

**ZONING ORDINANCE**  
**CHAPTER 112**  
**County of**  
**FAIRFAX, VIRGINIA**  
**Looseleaf Supplement**

This Supplement contains the following amendments:

**Amendment No. ZO-12-434, Adopted September 11, 2012, Effective January 12, 2012 at 12:01 a.m.**

**Amendment No. ZO-12-435, Adopted September 11, 2012, Effective January 12, 2012 at 12:01 a.m.**

**Amendment No. ZO-12-436, Adopted November 20, 2012, Effective November 21, 2012 at 12:01 a.m.**

**Amendment No. ZO-13-437, Adopted April 23, 2013, Effective April 24, 2013 at 12:01 a.m.**

**Amendment No. ZO-13-438, Adopted April 30, 2013, Effective May 1, 2013 at 12:01 a.m.**

**Amendment No. ZO-13-439, Adopted May 14, 2013, Effective May 15, 2013 at 12:01 a.m.**

**Amendment No. ZO-13-440, Adopted June 18, 2013, Effective June 19, 2013 at 12:01 a.m.**

**Amendment No. ZO-13-441, Adopted September 24, 2013, Effective September 25, 2013 at 12:01 a.m.**

**Amendment No. ZO-13-442, Adopted September 24, 2013, Effective September 25, 2013 at 12:01 a.m.**

**Amendment No. ZO-14-443, Adopted January 28, 2014, Effective July 1, 2014 at 12:01 a.m.**

**Amendment No. ZO-14-444, Adopted February 11, 2014, Effective February 12, 2014 at 12:01 a.m.**

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## GENERAL REGULATIONS

### **2-418 Waiver of Yard Requirements in Selective Areas**

Notwithstanding any other provision of this Ordinance and except in a Commercial Revitalization District, the minimum yard requirements and other required distances from lot lines set forth in this Ordinance may be waived for developments located in an area where specific design guidelines have been established in the adopted comprehensive plan, such as in Community Business Center (CBCs) and areas around transit facilities. Such waiver may be approved by the Board, in conjunction with the approval of a rezoning or special exception, or by the Director in approving a site plan, when it is determined that such waiver is in accordance with, and would further implementation of, the adopted comprehensive plan. Yard requirements in a Commercial Revitalization District shall be provided in accordance with the provisions of that district.

### **2-419 Reduction in Minimum Yard Requirements Based on Error in Building Location**

Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard requirements in the case of a building, or a modification to the location regulations in the case of any freestanding accessory structure existing or partially constructed, which does not comply with such requirements applicable at the time such building or accessory structure was erected. Such a reduction may be approved by the Zoning Administrator in accordance with the following provisions:

1. The Zoning Administrator determines that:
  - A. The error does not exceed ten (10) percent of the measurement that is involved, and
  - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building or structure subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements and/or location regulations would cause unreasonable hardship upon the owner, and
  - G. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In approving such a reduction or modification under the provisions of this Section, the Zoning Administrator shall allow only a reduction or modification necessary to provide reasonable relief and, as deemed advisable, may prescribe such conditions, to include landscaping and screening measures to assure compliance with the intent of this Ordinance.
3. Upon the approval of a reduction or modification for a particular building or structure in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The Zoning Administrator shall have no power to waive or modify the standards

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necessary for approval as specified in this Section.

5. If there is an error greater than ten (10) percent of the measurement that is involved, a reduction or modification may be granted by the BZA in accordance with the provisions of Sect. 8-914.
6. In accordance with Sect 8-914, the BZA may also grant a reduction of the minimum yard requirements or a modification of the accessory structure location requirements due to an error in building location that is no greater than ten (10) percent of the measurement involved when such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property; or in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent.

### **2-420 Yard Regulations for Lots Affected by Certain Dedications**

The dedication of land for a service drive, bus turnout and/or bus shelter to the County or to the Virginia Department of Transportation shall not affect the applicable minimum yard requirements. The minimum required yard shall be established from the lot line as it existed prior to such dedication, except in no instance shall a building be erected closer than fifteen (15) feet from the nearest street line. This Section shall not apply to a lot(s) which contains a single family detached dwelling unit.

### **2-421 Cluster Subdivisions**

1. Cluster subdivisions may be permitted in the R-2 District with a minimum district size of two (2.0) acres or greater and may be permitted in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, with approval by the Director pursuant to Chapter 101 of The Code, The Subdivision Ordinance.
2. Cluster subdivisions may be permitted in the R-C, R-E and R-1 Districts and may be permitted in the R-3 and R-4 Districts which have a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres with special exception approval by the Board pursuant to Sect. 9-615.
3. After July 1, 2004, special exception approval of new cluster subdivisions in the R-2 District and new cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, shall not be permitted.
4. After July 1, 2004, the Board may approve a proffered rezoning to the R-2 District or a proffered rezoning to a R-3 or R-4 District which has a minimum district size of three and one-half (3.5) acres or greater, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district that has a higher permitted maximum density than the permitted maximum density of the existing zoning of the application property. In conjunction with Board approval of such a proffered rezoning, all minimum district size, lot area, lot width, shape factor and open space requirements of the district and all applicable cluster subdivision provisions of Chapter 101 of The Code, The Subdivision Ordinance, shall be met without modification or waiver. However, the provisions of Sect. 18-204 shall apply to such an approved proffered rezoning.
5. After July 1, 2004, the Board may approve a proffered rezoning to the R-C, R-E or R-1 District or a proffered rezoning to a R-3 or R-4 District which has a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, for the development of a cluster subdivision without bonus density when the application is for a

## COMMERCIAL DISTRICT REGULATIONS

### **PART 7 4-700 C-7 REGIONAL RETAIL COMMERCIAL DISTRICT**

#### **4-701 Purpose and Intent**

The C-7 District is established to provide locations for a full range of retail commercial and service uses which are oriented to serve a regional market area containing 100,000 or more persons. The district should be located adjacent to major transportation facilities, and development within the district should be encouraged in centers that are planned as a unit.

Generally, the C-7 District in a given location in the County should contain an aggregate gross floor area in excess of 1,000,000 square feet.

#### **4-702 Permitted Uses**

1. Accessory uses as permitted by Article 10.
2. Amusement arcades, limited by the provisions of Sect. 705 below.
3. Bowling alleys.
4. Business service and supply service establishments.
5. Churches, chapels, temples, synagogues and other such places of worship.
6. Colleges, universities.
7. Commercial swimming pools, tennis courts and similar courts, indoor.
8. Community clubs, centers and meeting halls.
9. Cultural centers, museums.
10. Drive-in financial institutions, limited by the provisions of Sect. 705 below.
11. Drive-through pharmacy, limited by the provisions of Sect. 705 below.
12. Eating establishments.
13. Fast food restaurants, limited by the provisions of Sect. 705 below.
14. Financial institutions.
15. Funeral homes.
16. Garment cleaning establishments.
17. Health clubs.
18. Hotels, motels.

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19. Indoor archery ranges, fencing and other similar indoor recreational uses.
20. Kennels, limited by the provisions of Sect. 705 below.
21. Miniature golf courses, indoor.
22. Mobile and land based telecommunication facilities, subject to the provisions of Sect. 2-514.
23. New vehicle storage, limited by the provisions of Sect. 705.
24. Offices, limited by the provisions of Sect. 705 below.
25. Parking, commercial off-street, as a principal use.
26. Personal service establishments.
27. Private clubs and public benefit associations.
28. Private schools of general education, private schools of special education.
29. Public uses.
30. Quasi-public athletic fields and related facilities, limited by the provisions of Sect. 705 below.
31. Quick-service food stores, limited by the provisions of Sect. 705 below.
32. Repair service establishments.
33. Retail sales establishments.
34. Retail sales establishments-large, limited by the provisions of Sect. 705 below.
35. Skating facilities, indoor.
36. Telecommunication facilities.
37. Theatres.
38. Vehicle light service establishments, limited by the provisions of Sect. 705 below.
39. Vehicle transportation service establishments, limited by the provisions of Sect. 705 below.
40. Veterinary hospitals.

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- A. On a corner lot, no curb cut shall be located closer than sixty (60) feet to the curb line extended of the intersecting street.
  - B. No curb cut, except on a service drive, shall be located closer than twenty (20) feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent land uses be less than forty (40) feet.
  - C. Except where frontage is on a service drive, a freestanding use shall have no more than two (2) curb cuts on any single right-of-way, and such curb cuts shall have a minimum distance of forty (40) feet between them.
7. Kennels and veterinary hospitals shall be permitted by right when located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area. In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.
8. Offices shall be permitted only subject to the following:
- A. The total gross floor area devoted to office shall not exceed fifty (50) percent of the maximum floor area permitted on the lot in accordance with the maximum floor area ratio for the district; provided that an increase in office use in excess of fifty (50) percent may be permitted by the Board in accordance with the provisions of Sect. 9-515.
9. Quasi-public athletic fields and related facilities shall be permitted by right in accordance with the following:
- A. Such use is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition;
  - B. Such use shall be permitted on an interim basis for a period not to exceed five (5) years, provided, however, that upon request by the property owner, subsequent extensions of up to five (5) years each may be approved by the Board;
  - C. No structure or field shall be located within 100 feet of any adjoining property which is in an R district;
  - D. The use of lighting or loudspeakers for the athletic field or facility shall not be permitted;
  - E. Notwithstanding the provisions of Article 13, transitional screening shall not be required unless determined necessary by the Director;

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- F. Parking to accommodate such use shall be provided on-site. In the event such use is to be located on-site with another use, the Director may allow existing off-street parking to serve such use provided the hours of operation of the two uses do not coincide; and
  - G. There shall be a sign which identifies the athletic field as an interim use of the site. No such sign shall exceed thirty-two (32) square feet in area or be less than ten (10) square feet in area, exceed eight (8) feet in height or be located closer than five (5) feet to any street line.
10. Drive-through pharmacies shall be permitted by right (a) when located on a lot which is not abutting or not across a local or collector street from residentially zoned land, which land is either developed with dwellings or vacant; (b) when the lot is designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and parking; and (c) when there are adequate parking and stacking spaces for the use which are provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot. Drive-through pharmacies which do not meet these limitations may be allowed by special exception in accordance with the provisions of Article 9.
- In addition, signs shall be required to be posted in the vicinity of the stacking area stating the limitations on the use of the window service and/or drive-through lane. Such signs shall not exceed two (2) square feet in area or be located closer than five (5) feet to any lot line.
11. Except in Commercial Revitalization Districts, vehicle transportation service establishments shall be permitted by right in accordance with the following:
- A. The total number of company vehicles permitted on site at any given time shall not exceed five (5).
  - B. There shall be no maintenance of refueling or vehicles on site.
  - C. Notwithstanding the provisions of Par. 15 of the Transitional Screening and Barrier Matrix, the use shall be subject to the provisions of Par. 9 of the Matrix.
- Vehicle transportation service establishments which are located within a Commercial Revitalization District may be allowed by special exception in accordance with the provisions of Sect. 9-622.
12. New vehicle storage shall be permitted by right in accordance with the following:
- A. When located within a parking structure that is accessory to another use, and provided that the spaces devoted to a new vehicle storage are in excess of the minimum number of off-street parking spaces required in accordance with Article 11 for the use to which the structure is accessory. The owner shall submit a parking tabulation in accordance with Article 17 that demonstrates that such excess parking spaces are available for new vehicle storage.

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- B. The layout of the new vehicle storage shall not hinder the internal vehicle circulation within the parking structure, and there shall be no mechanical parking lift devices or fencing associated with the new vehicle storage.
  - C. There shall be no signs identifying the use and/or the associated vehicle, sale, rental and ancillary service establishment.
  - D. Notwithstanding the provisions of Article 13, transitional screening shall not be required.
13. Retail sales establishments-large shall be permitted by right in accordance with the following:

When such use is located within a building that contains a minimum of 1,000,000 square feet of gross floor area with at least six (6) principal uses all of which are connected by party walls, partitions or similar structural members to form one continuous structure.

Retail sales establishments that do not meet the limitations set forth above may be allowed by special exception in accordance with the provisions of Article 9.

### **4-706 Lot Size Requirements**

- 1. Minimum lot area: 40,000 sq. ft.
- 2. Minimum lot width: 200 feet
- 3. The minimum lot size requirements may be waived by the Board in accordance with the provisions of Sect. 9-610.

### **4-707 Bulk Regulations**

- 1. Maximum building height: 90 feet, subject to increase as may be permitted by the Board in accordance with the provisions of Sect. 9-607
- 2. Minimum yard requirements
  - A. Front yard: Controlled by a 45° angle of bulk plane, but not less than 40 feet
  - B. Side yard: No Requirement
  - C. Rear yard: 20 feet
- 3. Maximum floor area ratio: 0.80, provided however an increase to 1.0 may be permitted by the Board in accordance with the provisions of Sect. 9-618
- 4. Refer to Sect. 13-301 for provisions that may qualify the minimum yard requirements set forth above.

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### **4-708 Open Space**

15% of the gross area shall be landscaped open space

### **4-709 Additional Regulations**

1. Refer to Article 2, General Regulations, for provisions which may qualify or supplement the regulations presented above.
2. Refer to Article 11 for off-street parking, loading and private street requirements.
3. Refer to Article 12 for regulations on signs.
4. Refer to Article 13 for landscaping and screening requirements.
5. Refer to Article 17 for uses and developments which are subject to site plan provisions.

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### **PART 9 4-900 C-9 SUPER-REGIONAL RETAIL COMMERCIAL DISTRICT**

#### **4-901 Purpose and Intent**

The C-9 District is established to provide locations for a full range of retail commercial and service uses which are oriented to serve a regional market area containing 300,000 or more persons. The district should be located adjacent to major transportation facilities, and development within the district should be encouraged in centers that are planned as a unit.

