

APPENDIX A

ZONING

For Charter provision authorizing town to exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the constitution and laws of the Commonwealth of Virginia, see Char., Sec. 1. As to power of town to adopt a building code, establish setback lines, establish building standards, and adopt a Comprehensive Plan, including subdivision of lands, see Char., Sec. 16. For state law authorizing town to adopt zoning regulations, see Code of Virginia, Sec. 15.1-486 et seq. As to planning generally, see Sec. 2-32, through 2-35 of this code. As to buildings generally, see ch. 4. As to erosion and sedimentation control, see ch. 5. As to fire prevention generally, see ch. 7. As to subdivision of land, see ch. 16. As to trailer camps and trailer parks, see ch. 19. As to floods and floodplain districts, see ch. 26.

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INTRODUCTION

An ordinance establishing rules, regulations, procedures and standards governing the zoning of land; providing for the appointment of a zoning administrator and a board of zoning appeals; for the development and maintenance of a zoning map; and for the administration and amendment of such regulations.

Pursuant to Section 15.1-486 et seq. Article 8, Title 15.1, Chapter 11 of the Code of Virginia, 1950, as amended, the governing body of the Town of Lebanon, Virginia, is authorized to adopt regulations governing zoning within said town.

Therefore, be it ordained by the Town Council of Lebanon, Virginia, that the following regulations are hereby adopted for the zoning of land within the corporate limits of the town from and after the effective date of this ordinance. Every owner or proprietor of any tract of land who establishes a use for such land or constructs buildings or other structures thereon shall do so only in conformance with these regulations. No building permit issued by Russell County shall be valid within the corporate limits of the town until such permit has been endorsed by the Town of Lebanon Zoning Administrator indicating that such permit is in conformance with these zoning regulations.

ARTICLE I. PURPOSE AND TITLE**Section 21-I-1. Purpose.**

This ordinance is for the general purpose of promoting the health, safety and general welfare of the public and for assisting in the planning of adequate highway, utility, health, educational and recreational facilities. Its further purpose is to insure that the needs of agriculture, industry and business are recognized in future growth; that residential areas are provided with healthy surroundings for family life; and that the growth of the community is consonant with the efficient and economical use of public funds. To these ends it is designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, playgrounds, recreational facilities and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against the following: overcrowding of land, undue density of population in relation to community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life, health, or property from fire, flood, panic or other

dangers; and (7) to encourage economic development activities that provide desirable employment and enlarge the tax base.

Section 21-I-2. Title.

This ordinance is known and may be cited as the "Zoning Ordinance of Lebanon, Virginia."

ARTICLE II. ZONING DISTRICTS

Section 21-II-1. Districts created.

The town is hereby divided into four (4) districts to be known as:

R-1 Single-Family District

R-2 General Dwelling District

C-1 Commercial District

M-1 Industrial District

Section 21-II-2. District boundaries.

The boundaries of the districts created by this chapter are shown on the Official Zoning Map of the Town of Lebanon, dated January 1, 1988, and revised August 24, 1988 and March 27, 1989, which map, along with all notations, references, revisions and other information shown thereon; is made a part of this chapter and given hereby the same force and effect as if fully set forth or described herein. The official zoning map is attested by the clerk of the town council and is on file in the office of the zoning administrator. The district boundary lines on such map are intended to follow centerlines of streets and alleys or lot lines. In the case of unsubdivided property, the district boundary lines shall be determined by the use of the scale appearing on the official zoning map.

Section 21-II-3. Annexed property.

All territory which may be annexed to the town subsequent to the adoption of this ordinance shall be considered to be in the R-1 Single-Family District until otherwise changed by ordinance.

Section 21-II-4. Use of land.

No land shall be used except for a purpose permitted in the district in which it is located, except that streets, alleys, other public ways, and essential public utilities are permitted in any district.

Section 21-II-5. Buildings to conform with regulations.

No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered unless such building conforms with the use regulations, the height regulations, the lot

area regulations, the yard regulations and the setback regulations in the district in which the building is located.

Section 21-II-6. Encroachment on existing lot.

The area of an existing lot shall not be reduced or diminished so that the yards or other spaces shall be smaller than required by this chapter.

Section 21-II-7. Lots of record.

This chapter shall not be construed to prevent the erection of a building on any lot of record on the date of adoption of this ordinance notwithstanding that such lot may have a lesser area than is required in the particular district in which such lot is located.

Section 21-II-8. Lot required.

All residential uses, public and semipublic uses, commercial uses, business uses, industrial uses, and all other nonfarm uses shall be located on a lot as herein defined. Not more than one single-family dwelling shall be permitted on a lot unless specifically provided otherwise in the district regulations.

Section 21-II-9. Nonconforming uses.

(a) The lawful use of land or a building existing upon adoption of this chapter; or a subsequent amendment to this chapter; although such use does not conform to the provisions of this chapter, may be continued; but if such nonconforming use is discontinued for more than two (2) years, any future use of such land or building shall be in conformity with the provisions of this chapter.

(b) A nonconforming use of land or a building shall not be changed to another nonconforming use.

