detailed flood profiles or elevations are provided, but the 1% annual chance floodplain boundary has been approximated.

Zone, AE. A flood hazard zone with two categories defined below as:

- (A) Category 1 areas shall be those areas for which 1% annual chance flood elevations have been provided and the floodway has been delineated.
- (B) Category 2 areas on the FIRM accompanying the FIS shall be those areas for which 1% annual chance flood elevations have been provided and the floodway has not been delineated.

Zone, X. Those areas of 0.2% annual chance flood or areas of 1% annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.