#### **4-902 Permitted Uses**

1. Accessory uses as permitted by Article 10.
2. Amusement arcades, limited by the provisions of Sect. 905 below.
3. Business service and supply service establishments.
4. Churches, chapels, temples, synagogues and other such places of worship.
5. Drive-in financial institutions, limited by the provisions of Sect. 905 below.
6. Drive-through pharmacy, limited by the provisions of Sect. 905 below.
7. Eating establishments.
8. Fast food restaurants, limited by the provisions of Sect. 905 below.
9. Financial institutions.
10. Garment cleaning establishments.
11. Health clubs.
12. Hotels, motels, and conference centers.
13. Kennels, limited by the provisions of Sect. 905 below.
14. Mobile and land based telecommunication facilities, subject to the provisions of Sect. 2-514.
15. New vehicle storage, limited by the provisions of Sect. 905.
16. Offices, limited by the provisions of Sect. 905 below.
17. Personal service establishments.
18. Private schools of general education, private schools of special education.

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19. Public uses.
20. Quasi-public athletic fields and related facilities, limited by the provisions of Sect. 905 below.
21. Quick-service food stores, limited by the provisions of Sect. 905 below.
22. Repair service establishments.
23. Retail sales establishments.
24. Retail sales establishments-large, limited by the provisions of Sect. 905 below.
25. Telecommunication facilities.
26. Theatres.
27. Vehicle light service establishments, limited by the provisions of Sect. 905 below.
28. Vehicle transportation service establishments, limited by the provisions of Sect. 905 below.
29. Veterinary hospitals.

### **4-903 Special Permit Uses**

For specific Group uses, regulations and standards, refer to Article 8.

1. Group 3 - Institutional Uses, limited to:
  - A. Churches, chapels, temples, synagogues and other such places of worship with a child care center or nursery school
2. Group 4 - Community Uses, limited to:
  - A. Swimming clubs and tennis clubs/courts
3. Group 5 - Commercial Recreation Uses, limited to:
  - A. Billiard and pool halls
  - B. Bowling alleys
  - C. Commercial recreation parks, including mechanical or motorized amusement rides/devices
  - D. Commercial swimming pools, tennis courts, and similar courts

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2. Fast food restaurants, drive-in financial institutions, quick-service food stores and vehicle light service establishments shall be permitted by right in accordance with the following:
  - A. Fast food restaurants without any drive-through facilities shall be permitted by right:
    - (1) When located in a shopping center, and the fast food restaurant does not occupy (a) more than 1500 square feet of gross floor area and (b) more than thirty-five (35) percent of the gross floor area of the building in which located; or
    - (2) When located in a shopping center of 25,000 square feet or more of gross floor area, the fast food restaurant may occupy more than 1500 square feet but not to exceed 2500 square feet of gross floor area, provided that the fast food restaurant does not occupy more than twenty-five (25) percent of the gross floor area of the building in which located.
  - B. Fast food restaurants, other than those permitted under Par. 1A above, drive-in financial institutions, and quick-service food stores shall be permitted by right when:
    - (1) Such use is located within a building of a shopping center, which building contains at least six (6) other uses which are not fast food restaurants other than those permitted by Par. 1A above, drive-in financial institution, or quick-service food stores; and
    - (2) All uses within that building are connected by party walls or partitions to form one continuous structure.
  - C. Vehicle light service establishments shall be permitted by right when located within the main structure of a super-regional shopping center.
  - D. For all of the above, the shopping center and the building in which such drive-in financial institution, fast food restaurant, quick-service food store or vehicle light service establishment is located shall be subject to an approved unified site plan. In addition, vehicular access to the use shall be provided only via the internal circulation system of the shopping center.

Drive-in financial institutions, fast food restaurants, quick-service food stores and vehicle light service establishments which do not meet the limitations set forth above may be allowed by special exception in accordance with the provisions of Article 9.

  3. Amusement arcades shall be permitted by right only when such use is located under the roof of the main structure of a super-regional shopping center.
  4. All business, service, storage, and display of goods shall be permitted only on the same lot with and ancillary to a permitted, special permit or special exception use. Except for 250

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square feet of accessory outdoor storage and display in accordance with Sect. 17-104, the outdoor area devoted to storage, loading and display of goods shall be limited to that area so designated on an approved site plan. The outdoor storage and display of all goods shall be subject to Sect. 2-504 and shall be limited to goods that are customarily used outside such as fertilizers, peat moss, shrubbery, mulch and those goods permitted to be sold at a service station or service station/mini-mart.

5. All refuse shall be contained in completely enclosed facilities.
6. All uses shall comply with the performance standards set forth in Article 14.
7. Except where already existing or where expressly waived by the Director because of existing physical constraints, site configuration or safety considerations which would preclude strict compliance:
  - A. On a corner lot, no curb cut shall be located closer than sixty (60) feet to the curb line extended of the intersecting street.
  - B. No curb cut, except on a service drive, shall be located closer than twenty (20) feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent land uses be less than forty (40) feet.
  - C. Except where frontage is on a service drive, a freestanding use shall have no more than two (2) curb cuts on any single right-of-way, and such curb cuts shall have a minimum distance of forty (40) feet between them.
8. Kennels and veterinary hospitals shall be permitted by right when located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area. In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.
9. In the aggregate the total gross floor area devoted to office use shall not exceed an area equal to twenty-five (25) percent of the total gross floor area permitted within the district in a given location in accordance with the maximum floor area ratio for such district, provided that an increase in office use in excess of twenty-five (25) percent may be permitted by the Board in accordance with the provisions of Sect. 9-515.
10. Quasi-public athletic fields and related facilities shall be permitted by right in accordance with the following:
  - A. Such use is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition;
  - B. Such use shall be permitted on an interim basis for a period not to exceed five (5) years, provided, however, that upon request by the property owner, subsequent extensions of up to five (5) years each may be approved by the Board;

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- C. No structure or field shall be located within 100 feet of any adjoining property which is in an R district;
  - D. The use of lighting or loudspeakers for the athletic field or facility shall not be permitted;
  - E. Notwithstanding the provisions of Article 13, transitional screening shall not be required unless determined necessary by the Director;
  - F. Parking to accommodate such use shall be provided on-site. In the event such use is to be located on-site with another use, the Director may allow existing off-street parking to serve such use provided the hours of operation of the two uses do not coincide; and
  - G. There shall be a sign which identifies the athletic field as an interim use of the site. No such sign shall exceed thirty-two (32) square feet in area or be less than ten (10) square feet in area, exceed eight (8) feet in height or be located closer than five (5) feet to any street line.
11. Drive-through pharmacies shall be permitted by right (a) when located on a lot which is not abutting or not across a local or collector street from residentially zoned land, which land is either developed with dwellings or vacant; (b) when the lot is designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and parking; and (c) when there are adequate parking and stacking spaces for the use which are provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot. Drive-through pharmacies which do not meet these limitations may be allowed by special exception in accordance with the provisions of Article 9.
- In addition, signs shall be required to be posted in the vicinity of the stacking area stating the limitations on the use of the window service and/or drive-through lane. Such signs shall not exceed two (2) square feet in area or be located closer than five (5) feet to any lot line.
12. Except in Commercial Revitalization Districts, vehicle transportation service establishments shall be permitted by right in accordance with the following:
- A. The total number of company vehicles permitted on site at any given time shall not exceed five (5).
  - B. There shall be no maintenance of refueling or vehicles on site.
  - C. Notwithstanding the provisions of Par. 15 of the Transitional Screening and Barrier Matrix, the use shall be subject to the provisions of Par. 9 of the Matrix.

Vehicle transportation service establishments which are located within a Commercial Revitalization District may be allowed by special exception in accordance with the provisions of Sect. 9-622.

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13. New vehicle storage shall be permitted by right in accordance with the following:
  - A. When located within a parking structure that is accessory to another use, and provided that the spaces devoted to a new vehicle storage are in excess of the minimum number of off-street parking spaces required in accordance with Article 11 for the use to which the structure is accessory. The owner shall submit a parking tabulation in accordance with Article 17 that demonstrates that such excess parking spaces are available for new vehicle storage.
  - B. The layout of the new vehicle storage shall not hinder the internal vehicle circulation within the parking structure, and there shall be no mechanical parking lift devices or fencing associated with the new vehicle storage.
  - C. There shall be no signs identifying the use and/or the associated vehicle, sale, rental and ancillary service establishment.
  - D. Notwithstanding the provisions of Article 13, transitional screening shall not be required.
14. Retail sales establishments-large shall be permitted by right in accordance with the following:

When such use is located within a building that contains a minimum of 1,000,000 square feet of gross floor area with at least six (6) principal uses all of which are connected by party walls, partitions or similar structural members to form one continuous structure.

Retail sales establishments that do not meet the limitations set forth above may be allowed by special exception in accordance with the provisions of Article 9.

### **4-906 Lot Size Requirements**

1. Minimum district size: 50 acres; the area requirement may be satisfied by an aggregate area either in a single contiguous configuration of land area or by an aggregate of land areas which would be contiguous except for separations created by public or private streets
2. Minimum lot area: No Requirement
3. Minimum lot width: No Requirement
4. The minimum district size requirements may be waived by the Board in accordance with the provisions of Sect. 9-610.

## PLANNED DEVELOPMENT DISTRICT REGULATIONS

3. When a use presented in Sect. 103 above as a Group or Category use is being considered for approval on a final development plan, the standards set forth in Articles 8 or 9 shall be used as a guide.

When a use presented in Sect. 103 above as a Group or Category use is being considered for approval as a special exception use, pursuant to Sect. 105 above, the use shall be subject to the provisions of Article 9 and the special permit standards of Article 8, if applicable. Provided that such use is in substantial conformance with the approved conceptual development plan and any imposed development conditions or proffered conditions and is not specifically precluded by the approved final development plan, no final development plan amendment shall be required.

In either of the above, all Category 3 medical care facility uses shall be subject to the review procedures presented in Part 3 of Article 9. In addition, a Group 3 home child care facility shall be subject to the plan submission requirements and additional standards set forth in Sect. 8-305.

4. All uses permitted pursuant to the approval of a final development plan shall be in substantial conformance with the approved final development plan as provided for in Sect. 16-403.
5. Secondary uses of a commercial and office nature shall be permitted only in a PDH District which has a minimum of fifty (50) residential dwelling units, except that the Board, in conjunction with the approval of a conceptual development plan in order for further implementation of the adopted comprehensive plan, may modify this limitation for the Group 6 outdoor recreation special permit uses and the Category 5 special exception uses of golf courses, country clubs and golf driving ranges.
6. Secondary uses of a commercial nature, except Group 6 outdoor recreation uses, golf courses, country clubs, golf driving ranges and offices, shall be designed to serve primarily the needs of the residents of the planned development in which they are located, and such uses, including offices, shall be designed so as to maintain and protect the residential character of the planned development and adjacent residential neighborhoods as well. In order to accomplish these purposes:
  - A. Commercial and office uses shall be conducted within a completely enclosed building with no outside display except those uses which by their nature must be conducted outside a building.
  - B. When located within the same building as residential uses, commercial and office uses shall be limited to the lowest two (2) floors.
  - C. The maximum total land area, including all at-grade off-street parking and loading areas in connection therewith, devoted to commercial and office uses, except Group 6 outdoor recreation uses, golf courses, country clubs and golf driving ranges, shall be as follows:
    - (1) PDH-1 through PDH-4: 400 square feet of commercial/dwelling unit.
    - (2) PDH-5 through PDH-20: 300 square feet of commercial/dwelling unit.

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- (3) PDH-30 and PDH-40: 200 square feet of commercial/dwelling unit.

However, the Board may allow an increase in the commercial land area if there is a single commercial area proposed to serve two or more contiguous PDH Districts which are planned and designed as a single planned development and which are zoned concurrently. The Board may approve such an increase with the concurrent approval of a conceptual and final development plan which shows the layout, uses and intensity of the commercial land area. In such instance, the land area devoted to commercial use may be based on the total number of dwelling units in the PDH Districts, provided, however, that the resultant commercial land area shall not exceed twice that which would have been permitted otherwise for the individual PDH District in which the commercial land area is located.

In no instance, however, shall office uses occupy more than ten (10) percent of the total gross floor area.

7. Service stations, service station/mini-marts and vehicle light service establishments shall be permitted only under the following conditions:
- A. Located in a commercial center consisting of not less than three (3) commercial establishments, such commercial establishments to be other than automobile-related.
  - B. There shall be no vehicle or tool rental and no outdoor storage or display of goods offered for sale, except for the outdoor storage and display of goods permitted at a service station or service station/mini-mart. In addition, there shall be no separate freestanding sign associated with the use except as required by Chapter 10 of The Code, and no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours and there shall be no more than two (2) such vehicles on site at any one time.
8. Signs shall be permitted only in accordance with the provisions of Article 12, and off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11.
9. Kennels and veterinary hospitals shall be located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area. In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.
10. Zoological parks shall be subject to the following:
- A. All such uses shall be subject to and operated in compliance with all applicable Federal, State and County regulations.
  - B. The Director of the Department of Animal Control shall review the operation of the zoological park on a quarterly basis and shall have the right to conduct unannounced inspections of the facility during daylight hours.

## PLANNED DEVELOPMENT DISTRICT REGULATIONS

2. Category 5 - Commercial and Industrial Uses of Special Impact, limited to:
  - A. Commercial off-street parking in Metro Station areas as a temporary use
  - B. Fast food restaurants

### **6-206 Use Limitations**

1. All development shall conform to the standards set forth in Part 1 of Article 16.
2. All uses shall comply with the performance standards set forth in Article 14.
3. When a use presented in Sect. 203 above as a Group or Category use is being considered for approval on a final development plan, the standards set forth in Articles 8 or 9 shall be used as a guide.