(c) A nonconforming building which has been damaged by fire, explosion, or act of God or the public enemy, to the extent of more than two-thirds ($\frac{2}{3}$) of its fair market value immediately prior to the damage, shall not be restored except in conformity with the provisions of this chapter, unless otherwise permitted by this ordinance.

(d) In the event a nonconforming use of any building is discontinued, or its normal operation stopped for a period of two (2) years, the use of the same shall thereafter conform to the regulations of the district in which it is located unless otherwise authorized as a conditional use by the town council.

(e) A nonconforming building or use, except when required by law or ordinance, shall not be enlarged, extended, reconstructed or structurally altered unless such use is changed to one permitted in the district in which such premises are located or unless authorized as a conditional use by the town council.

ARTICLE III. R-1 SINGLE-FAMILY DISTRICT**Section 21-III-1. General.**

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the R-1 Single-Family District regulations.

Section 21-III-2. Use regulations.

In the R-1 District a building or premises shall be used only for the following purposes:

- (a) Uses permitted by right.
 - (1) Single-family dwelling.
 - (2) Public school, elementary or high, or a private or parochial school having a curriculum the same as ordinarily given in a public school; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (3) Church or other place of worship; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (4) Municipally owned or operated park, playground or community building, museum, water supply facility, library or art gallery; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (5) Golf club or golf course, except a miniature course or practice golf driving range operated for commercial purposes.
 - (6) Accessory buildings, structures and uses customarily incidental to the above uses, including a private garage. Any accessory building which is not a part of the main building shall be located not less than sixty (60) feet from the front lot line.
 - (7) One church or public bulletin board not exceeding ten (10) square feet in area, located on the same lot as the building.
 - (8) Temporary signs not exceeding thirty (30) square feet in area; located on the same lot; pertaining to the lease, hire or sale of a building or premises; or permanent signs not exceeding six (6) square feet in area pertaining to the lawful use, except a home occupation, for which the subject property is zoned and is being used. A temporary sign may be placed on the property for a period not exceeding thirty (30) successive days in any one-year period.
 - (9) A building or structure used for municipally owned utility purposes which is necessary for the public convenience and welfare.
- (b) Additional uses permitted by right only on unsubdivided acreage of at least two (2) acres.
 - (1) Agriculture, including farm dwellings and agricultural buildings; provided that buildings, other than residences, and restricted animal enclosures or pens shall be located no less than one hundred (100) feet from any adjacent residential lot line. This restriction does not apply to fences enclosing open pasture.

- (c) Additional uses permitted only by conditional use permit.
- (1) Home occupation, provided that: there is no group instruction or advertising on the premises; no displays or storage of materials are visible from the outside of the building; and no activity will be conducted which will create a nuisance to the community.
 - (2) A building or facility used for public utility purposes which is necessary for the public convenience and welfare.
 - (3) Professional office for the practice of law, engineering, architecture, or other related profession, provided that no advertising sign, other than a nameplate, is permitted.
- (Ord. No. 12-2, 7-16-12)

Section 21-III-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the R-1 District are as follows:

- (a) *Minimum lot dimensions.*
 - (1) Lot width: One hundred (100) feet.
 - (2) Lot area: Fifteen thousand (15,000) square feet.
- (b) *Minimum yards.*
 - (1) Front yard: Forty (40) feet.
 - (2) Side yard: Ten (10) feet.
 - (3) Rear yard: Twenty-five (25) feet.
- (c) *Maximum height of buildings.*
 - (1) Number of stories: Two and one-half (2½).
 - (2) Height in feet: Thirty-five (35).

Section 21-III-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE IV. R-2 GENERAL DWELLING DISTRICT

Section 21-IV-1. General.

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the R-2 General Dwelling District Regulations.

Section 21-IV-2. Use regulations.

In the R-2 District a building or premises shall be used only for the following purposes:

- (a) *Uses permitted by right.*
 - (1) Any use permitted by right in the R-1 Single-Family District.
 - (2) Two-, three- or four-family dwelling.
 - (3) Boarding house or rooming house, provided that no such structure providing housing for persons convicted of one or more felony sex offenses shall be located within 1,000 feet of another dwelling, school, playground, or daycare facility.
 - (4) Accessory buildings, structures and uses customarily incidental to the above uses.
 - (5) Individual mobile homes in mobile home parks, provided all other town requirements are met with respect to mobile home parks.
- (b) *Additional uses permitted only by conditional use permit.*
 - (1) Any use permitted by conditional use permit in the R-1 District.
 - (2) Mobile on an individual lot.
 - (3) Mobile home park, for permanent residents only, subject to regulations of Ch. 19 of this code.
 - (4) Multiple-family dwelling, with no limitation on number of units, except that any building having a separate entrance for each family unit shall contain no more than ten (10) family units.
 - (5) Foster care home or group home serving physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons, not related by blood or marriage. (See Section 15.1-486.2, Code of Virginia.)
 - (6) Lifecare or retirement home.
 - (7) Nursing home.
 - (8) Hospital, medical clinic or physician's or dentist's office, but not veterinarians or animal hospitals.
 - (9) Radio or television tower.
 - (10) Private club, fraternity, sorority or lodge.
 - (11) Professional office for the practice of law, engineering, architecture or other similar or related profession, provided that no advertising sign, other than a nameplate, is permitted.
 - (12) Commercial outdoor recreational area similar to a public recreational area provided that all physical improvements are located not less than one hundred (100) feet from any adjacent residential lot line.