When a use presented in Sect. 203 above as a Group or Category use is being considered for approval as a special exception use, pursuant to Sect. 205 above, the use shall be subject to the provisions of Article 9 and the special permit standards of Article 8, if applicable. Provided that such use is in substantial conformance with the approved conceptual development plan and any imposed development conditions or proffered conditions and is not specifically precluded by the approved final development plan, no final development plan amendment shall be required.

In either of the above, all Category 3 medical care facility uses shall be subject to the review procedures presented in Part 3 of Article 9. In addition, a Group 3 home child care facility shall be subject to the plan submission requirements and additional standards set forth in Sect. 8-305.

4. All uses permitted pursuant to the approval of a final development plan shall be in substantial conformance with the approved final development plan as provided for in Sect. 16-403.
5. Secondary uses shall be permitted only in a PDC District which contains one or more principal uses. Unless modified by the Board in conjunction with the approval of a conceptual development plan in order for further implementation of the adopted comprehensive plan, the gross floor area devoted to dwellings as a secondary use shall not exceed fifty (50) percent of the gross floor area of all principal uses in the development, except that the floor area for affordable and market rate dwelling units which comprise the increased density pursuant to Part 8 of Article 2 shall be excluded from this limitation. The gross floor area of all other secondary uses shall not exceed twenty-five (25) percent of the gross floor area of all principal uses in the development.

The floor area for dwellings shall be determined in accordance with the gross floor area definition except the following features shall not be deemed gross floor area: balconies, porches, decks, breezeways, stoops and stairs which may be roofed but which have at least one open side; or breezeways which may be roofed but which have two (2) open ends. An open side or open end shall have no more than fifty (50) percent of the total area between the side(s), roof and floor enclosed with railings, walls, or architectural features.

6. Secondary uses shall be designed so as to maintain and protect the character of adjacent properties, and shall be conducted entirely within an enclosed building, with no outside display, except those uses which by their nature must be conducted outside a building.

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7. Service stations, service station/mini-marts and vehicle light service establishments shall be permitted only under the following conditions:
  - A. Located in a commercial center consisting of not less than three (3) commercial establishments, such commercial establishments to be other than automobile-related.
  - B. There shall be no vehicle or tool rental and no outdoor storage or display of goods offered for sale, except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart. In addition, no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours and there shall be no more than two (2) such vehicles on site at any one time.
8. Signs shall be permitted only in accordance with the provisions of Article 12, and off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11.
9. Notwithstanding the provisions of Par. 5 and 6 above, housing for the elderly as a secondary use need not be designed to serve primarily the needs of the residents and occupants of the planned development in which located but shall be designed so as to maintain and protect the character of adjacent properties. The gross floor area devoted to housing for the elderly as a secondary use shall not exceed fifty (50) percent of the gross floor area of all uses in the development.
10. Fast food restaurants shall be permitted only in accordance with the following:
  - A. Fast food restaurants may be permitted as a secondary use when shown on an approved final development plan, and provided such use is located in a nonresidential structure containing at least one (1) other permitted principal or secondary use, in accordance with the following:
    - (1) Such fast food restaurants shall be oriented to cater primarily to occupants and/or employees in the structure in which located, or of that structure and adjacent structures in the same building complex which are accessible via a clearly designated pedestrian circulation system; and
    - (2) Such use(s) shall comprise not more than fifteen (15) percent of the gross floor area of the structure.
  - B. Fast food restaurants not permitted under the provisions of Par. A above may be permitted as a secondary use by special exception, in accordance with the following:
    - (1) The structure containing the fast food restaurant shall be designed as an integral component of a building complex, and shall be reviewed for compatibility with the approved PDC development; and

## PLANNED DEVELOPMENT DISTRICT REGULATIONS

- (17) Repair service establishments.
  - (18) Retail sales establishments.
  - (19) Theatres.
  - (20) Transportation facilities (Category 4), limited to:
    - (a) Bus or railroad stations
    - (b) Electrically-powered regional rail transit facility
    - (c) Regional non-rail transit facilities
  - (21) Vehicle transportation service establishments.
- F. In those areas approved for industrial use on the adopted comprehensive plan of the planned community, upon application, such areas may be reclassified to the I-I, I-1, I-2, I-3, I-4 or I-5 District. Industrial areas shall not be included in the PRC District nor be subject to the requirements thereof.

### **6-303 Special Permit Uses**

The following uses shall be permitted uses in those areas as qualified when they are specifically designated on an approved development plan; otherwise they may be allowed in such qualified areas only as a special permit use upon approval by the BZA.

- 1. Uses presented in Par. A, B, C, D and E in Sect. 302 above as a Group use.
- 2. Commercial recreation centers - Village and town centers.
- 3. Open air markets - Neighborhood convenience, village, town and convention/conference centers.
- 4. Open refreshment stands - Neighborhood convenience, village, town and convention/conference centers.
- 5. Group 8 - Temporary Uses.
- 6. Group 9 - Uses Requiring Special Regulation, limited to:
  - A. Home professional offices
  - B. Accessory dwelling units

### **6-304 Special Exception Uses**

The following uses shall be permitted uses in those areas as qualified when they are specifically designated on an approved development plan; otherwise they may be allowed in such qualified areas only as a special exception use upon approval of the Board.

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1. All uses presented in Par. A, B, C, D and E in Sect. 302 above as a Category use.
2. Heavy public utility uses (Category 2), limited to sewage treatment and disposal facilities - Residential.
3. Hotels, motels - Village and town centers.
4. Category 5 - Commercial and Industrial Uses of Special Impact, limited to:
  - A. Bed and breakfasts
  - B. Commercial off-street parking in Metro Station areas as a temporary use
5. Truck rental establishments – Village Center, limited by Sect. 6-305.

### **6-305**

#### **Use Limitations**

1. All development shall conform to the standards set forth in Part 1 of Article 16.
2. Uses in a PRC District shall be permitted only in those areas as designated on the approved development plan, or in those areas as may be approved under Sections 303 and 304 above.
3. When a use presented in Sect. 302 above as a Group or Category use is being considered for approval on a development plan, the standards set forth in Articles 8 and 9 shall be used as a guide.

When a use presented in Sect. 302 above as a Group or Category use is being considered for approval as a special permit or special exception use, pursuant to Sections 303 and 304 above, the use shall be subject to the provisions of Article 8 or Article 9, respectively. Provided that such use is in substantial conformance with the approved development plan and any imposed development conditions or proffered conditions and is not specifically precluded by the approved development plan, no development plan amendment shall be required.

In either of the above, all Group 3 medical care facility uses shall be subject to the review procedures presented in Part 3 of Article 9.
4. All uses permitted pursuant to an approved development plan shall be in substantial conformance with the approved development plan as provided in Sect. 16-202.
5. All uses shall comply with the performance standards set forth in Article 14.
6. In areas approved for low density residential uses, no multiple family dwellings shall be allowed, except if such dwellings are provided pursuant to Part 8 of Article 2 and are specifically shown on the approved development plan.
7. Where commercial and residential uses are located in the same building, there shall be separate exterior entrances for the two uses.

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8. In all commercial centers, all business, service, storage and display of goods shall be conducted within a completely enclosed building, except those particular uses, which by their nature must be conducted outside a building, and the storing of rental trucks approved for a truck rental establishment.
9. Off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11.
10. Signs shall be permitted in accordance with the provisions of Article 12, and where there is an interpretation needed on the appropriate provisions that are applicable in a neighborhood convenience center, village center, town center or convention/conference center, such shall be made by the Zoning Administrator.
11. Kennels and veterinary hospitals in village and town centers shall be located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area. In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.
12. Drive-through pharmacies shall be permitted only on a lot which is designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and parking. Adequate parking and stacking spaces for the use shall be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot. In addition, signs shall be required to be posted in the vicinity of the stacking area stating the limitations on the use of the window service and/or drive-through lane. Such signs shall not exceed two (2) square feet in area or be located closer than five (5) feet to any lot line.
13. Vehicle transportation service establishments shall be permitted in accordance with the following:
  - A. The total number of company vehicles permitted on site at any given time shall not exceed five (5).
  - B. There shall be no maintenance or refueling of vehicles on site.
  - C. Notwithstanding the provisions of Par. 15 of the Transitional Screening and Barrier Matrix, the use shall be subject to the provisions of Par. 9 of the Matrix.
14. Truck rental establishments approved in accordance with Sect. 304 above shall be subject to the provisions of Sect. 9-525.

### **6-306 Lot Size Requirements**

1. Minimum district size: 750 acres.
2. Minimum lot area: No requirement for each use or building, provided that a privacy yard, having a minimum area of 200 square feet, shall be provided on each single family attached dwelling unit lot, unless waived by the Board in conjunction with the approval of a development plan.

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3. Minimum lot width: No requirement for each use or building.

### **6-307 Bulk Regulations**

1. Maximum building height: No Regulation
2. Minimum yard requirements:
  - A. The location and arrangement of structures shall not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood.
  - B. No single family detached dwelling shall be erected closer than sixteen (16) feet to any other single family dwelling unless a lesser distance is specifically identified on an approved development plan.
  - C. No single family detached or attached dwelling or accessory structure shall be erected closer than fifteen (15) feet to any public street right-of-way line unless shown on an approved PRC plan.
3. Maximum floor area ratio: No Regulation
4. Maximum percentage of lot coverage: No Regulation

### **6-308 Maximum Density**

1. The overall density for a PRC District shall not exceed thirteen (13) persons per acre of gross residential and associated commercial areas.
2. In computing density, a factor of 3.0 persons shall be used per single family detached dwelling; 2.7 persons per single family attached dwelling; and 2.1 persons per multiple family dwelling.
3. Residential densities in a PRC District shall be designated low, medium and high on the approved development plan.
  - A. Low: The overall density within the entire area of a PRC District that is designated for low density shall not exceed 3.8 persons per acre of gross residential area. Further, the density in any one low density area shall not exceed five (5) dwelling units per acre.
  - B. Medium: The overall density within the entire area of a PRC District that is designated for medium density shall not exceed 14 persons per acre of gross residential area. Further, the density in any one medium density area shall not exceed twenty (20) dwelling units per acre.

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- A. Child care centers and nursery schools
  - B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education
  - C. Colleges, universities
  - D. Congregate living facilities
  - E. Cultural centers, museums and similar facilities
  - F. Independent living facilities
  - G. Medical care facilities
  - H. Private clubs and public benefit associations
  - I. Private schools of general education
  - J. Private schools of special education
18. Repair service establishments.
19. Retail sales establishments.
20. Theatres.
21. Transportation facilities (Category 4), limited to:
- A. Bus or railroad stations
  - B. Electrically-powered regional rail transit facilities
  - C. Regional non-rail transit facilities
22. Vehicle transportation service establishments.

**6-404 Special Permit Uses**

For specific Group uses, regulations and standards, refer to Article 8.

- 1. Group 8 - Temporary Uses.

**6-405 Special Exception Uses**

- 1. Subject to the use limitations presented in Sect. 406 below, any use presented in Sect. 403 above as a Group or Category use may be permitted with the approval of a special exception when such use is not specifically designated on an approved final development plan.

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2. Category 3 – Quasi-Public Uses, limited to:
  - A. Sports arenas, stadiums
3. Category 4 – Transportation Facilities, limited to:
  - A. Heliports
  - B. Helistops

### **6-406 Use Limitations**

1. All development shall conform to the standards set forth in Part 1 of Article 16.
2. A final development plan shall be submitted and approved concurrently with the conceptual development plan for the proposed development. The conceptual and final development plan shall specify the uses and gross floor area for the proposed development and shall provide site and building designs that will integrate with the adjacent communities and complement existing and planned development by incorporating high standards of urban design. The plan shall also be in general accordance with any specific urban design concept and streetscape plans for the area including the provision of convenient and accessible pedestrian walkways and connections, all as set forth in the adopted comprehensive plan.
3. The principal residential use shall be multiple family dwelling units. Single family attached dwellings may be allowed at the periphery of the development to provide a transition from the high density development to adjacent lower density development.
4. All uses shall be designed to be harmonious with and not adversely affect the use or development of neighboring properties.
5. When a use presented in Sect. 403 above as a Group or Category use is being considered for approval on a final development plan, the standards set forth in Articles 8 or 9 shall be used as a guide.

When a use presented in Sect. 403 above as a Group or Category use is being considered for approval as a special exception use, pursuant to Sect. 405 above, the use shall be subject to the provisions of Article 9 and the special permit standards of Article 8, if applicable. Provided that such use is in substantial conformance with the approved conceptual development plan and any imposed development conditions or proffered conditions and is not specifically precluded by the approved final development plan, no final development plan amendment shall be required.

In either of the above, all Category 3 medical care facility uses shall be subject to the review procedures presented in Part 3 of Article 9. In addition, a Group 3 home child care facility shall be subject to the plan submission requirements and additional standards set forth in Sect. 8-305.
6. Secondary uses may be permitted only in a PRM District where at least fifty (50) percent of the total gross floor area in the development is devoted to multiple family dwellings.

## PLANNED DEVELOPMENT DISTRICT REGULATIONS

4. When a use presented in Sect. 502 above as a Group or Category use is being considered for approval on a final development plan, the standards set forth in Articles 8 or 9 shall be used as a guide.

When a use presented in Sect. 502 above as a Group or Category use is being considered for approval as a special exception use, pursuant to Sect. 504 above, the use shall be subject to the provisions of Article 9 and the special permit standards of Article 8, if applicable, and the use limitations set forth in this Section. In the event a special exception or special permit standard conflicts with a use limitation of this Section, the use limitation of this Section shall apply. Provided that such use is in substantial conformance with the approved conceptual development plan and any imposed development conditions or proffered conditions and is not specifically precluded by the approved final development plan, no final development plan amendment shall be required.

All uses permitted pursuant to the approval of a final development plan shall be in substantial conformance with the approved final development plan as provided for in Sect. 16-403.

In either of the above, all Category 3 medical care facility uses shall be subject to the review procedures presented in Part 3 of Article 9. In addition, a Group 3 home child care facility shall be subject to the plan submission requirements and additional standards set forth in Sect. 8-305.

5. Notwithstanding the definition of gross floor area, any cellar space shall be counted as part of the gross floor area and shall be included in the calculation of the floor area ratio, except that space used for mechanical equipment with structural headroom of less than six (6) feet, six (6) inches; and that area that is specifically identified and used for storage and/or for accessory uses; and that area specifically identified and used for primarily unmanned datacenter equipment.
6. The floor area for dwellings shall be determined in accordance with the gross floor area definition, as modified above; however, the following features associated with dwellings shall not be deemed gross floor area: balconies, porches, decks, breezeways, stoops and stairs which may be roofed but which have at least one open side; or breezeways that may be roofed but which have two (2) open ends. An open side or open end shall have no more than fifty (50) percent of the total area between the side(s), roof and floor enclosed with railings, walls, or architectural features.
7. All uses shall be conducted entirely within an enclosed building with no outside storage, except those uses that by their nature must be conducted outside a building. Outdoor display and outdoor seating associated with a permitted use may be permitted when such areas are designated on an approved final development plan.
8. It is intended that all uses and structures shall be designed in an integrated manner. Small-scale structures containing one or more uses shall only be permitted when the applicant has demonstrated that such development meets the urban design guidelines set forth in the adopted comprehensive plan. However, as part of a long-term phased development proposal and to assist in maintaining the economic viability of the Tysons Corner Urban Center, when proposed as an interim use, uses and/or structures that legally exist at the time of the rezoning to the PTC District may be continued, including any drive-through facility. New uses and/or structures as interim uses may also be permitted, even though such interim structures do not fully satisfy the urban design guidelines. All interim uses shall be specifically identified on an approved conceptual development plan, subject to the following:

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- A. The interim use and/or structure, the intended duration of the interim use/structure, and how the interim use/structure fits into the phasing plan shall be identified in the phasing plan. The applicant shall demonstrate that the interim use and/or structure will not adversely impact the ability to achieve the objectives set forth in Sect. 501 above.
  - B. For existing uses and structures, to the extent feasible, design elements set forth in the urban design guidelines of the adopted comprehensive plan, such as enhanced streetscape and improvements to pedestrian and vehicular access should be provided. New uses and/or structures, to the extent feasible, shall be designed in accordance with the urban design guidelines including streetscape, build-to lines and building articulation.
  - C. All off-street parking, loading and stacking spaces for existing uses, shall be included as part of the parking plan pursuant to Sect. 509 below. Notwithstanding the provisions of Sect. 509, existing surface parking may be retained, provided such parking is redesigned, to the extent feasible, to minimize pedestrian conflicts by limiting the number of curb cuts; to provide clearly identified pedestrian access through the parking lot; and to provide appropriate interior and perimeter landscaping and screening to minimize the potential adverse impacts on adjacent property. Additionally, new interim surface parking may be provided when the above-noted standards are satisfied and when such surface parking is designed to orient parking, loading and drive aisles to the rear and side of the structure.
  - D. In addition, the Board may impose such conditions and restrictions as it deems necessary to assure that the interim use and/or structure will be compatible with and will not adversely impact the ability to achieve the goals and objectives set forth in the adopted comprehensive plan.
9. Service stations, service station/mini-marts and vehicle light service establishments may be permitted when specifically identified on an approved final development plan and in accordance with the following:
- A. All vehicle repair and service shall occur within a completely enclosed structure; and
  - B. There shall be no vehicle or tool rental and no outdoor storage or display of goods offered for sale. In addition, no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours and there shall be no more than two (2) such vehicles on site at any one time.
10. Car washes, drive-in financial institutions, drive-through pharmacies or any other use with a drive-through facility may only be permitted when specifically identified on an approved final development plan and such use including any drive-through facility and stacking spaces is located within a multiple story building or parking structure.
11. Drive-through facilities other than those permitted under Paragraphs 8 and 10 above shall not be permitted.

## SPECIAL PERMITS

### **PART 3     8-300   GROUP 3   INSTITUTIONAL USES**

#### **8-301     Group 3 Special Permit Uses**

1.     (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
2.     Churches, chapels, temples, synagogues and other such places of worship.
3.     Convents, monasteries, seminaries and nunneries.
4.     (Deleted by Amendment #83-72, Adopted January 31, 1983)
5.     Home child care facilities.
6.     Group housekeeping units.
7.     (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
8.     (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
9.     (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
10.   Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education.

#### **8-302     Districts in Which Group 3 Uses May be Located**

1.     Group 3 uses may be permitted by right in the following districts:  
  
R-12, R-16, R-20, R-30, R-MHP Districts: Limited to use 2  
  
PDH, PDC, PRC, PTC Districts: All uses when represented on an approved development plan  
PRM District: Limited to uses 2, 5 and 10 when represented on an approved development plan  
  
C-1, C-2, C-3, C-4 Districts: Limited to uses 2 and 10  
C-5, C-6, C-7, C-8, C-9 Districts: Limited to use 2  
  
All I Districts: Limited to use 2
2.     Group 3 uses may be allowed by special permit in the following districts:  
  
R-A District: Limited to use 5  
R-P, R-C Districts: Limited to uses 2, 5 and 10  
R-E, R-1, R-2, R-3, R-4, R-5, R-8 Districts: All uses  
R-12, R-16, R-20, R-30, R-MHP Districts: Limited to uses 3, 5, 6 and 10  
  
C-5, C-6, C-7, C-8 Districts: Limited to uses 3 and 10  
C-9 District: Limited to use 10

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- I-I District: Limited to use 10
- I-1, I-2, I-3 Districts: Limited to uses 3 and 10
- I-4, I-5, I-6 Districts: Limited to use 10

**8-303 Standards for all Group 3 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

**8-304 (Deleted by Amendment #83-72, Adopted January 31, 1983)**

**8-305 Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
  - A. The dimensions, boundary lines and area of the lot or parcel.

## SPECIAL PERMITS

- D. The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
- E. The location and configuration of any existing or proposed off-street parking space(s), the number of spaces proposed to be provided, and information as to the proposed surfacing of such areas.
- F. The delineation of any Resource Protection Area and Resource Management Area.
- G. The signature and certification number, if applicable, of the person preparing the plat.

### **8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building or a modification to the location regulations of any freestanding accessory structure existing or partially constructed which does not comply with such requirements applicable at the time such building or structure was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of well and/or septic field.
  - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

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- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, or
  - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
  - C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
  - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - F. It will not create an unsafe condition with respect to both other property and public streets, and
  - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
  - H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction or modification under the provisions of this Section, the BZA shall allow only a reduction or modification necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
- 4. Upon the granting of a reduction or modification for a particular building or structure in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
- 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

SPECIAL EXCEPTIONS

Comprehensive Plan Residential Density	Maximum Number of Units Per Acre*	Required Open Space
0.2 unit per acre	not to exceed 5 times unit per acre	75%
0.5 unit per acre	" 4 times unit(s) per acre	70%
1 unit per acre	" "	65%
2 units per acre	" "	60%
3 units per acre	" "	55%
4 units per acre	" "	50%
5 units per acre	" "	35%
8 units per acre	" "	25%
12 units per acre or more	" "	35%
PRC District	In accordance with an approved Development Plan	

\*Excluding nursing facilities and assisted living facilities

7. Independent living facilities may include assisted living facilities and skilled nursing facilities designed solely for the residents as an accessory use.
8. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.
9. In residential districts, the maximum building height shall be 50 feet, except that the maximum building height shall be 35 feet when the structure is designed to look like a single family detached dwelling and utilizes the applicable residential district minimum yard requirements, as set forth below, subject to further limitations by the Board to ensure neighborhood compatibility. For independent living facilities in commercial districts the maximum building height shall be as set forth in the district in which they are located.
10. For independent living units that are located in a structure designed to look like a single family detached dwelling unit and is located in the R-E through R-8 Districts, the Board may permit compliance with the applicable single family detached minimum yard requirements of the zoning district in which located. For independent living facilities located in any other structure or district, the minimum front, side and rear yard requirements shall be as follows:
  - A. Where the yard abuts or is across a street from an area adopted in the comprehensive plan for 0.2 to 8 dwelling units per acre - 50 feet.
  - B. Where the yard abuts or is across a street from an area adopted in the comprehensive plan for a residential use having a density greater than 8 dwelling units per acre or any commercial, office or industrial use - 30 feet.

In any event, the Board may modify such yard requirements to ensure compatibility with the surrounding neighborhood.
11. Transitional screening shall be provided in accordance with the provisions of Article 13, and for the purpose of that Article, an independent living facility shall be deemed a multiple family dwelling.

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- 12. The provisions of Par. 6 above shall not be applicable to proffered rezoning and approved special exception applications or amendments thereto approved prior to May 20, 2003 or for special exception applications approved prior to May 20, 2003 for which a request for additional time to commence construction is subsequently requested in accordance with Sect. 9-015. Additionally, Par. 6 above shall not be applicable, unless requested by the applicant to rezoning and special exception amendment applications filed on or after May 20, 2003, which propose no increase in density over the previously approved density.
- 13. Live-in aides, as defined in Par. 1 above, shall not be subject to the income limitations and/or the age/disability occupancy requirements set forth in this Section. For the purposes of this Section, the “annual household income” shall not include the income of any live-in aide when determining the eligibility of the qualified resident.
- 14. Resident care providers, as defined in Par. 1 above, may be provided in independent living facilities located in single family attached units or multiple family dwelling unit buildings, limited to not more than twenty-five (25) percent of the total number of dwelling units within the facility. Such resident care providers shall not be subject to the income limitations and/or age/disability occupancy requirements set forth in this Section; however, rental occupancy shall be limited to a maximum six (6) month term, subject to renewal for additional six (6) month maximum terms upon confirmation that the care provider continues to provide services to the primary resident(s) of the development. At such time that it is determined that an individual is no longer providing care services to a resident, such individual shall vacate the rental unit at the end of the lease term.
- 15. For independent living facilities for low income tenants in which not less than seventy (70) percent of the dwelling units are to be provided for those residents whose annual household income is not more than fifty (50) percent of the median income for the Washington Metropolitan Statistical Area (WMSA) and not more than thirty (30) percent of the dwelling units are provided for residents whose annual income is not more than seventy (70) percent of the median income for the WMSA, the following additional standards shall also apply:

A. All occupancy shall be on a rental basis only. Maximum rental prices shall be established in accordance with the following formula, based on the appropriate median income for the WMSA. The base figure shall be adjusted by the following factors for different dwelling unit sizes based on bedroom count:

Number of Bedrooms	Adjustment Factor
0 bedrooms (efficiency/studio)	70%
1 bedroom	85%
2 or more bedrooms	100%

The result of this calculation for each size dwelling unit shall then be divided by twelve (12), then multiplied by twenty-five (25) percent and rounded to the nearest whole number to establish the maximum rent for the unit, which may or may not include utilities, at the developer’s option. Resident care provider units shall not be subject to this calculation.

## SPECIAL EXCEPTIONS

14. Hotels, motels.
15. Marinas, docks and boating facilities, commercial.
16. Mini-warehousing establishments.
17. Offices.
18. Parking, commercial off-street, as a principal use.
19. Plant nurseries.
20. Quick-service food stores.
21. Service stations.
22. Theatres.
23. Vehicle light service establishments.
24. Vehicle major service establishments.
25. Vehicle sale, rental and ancillary service establishments.
26. Wholesale trade establishments.
27. Commercial off-street parking in Metro Station areas as a temporary use.
28. Food and beverage manufacturing, production and processing establishments.
29. Industrial/flex.
30. Pawnshops.
31. Mixed waste reclamation facilities.
32. Retail sales establishments.
33. Service station/mini-marts.
34. Truck rental establishments.
35. Bed and breakfasts.
36. Drive-through pharmacies.
37. Baseball hitting and archery ranges, outdoor.
38. Golf courses, country clubs.

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- 39. Golf driving ranges.
- 40. Kennels, animal shelters.
- 41. Miniature golf courses ancillary to golf driving ranges.
- 42. Veterinary hospitals, but only ancillary to kennels.
- 43. Retail sales establishments-large.