- (13) Building or structure otherwise permitted by right or conditional use permit which exceeds thirty-five (35) feet in height provided all setbacks—front, side and rear—are each increased one (1) foot for every foot by which the building or structure exceeds thirty-five (35) feet.

(Ord. No. 12-3, 10-9-12)

Section 21-IV-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the R-2 District are as follows:

- (a) *Minimum lot dimensions:*
- (1) Lot width: Sixty (60) feet.
 - (2) Lot area: Ten thousand (10,000) square feet.
- (b) *Minimum yards.*
- (1) Front yard: Thirty (30) feet.
 - (2) Side yard: Ten (10) feet.
 - (3) Rear yard: Twenty-five (25) feet.
- (c) *Maximum height of buildings.*
- (1) Number of stories: Two and one-half (2½).
 - (2) Height in feet: Thirty-five (35).

Section 21-IV-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE V. C-1 COMMERCIAL DISTRICT

Section 21-V-1. General.

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the C-1 Commercial District regulations.

Section 21-V-2. Use regulations.

In the C-1 District a building or premises shall be used only for the following purposes:

- (a) *Uses permitted by right.*
- (1) Any retail or wholesale store or shop, except automobile and trailer sales and service and automobile service stations, provided all materials, are stored within a building.
 - (2) Office building.
 - (3) Bank or other financial institution.

- (4) School, public or private.
 - (5) Church or other place of worship.
 - (6) Recreational or cultural facilities, except drive-in theater.
 - (7) Hotel or motel.
 - (8) Restaurant.
 - (9) Private club.
 - (10) Hospital or medical clinic, except that the use of a building or premises for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance methadone, or other such controlled substances shall be prohibited, except when such service is provided by a hospital and is administered to residential patients by a licensed physician.
 - (11) Animal hospital or veterinarian's office.
 - (12) Advertising signs exceeding fifty (50) square feet but not exceeding one hundred fifty (150) square feet can be approved by the zoning administrator. All advertising signs exceeding one hundred fifty (150) square feet will be permitted by conditional use permit only.
 - (13) Parking lot or garage.
 - (14) Personal service uses; including barber shops, beauty shops, photographic or artists' studios.
 - (15) When employing not over ten (10) persons on the premises and providing all materials are stored and work done within a building:
 - (a) Dressmaking, tailoring or shoe repairing.
 - (b) Dry cleaning, dyeing or laundry.
 - (c) Painting, plumbing or tinsmithing.
 - (d) Radio or television repair.
 - (e) Upholstering, not involving furniture manufacture.
 - (f) Any other general service or repair establishment of a similar character.
 - (16) Undertaking establishment or mortuary.
 - (17) Cemetery.
 - (18) Bakery.
 - (19) Radio or television broadcasting station, studio or office.
 - (20) Building for governmental or quasi-governmental functions.
 - (21) Accessory structures and uses customarily incidental to the above uses.
- (b) *Additional uses permitted only by conditional use permit.*
- (1) Automobile or trailer sales and service, including automobile service stations.
 - (2) Radio or television tower.

- (3) Building or structure otherwise permitted by right or conditional use permit which exceeds fifty (50) feet in height, provided all setbacks front, side and rear are increased by one (1) foot for every foot by which the building or structure exceeds fifty (50) feet.
- (4) Advertising sign in excess of fifty (50) square feet.
- (5) Residential use.
- (6) Advertising signs exceeding fifty (50) square feet but not exceeding one hundred fifty (150) square feet can be approved by the zoning administrator. All advertising signs exceeding one hundred fifty (150) square feet will be permitted by conditional use permit only.

(Ord. of 6-10-91; Ord. of 12-14-92; Mem. of 6-30-97, § 2; Ord. No. 04-01, 2-25-04)

Section 21-V-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the C-1 District are as follows:

- (a) *Minimum lot dimensions.*
 - (1) Lot width: None.
 - (2) Lot area: None.
- (b) *Minimum yards.*
 - (1) Front yard: Twenty (20) feet.
 - (2) Side yard: None, except on the side of a lot abutting a residential district in which case the minimum side yard shall be ten (10) feet.
 - (3) Rear yard: None, except on the rear of a lot abutting a residential district in which case the minimum rear yard shall be twenty-five (25) feet.
 - (4) The above side and rear yards for lots abutting residential districts shall be increased by one (1) foot for every foot by which the height of the building or structure exceeds thirty-five (35) feet.
- (c) *Maximum height of buildings.*
 - (1) Number of stories: Four (4).
 - (2) Height in feet: Fifty (50).

Section 21-V-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE VI. M-1 INDUSTRIAL DISTRICT**Section 21-VI-1. General.**

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the M-1 Industrial District Regulations.

Section 21-VI-2. Use regulations.

In the M-1 District a building or premises shall be used only for the following purposes:

- (a) *Uses permitted by right.*
- (1) Any use permitted by right in the C-1 Commercial District.
 - (2) Contract construction equipment and material storage.
 - (3) Grain and feed storage.
 - (4) Heating fuel or building material storage or wholesaling provided that the materials shall not be extracted or processed on the premises.
 - (5) Lumber and building material dealer.
 - (6) Radio and television tower.
 - (7) Trucking terminal.
 - (8) Warehousing.
 - (9) Plating of metals and formed products.
 - (10) Manufacturing, fabricating, processing or assembling of the following:
 - (a) Boats.
 - (b) Clothing.
 - (c) Pharmaceuticals.
 - (d) Furniture and wood products.
 - (e) Glass products.
 - (f) Ice.
 - (g) Musical instruments, games and toys.
 - (h) Office machines and electronic devices.
 - (i) Plastic products but not processing or raw materials.
 - (j) Beverages or food, except animal slaughtering or processing.
 - (k) Tools and hardware.
 - (l) Vehicles.
 - (11) Other manufacturing, fabricating, processing or assembling uses similar to those listed which do not create any dangers to health or safety in surrounding areas and which do not create any objectionable noise, vibration, dust, smoke, odor, heat or glare.

- (12) Accessory structures and uses customarily incidental to the above uses.
- (b) *Additional uses permitted only by conditional use permit.*
- (1) Extraction of natural resources.
 - (2) Other uses of a manufacturing, storage or industrial nature not included elsewhere in this chapter but not the following:
 - (a) Acid manufacture.
 - (b) Junkyards.
 - (c) Ammonia, chlorine or bleach manufacture.
 - (d) Asphalt manufacturing or refining.
 - (e) Coal tar products manufacture.
 - (f) Hydraulic cement, lime, gypsum or plaster of Paris manufacture or processing.
 - (g) Explosives manufacture or storage.
 - (h) Fertilizer manufacture.
 - (i) Glue or glue size manufacture.
 - (j) Petroleum refining.
 - (k) Smelting of aluminum, lead, copper, zinc or iron ore.
 - (l) Tanneries.
 - (m) Paper or pulp mill.
 - (n) Garbage, offal or dead animal processing.
 - (o) Rendering plants, grease and tallow.
 - (p) Slaughtering plant.
 - (q) Uses which are similar to the foregoing or, which might be objectionable by reason of odor, dust, smoke, fumes, gas, noise or other nuisance.

Section 21-VI-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the M-1 Industrial District are as follows:

- (a) *Minimum lot dimensions.*
 - (1) Lot width: none.
 - (2) Lot area: none.
- (b) *Minimum yards.*
 - (1) Front, yard: twenty (20) feet.
 - (2) Side yard: None, except on the side of a lot abutting residential district in which case the minimum side yard shall be ten (10) feet.
 - (3) Rear yard: None, except on the rear of a lot abutting a residential district in which case the minimum rear yard shall be twenty-five (25) feet.
 - (4) The above side and rear yards for lots abutting residential districts shall be increased one (1) foot for every foot by which the height of the building or structure exceeds thirty-five (35) feet.

(c) *Maximum height of buildings.*

- (1) Number of stories: Eight (8).
- (2) Height in feet: One hundred (100).

Section 21-VI-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE VII. OFF-STREET PARKING AND LOADING

Section 21-VII-1. Parking requirements—All districts.

Except as otherwise exempted herein there shall be provided in all districts, at the time, any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

- (a) Dwelling, one-family or town house. Two (2) parking spaces for each dwelling unit.
- (b) Dwelling, multifamily. One and one-half (1½) parking spaces for each dwelling unit unless a lesser or greater number is required by town council in connection with the issuance of a conditional use permit for a specific project.
- (c) Rooming or boardinghouse. One (1) parking space for each sleeping room.
- (d) Fraternity, sorority, private club or lodge, including country or golf club. One (1) parking space for every five (5) members.
- (e) Church. One (1) parking space for each five (5) seats in the main auditorium.
- (f) School, elementary or middle. One (1) parking space for each four (4) seats in the main auditorium or assembly room, but not less than five (5) spaces for each classroom.
- (g) School, high or college. One (1) parking space for each four (4) seats in the main auditorium or ten (10) spaces for each classroom, whichever is greater.
- (h) Community center, library, museum or art gallery. Fifteen (15) parking spaces, plus (1) additional space for each two hundred (200) square feet of floor area.
- (i) Hospital. One and one-half (1½) parking spaces for every patient bed including emergency room treatment beds.
- (j) Convalescent home, nursing home, family care home or foster home. One (1) parking space for every two (2) beds.
- (k) Theatre, auditorium (except school), sports arena, stadium or gymnasium. One (1) parking space for each three (3) seats or seating places.
- (l) Hotel or motel. One (1) parking space for each sleeping room or suite, plus one (1) space for each two hundred (200) square feet of commercial or restaurant floor area.