**9-502 Districts in Which Category 5 Uses May be Located**

- 1. Category 5 uses may be permitted by right or as an accessory service use in the following districts:

PDH District: Limited to uses 2, 6, 9, 15, 17, 20, 21, 23, 32, 33, 36, 38, 39 and kennels (indoor) when represented on an approved development plan

PDC District: Limited to uses 1, 2, 3, 6, 9, 10, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 32, 33, 36, 38, 39, kennels (indoor) and 43 when represented on an approved development plan

PRC District: Limited to uses 1, 2, 3, 6, 9, 11, 12, 14, 15, 17, 18, 20, 21, 22, 23, 25, 32, 33, 34, 36, 37, 38, 39, kennels (indoor), 42 and 43 when represented on an approved development plan

PRM District: Limited to uses 9, 11, 14, 17, 20, 22, 25 and 32 when represented on an approved development plan

PTC District: Limited to uses 1, 3, 6, 9, 10, 11, 12, 14, 16, 17, 18, 20, 21, 22, 23, 25, 29, 30, 33, 36, kennels (indoor) and 43 when represented on an approved development plan

C-1, C-2 Districts: Limited to use 17

C-3 District: Limited to uses 9, 12 and 17

C-4 District: Limited to uses 9, 12, 17 and 18

C-5 District: Limited to uses 6, 9, 11, 12, 17, 18, 20, 32, 36 and kennels (indoor)

C-6 District: Limited to uses 6, 9, 11, 12, 17, 18, 20, 22, 23, 32, 36, kennels (indoor) and 43

C-7 District: Limited to uses 1, 6, 9, 11, 12, 14, 17, 18, 20, 22, 23, 32, 36, kennels (indoor) and 43

C-8 District: Limited to uses 2, 6, 9, 11, 12, 14, 17, 18, 20, 22, 23, 26, 32, 36, kennels (indoor) and 43

C-9 District: Limited to uses 1, 6, 9, 11, 14, 17, 20, 22, 23, 32, 36, kennels (indoor) and 43

I-I District: Limited to uses 9, 10 and 17

I-1, I-2 Districts: Limited to uses 10, 12 and 17

I-3 District: Limited to uses 10, 12, 17 and kennels (indoor)

I-4 District: Limited to uses 10, 12, 16, 17, 26 and kennels (indoor)

I-5, I-6 Districts: Limited to uses 10, 12, 16, 17, 23, 24, 26, 28, 34 and kennels (indoor)

- 2. Category 5 uses may be allowed by special exception in the following districts:

## SPECIAL EXCEPTIONS

R-A District: Limited to uses 19 and 40  
R-P District: Limited to uses 15, 17, 19, 35, 38, 40 and 42  
R-C District: Limited to uses 15, 17, 19, 35, 38, 39, 40 and 42  
R-E, R-1 Districts: Limited to uses 10, 12, 15, 17, 19, 27, 35, 37, 38, 39, 40, 41 and 42  
R-2 District: Limited to uses 5, 12, 15, 17, 19, 27, 35 and 38  
R-3, R-4 Districts: Limited to uses 5, 12, 15, 17, 19, 27 and 38  
R-5, R-8 Districts: Limited to uses 5, 12, 15, 17, 27 and 38  
R-12, R-16, R-20 Districts: Limited to uses 12, 15, 27 and 38  
R-30 District: Limited to uses 12, 15, 17, 27 and 38  
R-MHP District: Limited to uses 12, 15, 27 and 38

PDH District: Limited to uses 11, 27 and 35  
PDC District: Limited to uses 11, 16 and 27  
PRC District: Limited to uses 27, 34 and 35

C-1 District: Limited to uses 10, 27 and 38  
C-2 District: Limited to uses 6, 9, 10, 27 and 38  
C-3 District: Limited to uses 6, 9, 10, 14, 18, 21, 22, 25, 27 and 38  
C-4 District: Limited to uses 6, 9, 10, 14, 21, 22, 25, 27 and 38  
C-5 District: Limited to uses 2, 3, 6, 11, 15, 17, 20, 21, 23, 27, 33, 34, 36, 37, 38, 39 and 41  
C-6 District: Limited to uses 2, 3, 4, 6, 11, 14, 15, 17, 20, 21, 23, 25, 27, 30, 33, 34, 36, 37, 38, 39 and 43  
C-7 District: Limited to uses 2, 3, 4, 6, 7, 8, 10, 11, 15, 17, 20, 21, 23, 25, 26, 27, 30, 33, 34, 36, 37, 38, 39 and 43  
C-8 District: Limited to uses 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 20, 21, 23, 24, 25, 27, 30, 33, 34, 36, 37, 38, 39 and 43  
C-9 District: Limited to uses 2, 3, 4, 6, 10, 11, 17, 18, 20, 21, 23, 25, 26, 27, 33, 36, 37 and 43

I-I District: Limited to use 27  
I-1 District: Limited to uses 27 and 38  
I-2 District: Limited to uses 9, 14, 15, 18, 22, 27 and 38  
I-3 District: Limited to uses 3, 6, 9, 14, 15, 16, 18, 21, 22, 25, 26, 27, 29, 37, 38, 39 and kennels (outdoor)  
I-4 District: Limited to uses 3, 6, 9, 14, 15, 18, 19, 21, 22, 25, 27, 28, 32, 37, 38, 39 and kennels (outdoor)  
I-5 District: Limited to uses 3, 6, 7, 9, 11, 14, 18, 19, 20, 21, 23, 25, 27, 32, 33, 37, 38, 39 and kennels (outdoor)  
I-6 District: Limited to uses 3, 6, 7, 11, 13, 18, 19, 20, 21, 23, 27, 31, 33, 37, 38, 39 and kennels (outdoor)

### **9-503 Standards for all Category 5 Uses**

In addition to the general standards set forth in Sect. 006 above, all Category 5 special exception uses shall satisfy the following standards:

1. Except as qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located.

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2. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan or photometric plan as may be required by Part 9 of Article 14.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

**9-504 Additional Standards for Amusement Arcades**

1. Such a use shall not be located closer than 1000 feet to any school. In addition, except when located under the roof of a shopping center, such a use shall not be located within 100 feet of any adjoining property which is in an R district.
2. Such use shall be established only after approval by the Board of a plan setting forth acceptable rules for the operation of the establishment. Such plan shall specify (a) procedures to preclude gambling and loitering; (b) regulations regarding the use of the establishment by school age children; and (c) procedures for the enforcement of the rules.
3. In addition, the Board shall impose such conditions and restrictions as it may deem necessary to assure that the use will be compatible with and will not adversely impact the adjacent area. Such conditions and restrictions may include, but need not be limited to, the following:
  - A. Hours of operation.
  - B. Number of adult attendants required to be on the premises at all times.
  - C. Size of the establishment and the number of amusement machines.

**9-505 Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Financial Institutions, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Stations/Mini-Marts**

1. In all districts where permitted by special exception:
  - A. Such a use shall have on all sides the same architectural features or shall be architecturally compatible with the building group or neighborhood with which it is associated.
  - B. Such a use shall be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties.
  - C. The site shall be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation. Parking and stacking spaces shall be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

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24. Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet. In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.
25. Storage structure, incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the R-2 through R-20 Districts shall exceed 200 square feet in gross floor area.
26. Swimming pool and bathhouse, private.
27. Temporary family health care structures shall be permitted on lots zoned for and developed with single family detached dwellings, subject to the approval of the Zoning Administrator by issuance of a permit and compliance with the following provisions:
  - A. Occupancy of a temporary family health care structure shall be limited to one (1) mentally or physically impaired person, who is a Virginia resident and requires assistance with two (2) or more daily living activities as defined in Sect. 63.2-2200 of the *Code of Virginia*, or, in the case of a married couple, two (2) occupants, one (1) of whom is mentally or physically impaired and the other requires assistance with one (1) or more daily living activities.
  - B. The property on which the temporary family health care structure will be located shall be owned or occupied by an adult caregiver who provides care for a mentally or physically impaired person and the property shall be used as the caregiver's primary residence. The adult caregiver shall be related by blood, marriage, or adoption to or the legally appointed guardian of the physically or mentally impaired person(s) occupying the temporary family health care structure.
  - C. Only one (1) temporary family health care structure shall be permitted on a lot.
  - D. Temporary family health care structures shall be limited to a maximum of 300 square feet of gross floor area and shall meet the minimum yard requirements for single family detached dwellings of the zoning district in which located. When located in a P district, the temporary family health care structure shall be subject to any proffered yards and/or yards depicted on an approved development plan. If there are no proffered yards or yards depicted on an approved development plan in a P district, the temporary family health care structure shall be deemed an alteration to a single family dwelling unit and subject to Par. 6 of 16-403.
  - E. Temporary family health care structures shall not be installed on a permanent foundation.
  - F. Temporary family health care structures shall be subject to the Industrialized Building Safety Law and the Virginia Uniform Statewide Building Code.

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- G. Temporary family health care structures may be required to connect to any water, sewer, and electric utilities that are serving the principal residence on the property, and shall comply with all applicable Health Department requirements.
- H. No signs promoting or advertising the structure shall be permitted on the structure or on the lot.
- I. The following shall be submitted to the Zoning Administrator with any application for a temporary family health care structure:
  - (1) The name and contact information of the proposed caregiver, and the relationship of the caregiver to the physically or mentally impaired proposed occupant.
  - (2) Address of the property.
  - (3) Written certification of physical or mental impairment of the proposed occupant, including verification that the person requires assistance with two or more activities of daily living as defined in Sect. 63.2-2200 of the *Code of Virginia*, by a physician licensed in the Commonwealth of Virginia.
  - (4) Written certification by a physician licensed in the Commonwealth of Virginia that the spouse of the mentally or physically impaired person also requires assistance with one or more activities of daily living as defined in Sect. 63.2-2200 of the *Code of Virginia*.
  - (5) Three copies of a plat drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), which may be prepared by the applicant, and shall contain the following information:
    - (a) The dimensions of the lot, the boundary lines thereof, and the area of land contained therein;
    - (b) The dimensions, height and distance to all lot lines of any existing structure on the lot and of the proposed temporary family health care structure; and
    - (c) The signature and certification number, if applicable, of the person preparing the plat.
  - (6) A filing fee of \$100 made payable to the County of Fairfax.
- J. The caregiver shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
- K. Evidence of compliance with these provisions shall be provided to the Zoning Administrator on an annual basis.

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- L. Temporary family health care structures shall be removed from the property within sixty (60) days from the date on which the structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for by the caregiver.
  - M. A permit for a temporary health care structure may be revoked by the Zoning Administrator due to failure of the applicant to comply with any of the above provisions.
28. Temporary portable storage containers shall be allowed in any yard on lots containing a dwelling, subject to all of the following:
- A. On lots developed with single family detached dwellings:
    - (1) Temporary portable storage containers shall be permitted on a lot containing 36,000 square feet or less for a period not to exceed 30 consecutive days within a 6 month period. On lots that are greater than 36,000 square feet, temporary portable storage containers shall be permitted for a period not to exceed 60 consecutive days within a 6 month period. However, in cases where a dwelling unit has been damaged by casualty, a temporary portable storage container may be allowed for longer time periods than indicated above in accordance with Part 8 of Article 8.
    - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet.
  - B. On lots developed with single family attached or multiple family dwellings:
    - (1) Temporary portable storage containers shall be permitted for a period not to exceed seven (7) consecutive days within a six (6) month period, however, in cases where a dwelling has been damaged by casualty, a longer period may be permitted in accordance with Part 8 of Article 8.
    - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
  - C. Temporary portable storage containers shall not exceed eight and one-half (8½) feet in height.
  - D. Temporary portable storage containers shall not be located in any required open space, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection. Such containers shall also be subject to the sight distance provisions of Sect. 2-505.
  - E. Signage on temporary portable storage containers shall be in accordance with Par. 2S of Sect. 12-103.

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- 29. Tennis, basketball or volleyball court, and other similar private outdoor recreation uses.
- 30. Wayside stands, but subject to the following limitations:
  - A. Shall be permitted only in the R-A through R-4 Districts, on a lot containing at least two (2) acres.
  - B. Structures shall not exceed 400 square feet in gross floor area.
  - C. Shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
  - D. Shall be for the expressed purpose of sale of agricultural products grown on the same property, or the sale of products of approved home occupations conducted on the same property. For the purpose of this Ordinance, plants which are balled, burlapped and bedded shall not be considered as growing on the same property.
  - E. Shall not be subject to the location requirements set forth in Sect. 104 below, but shall be located a minimum distance of twenty-five (25) feet from any lot line.
  - F. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
  - G. Notwithstanding the provisions of Article 12, a wayside stand may have one (1) building-mounted sign, mounted flush against the stand, which does not exceed ten (10) square feet in area.
- 31. The keeping of animals in accordance with the provisions of Sect. 2-512.
- 32. Child care centers for occasional care, only when located within the main structure of a regional or super-regional shopping center, and subject to the applicable provisions of Chapter 30 of The Code and Title 63.2, Chapter 17 of the Code of Virginia.

**10-103 Use Limitations**

- 1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- 2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
- 3. All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard.
- 4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect.

## ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.

5. The following use limitations shall apply to fences:
  - A. Barbed wire fences are prohibited in all zoning districts except on lots exceeding two (2) acres or more in size in the R-A through R-1 Districts. Barbed wire strands may be used to enclose storage areas, other similar industrial or commercial uses or swimming pools where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six (6) feet from the nearest ground level.
  - B. It shall be unlawful for any person to construct, install, maintain, or allow or cause to be constructed, installed, or maintained, an electric fence upon any lot of two (2) acres or less in area, located within a subdivision as defined in Chapter 101 of The Code, The Subdivision Ordinance.
  
6. The following use limitations shall apply to home child care facilities:
  - A. The maximum number of children permitted at any one time shall be as follows:
    - (1) Seven (7) when such facility is located in a single family detached dwelling.
    - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.
  - B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.
  - C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
  - D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
  - E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least

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one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.

- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

### **10-104 Location Regulations**

1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building, except as qualified in Sect. 2-412.
2. The required minimum yards referenced in this Section shall refer to the minimum yards in the applicable zoning district for the principal building(s) with which the accessory-type building is associated.
3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.
  - A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.
  - B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:
    - (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
    - (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

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- C. In any side or rear yard on any lot, a fence or wall not exceeding seven (7) feet in height is permitted. However, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, is permitted:
- (1) In any side or rear yard of a reverse frontage lot; or
  - (2) For that portion of a side or rear yard of a residential lot where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space, where such open space is located between the lot line and the major thoroughfare.
- D. In any yard of an industrial use permitted by the provisions of this Ordinance, a fence or wall not exceeding eight (8) feet in height is permitted.
- E. Notwithstanding the above provisions, a fence or wall which is an integral part of any accessory use, such as a tennis court or swimming pool, shall be subject to the location regulations of Par. 12 below. However, a modification to the location regulations may be permitted with approval of a special permit by the BZA in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a rezoning or a special exception in accordance with Part 6 of Article 9 for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses that are not constructed in association with a privately used playing field/court on a lot containing a single family dwelling.
- F. In addition, for noise barriers which reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduce noise impacts of commercial and industrial uses on adjacent properties, an increase in height and/or modification to the corresponding location regulations set forth above may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a proffered rezoning or a special exception in accordance with the following:
- (1) A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.
  - (2) The Board shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.