- (m) Assembly or exhibition hall without fixed seats. Five (5) parking spaces for each one hundred (100) square feet of floor area.
- (n) Business or professional office, studio, bank, medical or dental clinic. Three (3) parking spaces, plus one (1) additional space for each two hundred (200) square feet of floor area.
- (o) Restaurant, (except fast food). One (1) parking space for each fifty (50) square feet of dining room area, plus one (1) space for each four (4) feet of counter used for serving meals.
- (p) Restaurant (fast food). One (1) parking space for each twenty-five (25) square feet of seating area.
- (q) Retail store or personal service establishment. One (1) parking space for each two hundred (200) square feet of floor area, plus one (1) space for each commercial vehicle owned or operated by the establishment.
- (r) Bowling alley. Four (4) parking spaces for each alley.
- (s) Mortuary or funeral home. One (1) parking space for each fifty (50) square feet of floor space in funeral service rooms.
- (t) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment. One (1) parking space for each three (3) persons employed on a maximum working shift plus one (1) parking space for each three (3) persons employed on a relieving shift. In no case shall the overall number of parking spaces be less than one (1) space for each four hundred (400) square feet of floor area. In addition one (1) suitable parking space shall be provided for each truck or other vehicle operated by the establishment.

Section 21-VII-2. Parking requirements—Computation.

Number of parking spaces required shall be computed as follows:

- (a) Floor area means the gross floor area of a particular use.
- (b) If the computation results in the requirement for a fractional space the next higher whole number of spaces shall be provided.
- (c) Parking spaces required for a use not specified shall be computed as for a use of similar nature which is specified.
- (d) Should there be an increase in building size or occupancy, after initial construction and determination of parking spaces required, additional spaces shall be added to conform to the changed conditions.
- (e) Parking spaces required for premises having mixed uses shall be the sum of those required for each use calculated separately.

Section 21-VII-3. Location of off-street parking.

Parking spaces required for dwellings shall be on the same lot as the dwelling they serve. Spaces for other uses shall be within five hundred (500) feet of the structure they serve.

Section 21-VII-4. Off-street loading.

Every building the use of which involves the receipt or distribution, of materials or merchandise by vehicles shall provide appropriate and adequate off-street loading space and maneuvering room to accommodate such vehicles. A minimum of one (1) loading shall be provided for each fifteen thousand (15,000) square feet of floor area or fraction thereof.

Section 21-VII-5. Ingress and egress.

All parking and loading spaces and associated drives and maneuvering room shall be provided in such manner that ingress and egress shall be safe and shall not interfere with or obstruct any public space. All entrances to public ways or streets shall be in accordance with applicable requirements of the Virginia Department of Transportation.

ARTICLE VIII. MODIFICATIONS AND EXCEPTIONS**Section 21-VIII-1. Purpose.**

Regulations set forth in this article modify, supplement or qualify the district regulations appearing elsewhere in this chapter.

Section 21-VIII-2. General modifications.

(a) Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory buildings in the rear yard and except for the ordinary projection of sills, belt courses, chimneys, pilasters, cornices and ornamental features. Required parking spaces may be located in any required yard.

(b) Open fire escapes may project into a required yard provided they are at least two (2) feet from any lot line.

(c) Terraces, uncovered porches and ornamental features which do not extend more than three (3) feet above the ground floor level may project into a required side or rear yard provided they are at least five (5) feet from any lot line.

(d) More than one multiple-family dwelling may be located on a lot provided there is at least twenty (20), feet between single story buildings and thirty (30) feet between buildings one of which is over one (1) story in height.

Section 21-VIII-3. Height regulations.

Height limitations stipulated elsewhere in this chapter shall not apply to:

- (a) Barns, silos or other farm buildings or structures on farms; church spires, belfries, cupolas and domes; monuments, water towers, fire and hose towers, observation towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio and television towers, masts and aerials.
- (b) Parapet walls extending not more than four (4) feet above the limiting height of the building.

Section 21-VIII-4. Yard and lot regulations.

Lot width and yard size regulations set forth in the district regulations are modified as follows:

- (a) Required lot widths shall be measured at the building setback line. Measurement shall be parallel to the street line.
- (b) Front yard setbacks shall be provided from all streets even though more than one street abuts the lot. This applies to double frontage and corner lots.
- (c) Where more than forty (40) percent of the frontage on one side of a street between two intersecting streets has been improved with buildings having setbacks greater or less than that otherwise required by the district regulations, the minimum setback line for new construction shall be the average setback of the existing buildings. In no case, however, shall the setback required be more than ninety (90) feet.

Section 21-VIII-5. Accessory buildings.

(a) No accessory building shall be built upon a lot until the main building has been completed.

(b) No accessory building shall be used unless the main building is in use.

(c) Accessory buildings in residential neighborhoods shall not exceed seven hundred (700) square feet in area or fifteen (15) feet in height. These dimensions may be exceeded by conditional use permit but no accessory building so authorized shall be disproportionately large which shall mean so large as to appear out of character with surrounding properties.

(d) No accessory building in any residential neighborhood shall be built in the front yard or closer than five (5) feet to any lot line.