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- (3) Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.
- G. Notwithstanding the above, a fence or wall which is to be provided in conjunction with a public use may be of such height and location as approved by the Board.
- H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:
- (1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.
  - (2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.
- I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a five (5) percent increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:
- (1) The sight distance requirements of Sect. 2-505 shall be met.
  - (2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.
  - (3) Any existing noncompliance was done in good faith and through no fault of the property owner.
  - (4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
  - (5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.
- J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as

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determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of not less than six (6) feet apart and a minimum distance of not less than three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.

4. Trellises, gates and gate posts may be located within any required minimum front yard as follows:
  - A. Two (2) trellises, not to exceed eight (8) feet in height nor four (4) feet in width.
  - B. Four (4) gate posts without limit as to height or width.
  - C. Two (2) gates not to exceed eight (8) feet in height.
  - D. Gates and gate posts exceeding four (4) feet in height shall not exceed in maximum width fifteen (15) percent of the lot width.
5. Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any R district as follows:
  - A. Structures seventy-five (75) feet or less in height shall not be located closer to any lot line than a distance equal to one-fifth (1/5) of their height.
  - B. Structures greater than seventy-five (75) feet in height shall not be located closer to any lot line than a distance equal to their height.
6. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 11.
7. Signs shall be located in accordance with the provisions of Article 12.
8. Wayside stands shall be located in accordance with the provisions of Par. 30 of Sect. 102 above.
9. The following regulations shall apply to the location of structures for the housing of animals:
  - A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.
  - B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2-512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that any such structure

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used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.

- C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer than three (3) feet to any lot line. Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.
- D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

- 10. The following regulations shall apply to the location of freestanding accessory storage structures:
  - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.
  - C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.
  - D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.
  - E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

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- (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and recycling storage containers. In addition, no containers shall be located in any required parking space, driveway, parking aisle, open space or landscaped area.
12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:
  - A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory structure or use, which does not exceed seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Sect. 2-505.
  - C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.
  - D. No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.
  - E. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
    - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
13. Except as may be qualified by Sect. 2-505, conventional television antennas and satellite dish antennas designed to receive television or video programming with a diameter or diagonal measurement of 39 inches (one meter) or less shall be permitted in any yard on any lot.

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14. Except for lighting fixtures mounted on poles that are associated with outdoor recreation/sports facilities playing fields/courts and as noted below, the mounting height of lighting fixtures on light poles shall not exceed a maximum height of forty (40) feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture. Light poles mounted on the top of parking decks or parking structures shall not exceed a maximum height of twenty (20) feet as measured from the top of the pole to the surface on which the pole is mounted. Light poles shall be located in accordance with the following:
  - A. On lots developed with single family dwellings:
    - (1) Light poles that are no greater than seven (7) feet in height may be located in any yard;
    - (2) Light poles that exceed seven (7) feet in height shall be subject to the location regulations of Paragraphs 12C, 12D, 12E and 12F above.
  - B. On all other lots:
    - (1) Light poles that do not exceed seven (7) feet in height may be located in any yard;
    - (2) Light poles greater than seven (7) feet in height shall be subject to the minimum yard requirements, with the exception of angle of bulk plane, of the zoning district in which located.

The above locational provisions shall not be applicable to parking lot light poles, which may be located in any yard. All light poles, to include parking lot light poles, shall be subject to the provisions of Part 9 of Article 14.

15. Temporary portable storage containers shall be located in accordance with the provisions of Sect. 102 above.

## ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

### **PART 2 10-200 ACCESSORY SERVICE USES**

#### **10-201 Authorization**

Accessory service uses, as defined in Article 20, are permitted in connection with certain principal uses as set forth below when expressly authorized in the zoning district regulations.

#### **10-202 Permitted Accessory Service Uses**

Accessory service uses shall include, but are not limited to, the following uses; provided that such use shall be in accordance with the definition of Accessory Service Use contained in Article 20.

1. Accessory to a principal use of multiple family dwellings in the R-12, R-16, R-20, R-30 and in the PDH, PDC and PRC Districts when such dwelling or dwelling complex has a minimum of 250 dwelling units:
  - A. Eating establishments.
  - B. Child care centers.
  - C. Garment cleaning establishments.
  - D. Personal service establishments.
  - E. Quick-service food stores.
  - F. Retail sales establishments selling convenience merchandise.
2. Accessory to a principal use of offices, industrial establishments, or institutional buildings in the C-1, C-2, C-3, C-4, I-1, I-2, I-3, I-4, I-5 and I-6 Districts:
  - A. Business service and supply service establishments.
  - B. Child care centers.
  - C. Eating establishments.
  - D. Garment cleaning establishments.
  - E. Health clubs, spas, sauna and steam baths, swimming pools, tennis courts and other such similar facilities.
  - F. Personal service establishments.
  - G. Prescription establishments and the selling of pharmaceutical supplies.
  - H. Quick-service food stores, limited to the C-3, C-4 and I-4 Districts.

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- I. A dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use.
  - J. Repair service establishments.
  - K. Retail sales establishments selling convenience merchandise.
3. Accessory to a principal use of offices or industrial establishments in the I-5 and I-6 Districts, in addition to the uses set forth in Par. 2 above:
- A. Drive-in financial institutions.
  - B. Fast food restaurants.
  - C. Quick-service food stores.

### **10-203 Use Limitations**

In addition to the use limitations applicable in the zoning district in which located, all accessory service uses shall be subject to the following use limitations:

- 1. Accessory service uses shall be oriented to cater primarily to the residents or employees of the principal use with which they are associated.
- 2. With the exception of those uses set forth in Par. 3 and 4 below, all accessory service uses shall be located in the same building as the principal use.
- 3. Accessory service uses in the C-4 District may be located in a freestanding building separate from the principal use, and an eating establishment in the I-1 through I-5 Districts may also be located in a freestanding building; but such freestanding buildings shall be allowed only in those locations shown on an approved development plan or site plan for an office facility or industrial park.

Those accessory service uses set forth in Par. 2E of Sect. 202 above, which by their nature must be conducted outside a building, shall be located on the same lot as the principal use.
- 4. Drive-in financial institutions, fast food restaurants and quick-service food stores in the I-5 and I-6 Districts may be located in a freestanding building; provided, however, that such uses shall not have frontage or direct access to a street defined in the adopted comprehensive plan as a major or minor arterial, and such uses shall be an integral design element of a site plan for an industrial building or building complex containing not less than 30,000 square feet of gross floor area.
- 5. The aggregate gross floor area of all accessory service uses shall not exceed fifteen (15) percent of the total gross floor area of the multiple family dwelling development, office or industrial building or park, as shown on a site plan.
- 6. No accessory service use shall be located above the second floor of the building in which located, with the exception of:

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- A. The residence of a proprietor or owner, which may be located on any floor.
- B. An eating establishment which may be located in a rooftop penthouse.
- 7. Signs for accessory service uses shall be regulated by the provisions of Article 12.
- 8. For child care centers that are accessory to a principal use of multiple family dwellings, the following use limitations shall apply:
  - A. The child care center may be located within common areas of the building or development such as party rooms or club houses, but in no event shall the use be located within individual dwelling units.
  - B. Enrollment shall be limited to children who live in the building or complex where the child care center is located. The maximum daily enrollment shall not exceed 99 children.
  - C. In addition to the usable outdoor recreation space requirements of Chapter 30 of The Code or usable outdoor recreation space requirements promulgated pursuant to Title 63.2, Chapter 17 of the Code of Virginia, whichever is applicable, usable outdoor recreation space shall be limited to:
    - (1) That area not covered by buildings or required off-street parking spaces.
    - (2) That area outside the limits of the minimum required front yard.
    - (3) Only that area which is developable for active outdoor recreation purposes.
  - D. Such use shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

FAIRFAX COUNTY ZONING ORDINANCE

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

**PART 3 10-300 HOME OCCUPATIONS**

**10-301 Authorization**

Home occupations are permitted in any dwelling unit subject to the approval by the Zoning Administrator and the provisions listed below. An application for a home occupation shall be filed with the Zoning Administrator on forms furnished by the County. The application for a home occupation shall be accompanied by a filing fee of fifty dollars (\$50) made payable to the County of Fairfax.

**10-302 Permitted Home Occupations**

Home occupations include, but are not necessarily limited to, the following:

1. Artists and sculptors.
2. Authors and composers.
3. Dressmakers, seamstresses and tailors.
4. Home crafts, such as model making, rug weaving, lapidary work, and ceramics.
5. Office facilities, other than home professional offices as defined in Article 20.
6. Schools of special education whose class size does not exceed more than four (4) pupils at any given time and not more than eight (8) pupils in any one day.
7. The letting for hire of not more than two (2) rooms for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.

**10-303 Home Occupations Not Permitted**

Permitted home occupations shall not in any event be deemed to include the following:

1. Antique shops.
2. Barbershops or beauty parlors.
3. Eating establishments.
4. Gift shops.
5. Repair service or personal service establishments, except as may be permitted by Sect. 302 above.
6. Riding or boarding stables or kennels.
7. Veterinary hospitals.

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### 10-304 Use Limitations

In addition to the use limitations applicable in the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted by the home occupation permit applicant within the dwelling which is the primary residence of the applicant or in an accessory building thereto which is normally associated with a residential use and shall be clearly subordinate to the principal use of the lot as a dwelling.
2. Except for articles produced on the premises, no stock in trade shall be stored, displayed or sold on the premises.
3. There shall be no exterior evidence that the property is used in any way other than for a dwelling.
4. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home, associated with a hobby or avocation not conducted for gain or profit, or customary for a small office.
5. No outside display or storage of goods, equipment or materials used in connection with the home occupation shall be permitted.
6. The home occupation permit applicant and other persons who use the dwelling as their primary residence may be involved in the home occupation use. In addition, one (1) nonresident person, whether paid or not for their services, may be involved in the home occupation use on the property provided that there is only one (1) such person on the property and the hours of such attendance shall be limited to 8:00 AM to 5:00 PM, Monday through Friday.
7. Only one commercial vehicle shall be permitted per dwelling unit, subject to the provisions of Sect. 102 above.
8. The dwelling in which the home occupation is being conducted shall be open for inspection to County personnel during reasonable hours.
9. A permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void.
10. No sign shall be permitted.
11. There shall be no customers or clients.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

**10-305      Revocation of a Home Occupation Permit**

A permit for a home occupation shall be revocable by the Zoning Administrator because of the failure of the owner or operator of the use covered by the permit to observe all requirements of the permit and the Zoning Ordinance.

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## SITE PLANS

in the plan which cause the disapproval by reference to specific ordinances, regulations, or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

7. Notwithstanding the above, the County Executive, after a recommendation from the Director, may authorize the submission to and approval by the Director of a minor site plan for uses or modifications which are not in accordance with Par. 1 above, upon a determination that the approval will not adversely affect compliance with all other applicable requirements or the provision of any required improvements.
8. Once a minor site plan is approved, any Building Permit, Residential or Non-Residential Use Permit or other permits shall only be issued in accordance with such approved plan. Once the uses or structures approved by such minor site plan are established, the uses and structures shall continue to be subject to the provisions of approval and any modifications or alterations to the site or any additional uses and structures shall only be permitted in accordance with the provisions of this Article.

### **17-106 Required Information on Site Plans**

All site plans shall contain a cover sheet as prescribed by the Director and the following information, where applicable, unless the Director determines, based upon written justification submitted with the plan, that the information is unnecessary for a complete review of the site plan. Site plans shall also be prepared in accordance with the provisions of the Public Facilities Manual and shall be submitted in metric measurements or the English equivalent to metric measurements; provided, however, that in the event of any discrepancy between the English and metric measurements used to express any standard in this Ordinance, the English measure shall control.

1. Site plans or any portion thereof involving engineering, architecture, landscape architecture or land surveying shall be respectively certified by an engineer, architect, landscape architect or land surveyor authorized by the State to practice as such. Site plans or any portion thereof submitted under the County's Plans Examiner Program pursuant to Chapter 117 of The Code, Expedited Land Development Review, shall include a statement which certifies that the plan or portion thereof has been reviewed and recommended for submission by a Designated Plans Examiner.
2. Site plans shall be prepared to a metric scale of 1:500 or an English scale of one inch equals fifty feet (1"=50') or larger and all lettering shall be not less than 3 mm in height if done in metric or 1/10" in height if done in English measurements. The sheet(s) shall be 24" by 36" and, if prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
3. Location of the site shown on a vicinity map at a scale of not less than one inch equals two thousand feet (1" = 2000') and such information as the names and numbers of adjoining streets, streams and bodies of water, railroads, subdivisions and towns or other landmarks sufficient to clearly identify the location of the property.
4. Every site plan shall show the name and address of the owner and developer, the Magisterial District, County, State, north point, date and scale of drawing, number of sheets and tax map reference. In addition, a blank space, three (3) inches wide and five (5) inches high, shall be reserved for the use of the approving authority.