Section 21-VIII-6. Walls and fences.

Walls and fences may be located on property lines or in required yards provided:

- (a) No wall or fence in a front yard shall exceed forty-two (42) inches in height.
- (b) No wall or fence in a rear or side yard shall exceed six (6) feet in height.

- (c) No wall, fence or planting shall be constructed which inhibits or obstructs safe visibility at street intersections. Safe visibility shall be determined by regulations of the Virginia Department of Transportation.
- (d) Walls or fences may exceed the required heights by conditional use permit.
(Mem. of 6-30-97, § 1)

ARTICLE IX. SITE PLANS

Section 21-IX-1. General.

Prior to the approval of a building permit for the construction of a structure or building and as a condition precedent thereto a site plan shall be submitted and approved for structures or buildings falling under certain categories. Unless specifically waived by the zoning administrator, site plans are required for the following:

- (a) Any development or use in the C-1 Commercial District or M-1 Industrial District.
- (b) Any multifamily building or development.
- (c) Any development or use requiring a conditional use permit.
- (d) All schools, churches, clubs and hospitals.

Section 21-IX-2. Required information.

Unless specifically waived by the zoning administrator, each site plan shall be drawn to an appropriate scale and shall include the following:

- (a) A vicinity map clearly showing the location of the property.
- (b) A boundary survey of the tract or lot.
- (c) A grading plan showing existing and proposed contours at a contour interval appropriate to the site but in no case greater than five (5) feet.
- (d) All existing and proposed streets, easements and utilities.
- (e) Ownership, zoning and use of all adjoining property.
- (f) Location, dimensions and design details of all proposed paved areas, parking spaces, driveways and vehicular entrances and exits.
- (g) Location, dimensions, height, number of floors, proposed general use and capacity of each building.
- (h) Building setback lines.
- (i) Provisions for adequate handling of drainage and stormwater.

Section 21-IX-3. Administration and approval.

Site plans shall be submitted for approval and under conditions set forth in Article XII of this chapter.

ARTICLE X. ZONING ADMINISTRATOR

Section 21-X-1. Appointment.

The town council shall appoint a zoning administrator who shall serve at its pleasure.

Section 21-X-2. Qualifications.

The zoning administrator shall have training and/or experience in municipal government and shall be conversant with state laws and general principles pertaining to zoning. He may hold one or more other town positions and shall be compensated as town council may direct.

Section 21-X-3. Duties.

The zoning administrator shall have the authority to enforce this chapter, to inspect buildings and uses for the purpose of insuring compliance with this chapter, and to order in writing the remedy of any condition found to exist in violation of this chapter.

ARTICLE XI. BOARD OF ZONING APPEALS

Section 21-XI-1. Appointment, membership and organization.

(a) Pursuant, to Section 15.1-494, Code of Virginia, a Board of Zoning Appeals, consisting of five (5) residents of the Town of Lebanon, shall be appointed by the Circuit Court of Russell County. Nominal terms of office shall be five (5) years with members eligible for reappointment to succeed themselves. Appointments shall be made so that the term of one member expires each year. The secretary of the board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other public office in the town or county except one (1) member may be a member of the Lebanon Planning Commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(b) With the exception of the secretary, the board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. The board may elect as secretary either one (1) of its own members or a qualified individual who is not a member of the board. A secretary, who is not a member of the board shall not be entitled to a vote on matters before the board. For the conduct of any and the taking of any action, a quorum shall not be less than a majority of all members of the board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Town of Lebanon and general laws of the Commonwealth of Virginia. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the town council at least once each year.

(c) Within the limits of funds appropriated by the town council, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical

services. Members of the board may receive such compensation as may be authorized by the town council. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held upon fifteen (15) days' notice.

Section 21-XI-2. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

- (a) To hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator or any other administrative officer in the administration or enforcement of this chapter. No such appeal shall be heard except after notice as required by law.
- (b) To authorize upon appeal, or original application in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

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

- (1) That the strict application of the terms of this chapter will produce undue hardship.
- (2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized except after notice and hearing as required by law.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make

reasonably practicable the formation of a general regulation to be adopted as an amendment to this chapter.

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

- (c) To hear and decide applications for interpretation of the official zoning map where there is any uncertainty concerning the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by law, the board may interpret the maps in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the location of district boundaries as established by ordinance.
- (d) No provision of this section shall be construed as granting the board the power to rezone property.
- (e) To hear and decide applications for such special exceptions as may be authorized by this chapter. The board may impose such conditions relating to such special uses and permits as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be observed. No such special exception or conditional use permit may, be granted except after public notice and hearing required by law.

Section 21-XI-3. Appeal to board.

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto. Such appeal shall be taken within thirty (30) days after the decision from which the appeal arose by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all records pertaining to the action from which the appeal was taken. An appeal shall stay all proceedings in furtherance of the action from which the appeal was taken unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record on application and on notice to the zoning administrator and for good cause.

Section 21-XI-4. Procedure on appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within ninety (90) days of the filing of the application or appeal. In exercising its powers the board

may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination from which an appeal was taken. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

ARTICLE XII. ADMINISTRATION AND ENFORCEMENT

Section 21-XII-1. Building permit.

Prior to the construction of any building or structure in the Town of Lebanon a building permit shall be obtained from Russell County. Such permit, however, shall not be valid until endorsed by the Town of Lebanon Zoning Administrator as being in conformance with this chapter.

Section 21-XII-2. Application and fees.

(a) Application for endorsement of the building permit shall be made on forms and in the manner prescribed by the zoning administrator. If the zoning administrator finds that the proposed construction is in conformance with this chapter and is allowed as a use by right, and if he is in agreement with any required site plan submitted, he shall forthwith endorse the building permit. If he finds that a conditional use permit or a change in zoning classification is required, or if he finds that any required site plan is inadequate, he shall advise the applicant to prepare an application for conditional use permit or rezoning or to make necessary revisions in the site plan, as appropriate.

(b) Application for conditional use permit or for rezoning shall be made on forms prescribed by the zoning administrator.

(c) Fees covering endorsement of building permits, approval of site plans and conditional use permits, and rezoning applications shall be as determined by town council and shall be payable at the time application is made.

Section 21-XII-3. Conditional use permits.

The procedure for issuance of a conditional use permit shall be as follows:

(a) The applicant shall ascertain from this chapter or in conference with the zoning administrator that his proposed use is allowed by conditional use permit. He shall then make application for the permit and pay the established fee. The application shall be accompanied by a site plan prepared as set forth in Article IX hereof. Number of copies shall be as stipulated by the zoning administrator.

- (b) The zoning administrator shall arrange for proper notice and joint public hearing by the planning commission and the town council as set forth in Section 15.1-431, Code of Virginia.
- (c) The planning commission shall consider the request no later than its next regularly scheduled meeting after the public hearing and shall forward its recommendation to town council which shall consider the request no later than its next regularly scheduled meeting.
- (d) Upon approval by town council the zoning administrator shall issue the requisite conditional use permit and endorse the building permit.
- (e) The planning commission or the town council may, with approval of the applicant, request additional information or modification and again consider the application at a subsequent meeting. Should the applicant fail to agree to such request the commission or council shall either approve or disapprove the application, as submitted, forthwith.

Section 21-XII-4. Amendment and rezoning.

This chapter, including the official zoning map, may be amended by action of town council as follows.

Section 21-XII-5. Conditional zoning.

- (a) If amendment is instituted by the town staff or by the town council procedures shall be the same as for the adoption of any other ordinance which requires public advertisement and public hearing.
- (b) Rezoning may be requested by one or more property owners, in which case the following procedure will apply.
 - (1) The applicant shall make application on forms prescribed by the zoning administrator and pay the requisite fee.
 - (2) The zoning administrator shall notify affected property owners and arrange for public notice and joint public hearing of the planning commission and the town council all as set forth in Section 15.1-431, Code of Virginia.
 - (3) The planning commission shall consider the proposed rezoning no later than its next regularly scheduled meeting after the public hearing and shall forward its recommendation to town council which shall consider the rezoning no later than its next regularly scheduled meeting.
 - (4) Town council shall approve or disapprove the rezoning no later than thirty (30) days following the meeting at which it first considered the recommendation of the planning commission.

(5) Upon approval of any rezoning the zoning administrator shall cause the official zoning map to be properly updated and attested by the clerk of council.

(c) No property owner initiated rezoning shall be considered unless requested by a majority of the property owners of the land proposed for rezoning. However, town council may at any time consider a rezoning or other amendment to this chapter on its own motion.

Pursuant to Section 15.1-491.1, et seq., Code of Virginia, an owner requesting a rezoning may, prior to public hearing, voluntarily proffer in writing reasonable conditions to accompany and become a part of the rezoning, if approved. Such proffer and the resulting conditional zoning shall all be in strict conformity with the state statute and shall be adopted and enforced as set forth therein.

ARTICLE XIII. INTERPRETATION AND APPLICABILITY

Section 21-XIII-1. Definitions.

For the purpose of this, chapter, certain terms and words are hereby defined. Words in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

Accessory building or use: A building or use subordinate to the main building or use on the same lot, and serving a purpose naturally and normally incidental to such main building or use.

Building: Any structure having a roof supported by columns or walls.

Boardinghouse or rooming house: A building, other than a hotel, where for compensation and by prearrangement for definite periods meals, lodging, or meals and lodging, are provided for no less than three (3) or no more than twenty (20) persons.

Building height: The vertical distance from the finished grade, at its lowest point touching the building, to the level of the highest point of the roof surface if the roof is flat or inclined not more than one (1) inch vertical to one (1) foot horizontal, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type.

Building, main: A building which houses the principal use of which it is situated. In any residential district, any dwelling shall be deemed to be a main building.

Bulletin board: A sign.

Clinic: An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine together.

Club: A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose,, but not primarily for a profit or to render a service which is customarily carried on as a business.

Conditional use: A permitted use of a building or premises which is conditioned upon approval by the town council after public hearing and notice as a legislative matter pursuant to Section 15.1-491(c), Code of Virginia 1950, as amended.

Conditional zoning: Zoning of a parcel of land which is made subject to restrictions in addition to normal restrictions of the pertinent zoning district as a result of a voluntary written proffer made by the owner and approved by town council, after public hearing, pursuant to the provisions of Section 15.1-491.2, Code of Virginia 1950, as amended.

District (zoning district): Any section of the town for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes.

Dwelling, one-family (single-family): A building occupied by or designed for occupancy by one (1) family.

Dwelling two-family, three-family, four-family: A building occupied by, or designed for occupancy by, the designated number of families.

Dwelling, multiple-family: A building or portion thereof occupied by or designed for occupancy by five (5) or more families.

Fair market value: The price which will be paid by a willing buyer to a willing seller neither of whom is under any compulsion to act.

Garage, parking: A public or commercial building or portion thereof used exclusively for the storage of self-propelled vehicles, with no repair or servicing facilities.

Garage, private: An accessory building designed or used exclusively for the storage of self-propelled vehicles owned and used by the occupants of the building to which it is accessory.

Home occupation: Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or fully enclosed accessory building only by a member of the family residing on the premises.

Hotel: A building containing ten (10) or more guest rooms in which lodging or boarding and lodging are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Junkyard: Any lot used for storage, keeping or abandonment of junk, including scrap metals or other scrap materials; or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. The term "junkyard" includes "automobile graveyard" as defined in the state law.

Lifecare or retirement home: A home for the aged or infirm in which three (3) or more persons not of the immediate family are received, kept, or provided with food, shelter and care,

for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Loading space: A space within the main building or on the premises providing for the standing, loading or unloading of trucks, having a minimum dimension of twelve (12) by thirty-five (35) feet, and a vertical clearance of at least fourteen (14) feet. *Lot:* A parcel of land occupied or intended for occupancy by a use, including the yards and parking space, and having its principal frontage upon a street or upon officially approved space.

Lot width: Width of the lot at the front building setback line measured parallel to the street.

Mobile home: A one-family dwelling unit structure of vehicular design built on a chassis and designed to be moved from one site to another.

Mobile home park: Any plot of ground upon which three (3) or more mobile homes are located. This includes mobile homes which are stored on the property but does not include mobile homes for sale by a bona fide licensed dealer.

Motel: A building, or group of buildings, comprising individual sleeping or living units for the accommodation of transient guests, not containing cooking or kitchen facilities.

Nonconforming use: Any building or premises lawfully occupied by a use at the time of passage of this chapter, or amendment thereto, which, after passage of this chapter or amendment thereto, does not conform with the use regulations of the district in which it is located.

Nursing home: A lifecare or retirement home which features skilled nursing care for all residents.

Offstreet parking space: An area of not less than two hundred (200) square feet exclusive of drives, aisles, alleys and entrances. It must be suitable and usable for the storage or parking of one standard size automobile and shall be approximately nine (9), feet by twenty-two (22) feet. Offstreet parking for a single-family dwelling lot may be provided in a driveway on the lot.

Parapet wall: A low wall or railing to protect the edge of a roof.

Premises: A parcel of land, together with any buildings or structures located thereon.

Proffer (v.): To offer in writing to make certain changes or conditions with respect to a rezoning, with the pledge that the offered conditions will be a permanent restriction on or modification to the zoning classification of the rezoned land.

Proffer (n.): A written offer of conditions at the time of a rezoning request which conditions, if accepted by town council, will become a permanent part of, or restriction on, the zoning classification of the rezoned land.

Rezoning: The change of a parcel of land to a different zoning classification.

Setback: The minimum distance which must exist between a building or structure and the designated lot line.

Setback line, front: A line, extending between the side lot lines, which is parallel or concentric to and measured from the right-of-way line of the street on which the lot fronts, establishing the minimum distance between the right-of-way line of the street and the front wall of any building or structure erected upon such lot.

Sign: Any form of publicity, visible from any public street, directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports. Signs containing "danger" or "warning" messages required by governmental or other authorities shall not be within this definition.

Site plan: A drawing showing the planned development of a lot or tract as set forth in detail in Article IX of this chapter.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is not floor above it, the space between the floor and the ceiling next above it.

Structure: Anything constructed or erected which requires a location on the ground, or is attached to something having a location on the ground, including but not limited to advertising, billboards, fences, radio towers, and gasoline pumps.

Variance: A deviation from the terms of this chapter authorized by the board of zoning appeals pursuant to Section 15.1-496, Code of Virginia 1950, as amended.

Yard: An open space between a building or use and the adjoining lot lines, unoccupied or unobstructed by any portion of a structure or use from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard or the depth of a front or rear yard, the minimum horizontal distance between the building and the lot line shall be used.

Yard, front: The horizontal distance between the street right-of-way line and the front foundation wall of the main building and extending between the two (2) side lot lines. (Refer also to "setback line".)

Yard, rear: A yard extending across the rear of a lot between side lot lines. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. The rear yard in all cases shall be at the opposite end of the lot from the front yard.

Yard, side: A yard between the building and the side lot line and extending from the front building setback line to the rear yard line.