## FAIRFAX COUNTY ZONING ORDINANCE

5. A boundary survey of the site, with a maximum permissible error of closure within the limit of one (1) in twenty thousand (20,000), related to the Virginia Coordinate System of 1983 (VCS 83 (with appropriate reference frames and necessary velocities)) North Zones. Two (2) adjacent corners or two (2) points on every plan sheet shall be referenced to the VCS 83 with coordinate values shown in feet. If a conversion from meters to feet is necessary, the foot definition used for conversion is the U.S. Survey Foot of 1 ft. = 1200/3937 E+00 meters. Plans may be related to true north or meridian of record for properties located more than 1.24 miles (2.0 kilometers) from one (1) or both of the two (2) nearest VCS 83 monuments, with distance measured along a straight line from each monument to the closest point on the property boundary. Plans referenced to VCS 83 shall be annotated as follows: "The site shown hereon is referenced to the Virginia Coordinate System of 1983 as computed from a field run boundary, and horizontal and vertical control survey that ties this boundary to the Fairfax County Survey Monument (insert number and name of monument and show the combined scale (grid factor multiplied by the elevation factor) or NOAA/NGS Survey Monument (insert Parcel Identification Number and designation) with the combined scale factor (grid factor multiplied by the elevation factor)." If using a GPS Static, Virtual or Continuously Operating Reference System for deriving horizontal and/or vertical control, coordinates must be stated in VCS 83 (with appropriate reference frames and necessary velocities), North Zone, U.S. Survey Foot units, with NGVD 1929 vertical datum and so stated in above format.
6. Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the site and the place of record of the last instrument in the chain of title.
7. A map identifying classification of soil types at a scale of not less than one inch equals five hundred feet (1" = 500'), based upon the County of Fairfax Soils Identification Maps or, if not mapped, based upon soils identified by a professional authorized by the State to provide such information.
8. Horizontal dimensions shown on the site plan in metric shall be shown to the closest one-hundredth (0.01) meter. Survey data shall be shown to the closest one-thousandth (0.001) meter. Horizontal dimensions shown on the site plan in English measurements shall be shown in feet and decimal fractions of a foot accurate to the closest one-hundredth of a foot (.00). All bearings in degrees, minutes and seconds shall be shown to a minimum accuracy of ten (10) seconds.
9. Existing topography with a maximum contour interval of one half (0.5) meter if done in metric and two (2) feet if done in English measurement, except that, where existing ground is on a slope of less than two (2) percent, either one-quarter (0.25) meter or one (1) foot contour or spot elevations shall be provided where necessary, but not more than fifteen (15) meters or fifty (50) feet apart in both directions.
10. Proposed finished grading by contours, supplemented where necessary by spot elevations and in particular at those locations along lot lines where the angle of bulk plane is established.
11. All existing and proposed streets and easements, their names, widths and street route numbers; existing and proposed utilities; watercourses and their names; owners, zoning and present use of all adjoining properties.
12. The proposed location, general use, number of floors, height and the net and gross floor area for each building, to include outside display and storage areas; the proposed floor

ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

**18-104 Forms for Appeals and Applications**

All appeals and applications as provided for in this Ordinance shall be submitted in writing on forms prescribed by the responsible official, body or committee and approved by the County Executive. Each appeal or application shall contain that specific information as may be required by the various provisions of this Ordinance.

**18-105 Filing of Applications**

Every application required under the provisions of this Ordinance shall be filed with the Zoning Administrator. No application shall be accepted unless it is in accordance with the applicable provisions of this Ordinance and no application shall be officially on file with the County unless and until the application and all required accompanying submissions, with the exception of a development plan, conceptual development plan or generalized development plan, as otherwise provided for in this Ordinance, are submitted to and accepted by the Zoning Administrator. Upon acceptance, an application shall be transmitted to the officer, body or agency having jurisdiction to act on the same, and such official shall promptly notify the Zoning Administrator of the action taken on the application.

**18-106 Application and Zoning Compliance Letter Fees**

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Application for a variance

- Increase in maximum fence and/or wall height in residential districts \$435
- Increase in maximum fence and/or wall height in non-residential districts \$2500
- Residential minimum yard variance; modification of location regulations or use limitations for residential accessory structures or uses; modification of grade or increase in building height for single family detached dwellings \$910
- All other variances \$8180

Appeal under Sections 18-204 and 18-301 \$600

Application for a:

Group 1 special permit \$16375

Group 2 special permit \$16375

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Group 3 special permit	
• Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily	\$11025
• Home child care facilities	\$435
• All other uses	\$1100
Group 4 special permit	\$4085
Group 5 special permit	\$16375
Group 6 special permit	
• Riding and boarding stables	\$8180
• All other uses	\$16375
Group 7 special permit	\$16375
Group 8 special permit	
• Temporary portable storage containers approved by the Zoning Administrator	\$0
• All other uses approved by the Zoning Administrator	\$205
• Temporary portable storage containers approved by the BZA	\$0
• All other uses approved by the BZA	\$16375
Group 9 special permit	
• Open air produce stand	\$1810
• Accessory dwelling unit; modification to the limitations on the keeping of animals	\$435
• Increase in fence and/or wall height in any front yard on a single family dwelling lot	\$435
• Increase in fence and/or wall height in any front yard on all other uses	\$2500
• Modification to minimum yard requirements for R-C lots	\$185
• Error in building location; reduction of certain yard requirements on a single family dwelling lot; modification of minimum yard requirements for certain existing structures and uses; certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line; noise barriers on a single residential lot; modification of grade for single family detached dwellings	\$910

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• Reduction of certain yard requirements on all other uses	\$8180
• All other uses	\$16375
Application for a:	
Category 1 special exception	\$16375
Category 2 special exception	\$16375
Category 3 special exception	
• Child care centers, nursery schools and private schools which an enrollment of less than 100 students daily, churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of less than 100 students daily and independent living facilities for low income tenants, whether a new application or an amendment to a previously approved and currently valid application, with or without new construction	\$1100
• Home child care facilities	\$435
• Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily	\$11025
• All other uses	\$16375
Category 4 special exception	\$16375
Category 5 special exception	\$16375
Category 6 special exception	
• Reduction of yard requirements for the reconsideration of certain single family detached dwellings that are destroyed by casualty	\$0
• Modification of minimum yard requirements for certain existing structures and uses; modification of grade for single family detached dwellings	\$910
• Modification of shape factor limitations	\$8180
• Waiver of minimum lot width requirements in a residential district	\$8180
• All other uses	\$16375
Extensions and amendments of the above application types:	
• Extension of time for a special permit or special exception pursuant to Sections 8-012 and 9-012	1/8 of prevailing fee
• Amendment to a pending application for a special permit,	1/10 of

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variance or special exception	prevailing fee
• Amendment to a previously approved and currently valid special permit limited to a change in permittee	\$500 or 1/2 of prevailing fee, whichever is less
• Amendment to a previously approved and current valid special permit, variance or special exception with new construction	Prevailing fee for new application
• Amendment to a previously approved and current valid special permit, variance or special exception with no new construction	1/2 of prevailing fee

**Note:** Additional fees may be required for certain special permit and special exception uses to pay for the cost of regular inspections to determine compliance with performance standards. Such fees shall be established at the time the special permit or special exception application is approved.

When one application is filed by one applicant for two (2) or more special permit uses on the same lot, only one filing fee shall be required. Such fee shall be the highest of the fee required for the individual uses. This shall also apply to an application for two (2) or more special exceptions or two (2) or more variances or a combination of two (2) or more special permits and/or variances filed by one applicant on the same lot.

The fee for an amendment to a pending application for a special permit, variance, or special exception is only applicable when the amendment request results in a substantial revision, as determined by the Zoning Administrator.

2. Application for an amendment to the Zoning Map:

<b>District Requested</b>	<b>Filing Fee</b>
All R Districts	\$27280 plus \$570 per acre
All C, I and Overlay Districts	\$27280 plus \$910 per acre
PRC District	\$27280 plus \$910 per acre
• Application with concurrent filing of a PRC plan	\$27280 plus \$1345 per acre
• PRC plan	\$13640 plus \$435 per acre
• PRC plan concurrent with filing of a special permit and/or special exception	\$16375 plus \$435 per acre
PDH, PDC, PRM and PTC Districts	

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- Application with conceptual development plan \$27280 plus \$910 per acre
- Application with concurrent filing of conceptual and final development plans \$27280 plus \$1345 per acre
- Final development plan \$13640 plus \$435 per acre

Amendments to the above application types:

- Amendment to a pending application for an amendment to the Zoning Map in all Districts \$4545 plus applicable per acre fee for acreage affected by the amendment
- Amendment to a pending application for a final development plan or development plan amendment or PRC plan \$4130
- Amendments to a previously approved proffered condition and/or development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for:
  - Increase in fence and/or wall height on a single family lot; or \$435
  - A reduction of certain yard requirements on a single family lot; or \$910
  - Increase in fence and/or wall height on all other uses; or \$2500
  - A reduction of certain yard requirements on all other uses; or \$8180
  - The addition of or modification to an independent living facility for low income tenants. \$1100
- Amendment to a previously approved proffered condition and/or development plan, final development plan, conceptual development, PRC plan and/or concurrent conceptual/final development plan for all other uses with new construction 1/2 of prevailing fee plus applicable per acre fee for acreage affected by the amendment
- Amendment to a previously approved proffered condition and/or development plan, final development plan, conceptual development, PRC plan and/or concurrent conceptual/final development plan for all other uses with no new construction 1/2 of prevailing fee

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**Note:** For purpose of computing acreage fees, any portion of an acre shall be counted as an acre.

The fee for an amendment to a pending application is only applicable when the amendment request results in a substantial revision, as determined by the Zoning Administrator.

3. Comprehensive sign plan: \$8260  
Amendment to a comprehensive sign plan: \$4130
4. Refund of fees for withdrawal of applications shall be in accordance with the provisions of Sections 112, 208 and 308. There shall be no refund of fees for applications that have been dismissed in accordance with the provisions of Sections 113 and 209.
5. Fees for home occupations, sign permits and site plans shall be as specified in Articles 10, 12 and 17, respectively.
6. Zoning compliance letter:  
Single family: \$ 115 for each lot requested  
All other uses: \$320 for each lot requested
7. Modification to the Affordable Dwelling Unit Program: \$2755
8. Non-Residential Use Permit: \$70
9. Interpretation of approved zoning applications: \$520
10. Public hearing deferrals after public notice has been given under Sect. 110 above and which are related solely to affidavit errors:  
Planning Commission: \$260 plus cost of actual advertising, not to exceed \$1000  
Board of Supervisors: \$260 plus cost of actual advertising, not to exceed \$1000
11. Temporary Family Health Care Structure: \$100

### **18-107 Processing of Applications**

1. Except as qualified by Par. 2 below, all applications and appeals shall, in general, be scheduled and considered in the order in which they are accepted, except that the public hearing date for an application or appeal may be changed by an order of the respective hearing body for a good cause shown. The clerks of the respective hearing bodies shall keep a calendar of cases to be heard in their proper priority.
2. All applications for an amendment to the Zoning Map shall, in general, be scheduled and considered in the order in which the required development plan is submitted. All

ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

**PART 9 18-900 VIOLATIONS, INFRACTIONS, AND PENALTIES**

**18-901 General Provisions**

1. Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance or contrary to any detailed statement or plan approved under the provisions of this Ordinance shall be and the same is hereby declared to be unlawful.
2. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or land in violation of the provisions of this Ordinance shall be subject to the enforcement provisions of this Part.
3. Upon becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator shall serve a notice of such violation on the person committing or permitting the same, which notice shall require such violation to cease within such reasonable time as is specified in such notice. After such notice is sent and such violation is not ceased within such reasonable time as is specified in the notice, then the Zoning Administrator may proceed to remedy the violation as provided in Sections 902, 903 or 904 below. The Zoning Administrator may also revoke a Residential or Non-Residential Use Permit to terminate the violation.

Any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993 shall include a statement informing the recipient that a right to appeal the notice of a zoning violation or a written order within thirty (30) days may exist in accordance with Sect. 15.2-2311 of the Code of Virginia and Part 3 of Article 18 of the Ordinance, except that a written notice of violation or a written order of the Zoning Administrator involving the violations set forth in Par. 2 of Sect. 18-303 above shall include a statement informing the recipient that a right to appeal the notice of violation or written order within ten (10) days may exist. The decision shall be final and unappealable if not appealed within the specified time frames set forth in the notice or written order. The appeal period shall not commence until such statement is given.

4. In addition to the remedies provided in Par. 3 above, the Zoning Administrator may seek the issuance of an inspection warrant, initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance. Such action may also be instituted by any citizen who may be aggrieved or particularly damaged by any violation of any provisions of this Ordinance.

**18-902 Criminal Violations and Penalties**

1. Except as otherwise provided by law, any violation of the provisions of this Ordinance shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1000. Failure to remove or abate a zoning 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 \$1000, and

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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 \$1500.

2. The remedy provided for in this Section shall be in addition to any other remedies provided by law; however, the designation of a particular violation of this Ordinance as an infraction pursuant to Par. 1 of Sect. 903 below shall preclude criminal prosecution or sanctions, except for any infraction also resulting in injury to any person or persons and/or civil penalties that total \$5000 or more.

**18-903      Infractions and Civil Penalties**

1. A violation of the provisions of this Ordinance, except for the posting of signs on public property or public rights-of-way, shall be deemed an infraction and shall be punishable by a civil penalty of \$200 for the first violation; and subsequent violations arising from the same set of operative facts shall be punishable by a civil penalty of \$500 for each separate offense.
2. Each day during which any violation of the provisions under Par. 1 above is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten (10) day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5000.
3. The designation of a particular violation of this Ordinance as an infraction pursuant to Par. 1 above shall be in lieu of criminal sanctions, and such designation shall preclude the prosecution of a violation as a criminal misdemeanor unless such violation results in injury to any person or persons or the civil penalties under Par. 1 above total \$5000 or more for such violation. If the civil penalties for a violation under Par. 1 above total \$5000 or more, the violation may be prosecuted as a criminal misdemeanor.
4. After having served a notice of violation on any person committing or permitting a violation of the Zoning Ordinance provisions under Par. 1 above and if such violation has not ceased within such reasonable time as is specified in such notice, then, upon the approval of the County Attorney, the Zoning Administrator shall cause two (2) copies of a summons to be served upon such person.
5. Such summons shall contain the following information:
  - A. The name and address of the person charged.
  - B. The nature of the infraction and the Ordinance provision(s) being violated.
  - C. The location, date and time that the infraction occurred or was observed.
  - D. The amount of the civil penalty assessed for the infraction.
  - E. The manner, location and time in which the civil penalty may be paid to the County.

## ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

- F. The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
- 6. The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Department of Finance at least seventy-two (72) hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.
- 7. 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. A finding of liability shall not be deemed a criminal conviction for any purpose.
- 8. The remedies provided for in this Section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

### **18-904 Civil Penalty for Demolition, Razing or Moving of Buildings in Historic Overlay Districts**

- 1. When a Building Permit is required, the demolition, razing or moving of a building or structure which is located in a Historic Overlay District without the prior approval of the Architectural Review Board and/or the Board of Supervisors as provided in Sect. 7-204 shall be punishable by a civil penalty.
- 2. Such civil penalty shall not exceed the market value of the property as determined by the assessed value of the property at the time of destruction or removal of the building or structure, and shall include the value of any structure and the value of the real property upon which any such structure was located.
- 3. Enforcement under this Section shall be by bringing an action in the name of the County in Circuit Court by the County Attorney, upon request of the Zoning Administrator, and such action shall be brought against the party or parties deemed responsible for such violation. It shall be the burden of the County to show liability of the violator by a preponderance of the evidence.
- 4. The remedies provided for in this Section are not exclusive and shall be in addition to any other remedies provided by law.

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BOARDS, COMMISSIONS, COMMITTEES

**PART 3 19-300 ARCHITECTURAL REVIEW BOARD**

**19-301 Purpose**

The purpose of the Architectural Review Board shall be to administer the provisions of Part 2 of Article 7 and to advise and assist the Board of Supervisors in its efforts to preserve and protect historic, architectural, and archaeological resources in the County.

**19-302 Authority and Establishment**

The Architectural Review Board is established in accordance with the provisions of this Part 3 of Article 19. The Architectural Review Board heretofore established shall continue as the Architectural Review Board for the purpose of this Ordinance.

The official title of this Board shall be the 'Fairfax County Architectural Review Board' and such body shall also be known by the abbreviation 'ARB'.

**19-303 Membership**

1. The ARB shall be composed of ten (10) voting members who shall be residents of the County with demonstrated knowledge of and interest in the preservation of historical, architectural, archaeological and cultural sites. Members shall be appointed by the Board of Supervisors as follows:
  - A. At least two (2) members shall be certified architects.
  - B. One (1) landscape architect authorized to practice in Virginia.
  - C. One (1) lawyer with membership in the Virginia Bar.
  - D. One (1) archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology as published in 36 CFR Part 61.
  - E. The other members shall be drawn from the ranks of related professional groups such as historians, lawyers, and real estate brokers.
  - F. In addition, there shall be one (1) ex officio and nonvoting member from the Fairfax County History Commission.
2. Members shall be appointed to serve for a term of three (3) years or until their successor has been appointed. Terms shall be staggered with three (3) members appointed every year except that four (4) members shall be appointed every third year. An appointment to fill a vacancy shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.
3. Members shall exempt themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved.

**19-304 Officers**

The officers of the ARB shall be established by majority vote of the entire membership.

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### **19-305 Meetings**

Meetings of the ARB shall be called by the Chairman as needed. Meetings shall be held at a time and place to be designated by the Chairman, and all members shall be notified of such at least five (5) days in advance of the meeting.

A quorum of six (6) members present is required for consideration of any matter, and any action taken shall require the affirmative vote of a majority of the voting membership present.

### **19-306 Records**

The ARB shall keep records of all its proceedings, and such records shall be made available upon request for public inspection.

### **19-307 Powers and Duties**

The ARB shall have the following powers and duties:

1. In a Historic Overlay District, to hear and decide applications for Building Permits and sign permits as provided for in Sect. 7-204.
2. To review and make recommendations on all applications for rezoning, special permit, special exception and variance, and any site plan, subdivision plat, and grading plan in Historic Overlay Districts.
3. To propose, as deemed appropriate, the establishment of additional Historic Overlay Districts and revisions to existing Historic Overlay Districts.
4. To assist and advise the Board of Supervisors, the Planning Commission, and other County departments and agencies in matters involving historically, architecturally, culturally or archaeologically significant sites and buildings such as appropriate land usage, parking facilities, and signs.
5. To advise owners of historic buildings or structures on problems of preservation.
6. To formulate recommendations concerning the establishment of an appropriate system of markers for Historic Overlay Districts and selected historic sites and buildings, including proposals for the installation and care of such markers.
7. To cooperate with and enlist assistance from the Fairfax County History Commission, the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private, in its efforts to preserve, restore, and conserve historic, cultural or archaeological buildings, sites, or areas in the County.
8. To make available to the Fairfax County Library, on request, copies of reports, maps, drawings, and other documents bearing on the historical significance and architectural history of landmarks considered by or brought to the attention of the ARB, and permit copies thereof to be made for permanent keeping in the library's historical collection.

## ORDINANCE STRUCTURE, INTERPRETATIONS AND DEFINITIONS

**HEIGHT, BUILDING:** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten (10) feet distant from the front lot line, or from the GRADE in all other cases. (Reference Illustration 2 in Appendix 2)

**HEIGHT, EFFECTIVE BUILDING:** The vertical distance from that elevation on a lot line where the angle of bulk plane is established to the highest point on any building. (Reference Illustration 1 in Appendix 2)

**HELIPORT:** An area designed to accommodate all phases of operation of helicopters with suitable space and facilities for a terminal, loading, unloading, service and storage of such aircraft, to include facilities for such accessory uses as are commonly associated with an airport terminal.

**HELISTOP:** An area designed to accommodate touch-down and lift-off of helicopters, for the purpose of picking up and discharging passengers or cargo. Such an area shall contain no operation facilities other than one (1) tie down space and such additional facilities as are required by law, ordinance or regulation.

**HISTORIC PROPERTY:** A property that has been determined through the establishment of a Historic Overlay District to be key or pivotal to the historic, architectural or archaeological significance of a Historic Overlay District. For purposes of applying the floodplain regulations contained in Part 9 of Article 2, an HISTORIC PROPERTY shall be based on the HISTORIC STRUCTURE definition contained in Sect. 2-906.

**HOME CHILD CARE FACILITY:** A dwelling or mobile home where twelve (12) or fewer children receive care, protection and supervision during only part of a twenty-four (24) hour day unattended by parent or legal guardian. Such use shall be permitted in accordance with the provisions of Part 1 of Article 10 or Part 3 of Article 8. For purposes of this Ordinance, when such a use is located in a structure other than a dwelling, it shall be deemed a CHILD CARE CENTER.

**HOME PROFESSIONAL OFFICE:** The offices, studios or occupational rooms which are located within the single family detached residence of a duly licensed or certified physician practicing human medicine, chiropractor, osteopath, physical therapist or massage therapist, duly licensed practitioner of behavioral sciences, attorney, civil or professional engineer, accountant, architect, real estate appraiser or broker, insurance agent, or similar professional person.

**HORSE SHOW:** Any aggregation of horses where there occurs the exhibiting, judging, showing or racing of horses.

**HOSPITAL:** Any institution receiving in-patients and rendering medical, surgical or obstetrical care, to include general hospitals and specialized institutions in which care is oriented to cardiac, eye, ear, nose, throat, pediatric, orthopedic, skin and cancer and obstetric cases.

**HOTEL, MOTEL:** A building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile

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court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations for transients on a short-term basis, such as an apartment hotel. A hotel or motel may contain one or more eating establishments as a subordinate use, provided that such establishment is located within the principal hotel/motel structure, and meeting rooms and/or conference facilities.

**HOUSING UNIT, MODERATELY-PRICED:** See MODERATELY-PRICED HOUSING UNIT.

**IMPACT:** See definitions under VIBRATION.

**INDEPENDENT LIVING FACILITY:** A residential development that is primarily limited to occupancy by elderly persons and/or by persons with handicaps (disabilities), as defined in the Federal Fair Housing Amendments Act of 1988. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

**INDUSTRIAL/FLEX:** Any structure occupied by two (2) or more of the following uses: contractor's offices and shops; establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products; warehousing establishments; wholesale trade establishments; and offices; provided however that the combined area of all office, both as a principal use and as an accessory use, shall not exceed thirty-five (35) percent of the total gross floor area of the structure. For the purpose of this Ordinance, when any of the above uses are permitted by right in the applicable zoning district, such uses may be combined within a single structure in accordance with the provisions of that district, and shall not be deemed INDUSTRIAL/FLEX.

**INDUSTRIAL PARK:** A planned coordinated development of a tract of land with two (2) or more separate industrial buildings that contain a combined total of at least 50,000 square feet of gross floor area and are occupied by not less than five (5) different tenants. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation and open space.

**INFRACTION:** Any violation of this Ordinance which has been declared an infraction pursuant to Par. 1 of Sect. 18-903. For purposes of this Ordinance, an 'infraction' is a civil offense, and an admission of guilt or a finding of guilt thereof is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

**INSTITUTION OF HIGHER LEARNING:** For the purpose of this Ordinance, an institution of higher learning shall be deemed to include a proprietary school that is approved, licensed, and bonded by the Proprietary School Service Office of the State Department of Education.

**INTERPRETATION OF APPROVED ZONING APPLICATIONS:** A determination made by the Zoning Administrator or agent that a proposed minor modification to a zoning application approved by the Board of Supervisors, the Planning Commission or the Board of Zoning Appeals is in substantial conformance with the approved zoning. Such determinations are

## ORDINANCE STRUCTURE, INTERPRETATIONS AND DEFINITIONS

though followed by the word 'or parts thereof'. For purposes of applying the floodplain regulations contained in Part 9 of Article 2, a STRUCTURE shall be based on the definition contained in Sect. 2-906.

**STRUCTURAL ALTERATION:** A change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

**SUBDIVIDER:** Any person who subdivides land pursuant to Chapter 101 of The Code, The Subdivision Ordinance.

**SUBDIVISION:** The land subdivided as defined in Chapter 101 of The Code, The Subdivision Ordinance, and when appropriate to the context, the process of subdividing or resubdividing.

- **SUBDIVISION, CLUSTER:** An alternate means of subdividing a lot in the R-C through R-4 Districts premised on the concept of reducing lot size requirements for the provision of common open space within the development, all in accordance with the provisions of Sections 2-421 and 9-615 as applicable.

- **SUBDIVISION, CONVENTIONAL:** The subdivision of a lot in the R-E through R-4 Districts in accordance with the lot size requirements and bulk regulations specified in the district regulations.

**SUBSTANTIAL CONFORMANCE:** Substantial conformance shall be as determined by the Zoning Administrator upon consideration of the record and shall mean that conformance which leaves a reasonable margin for minor modification provided that:

- such modification is consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved special permit plat, special exception plat, conceptual development plan, final development plan, development plan, or proffered generalized development plan;

- such modification is consistent with any proffered or imposed conditions that govern development of the site; and,

- such modification is in accordance with the requirements of this Ordinance.

**SUPER-REGIONAL SHOPPING CENTER:** Notwithstanding the provisions of Part 9 of Article 4, a super-regional shopping center is a group of commercial enterprises offering a range of retail commercial goods and services in an aggregate of 1,400,000 square feet or more of gross floor area which (a) are designed as a single commercial group, whether or not located on the same lot; (b) are under one common ownership or management, or having one common arrangement for the maintenance of the grounds; (c) are connected by party walls, partitions, covered canopies or other structural members to form one continuous structure; (d) share a common parking area; and (e) otherwise present the appearance of one continuous commercial area.

**SURVEYOR:** See LAND SURVEYOR.

**TELECOMMUNICATION:** A process that permits the passage of information from a sender to one or more receivers in a usable form, such as printed copy, fixed or moving pictures, and

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visible or audible signals, by means of any electromagnetic system, such as electrical transmission by wire or radio. This includes such uses as telegraphy and telephone.

**TELECOMMUNICATION CENTRAL OFFICE:** A switching center for interconnecting the lines which terminate therein. Also called a telephone or telegraph exchange or a telephone dial center.

**TEMPORARY FAMILY HEALTH CARE STRUCTURE:** A transportable residential structure that is permitted by Sect. 15.2-2292.1 of the *Code of Virginia*, is primarily assembled at a location other than its site of installation, is accessory to a single family detached dwelling, and provides an environment that facilitates a caregiver's provision of care for a mentally or physically impaired person.

**TEMPORARY PORTABLE STORAGE CONTAINER:** A purpose-built, fully enclosed, box-like container with signage on one or more of its outer surfaces that is designed for temporary storage of household goods and/or equipment. Such containers are uniquely designed for ease of loading to and from a transport vehicle.

**THEATRE:** A building or structure designed for the enactment of dramatic performances and/or showing of motion pictures. For the purpose of this Ordinance, a dinner theatre shall be deemed an EATING ESTABLISHMENT, and a drive-in motion picture theatre and an adult mini motion picture theatre shall be deemed separate and distinct uses.

**TRANSMISSION PIPELINE:** A transmission line that transports gas as defined in the Code of Federal Regulations, Title 49, Sect. 192.3 and/or pipelines used for transportation of hazardous liquids as defined in Code of Federal Regulations, Title 49, Sect. 195.2.

**TRANSMISSION TOWER:** A lattice-type structure, guyed or self-supporting, used to support antennas or other utility equipment. Also called a communications tower, radio tower or utility tower.

**TRAVEL LANE:** See STREET, TRAVEL LANE.

**TRAVEL TRAILER:** A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification 'Travel Trailer' thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed 4500 pounds, or being of any weight provided its overall length does not exceed twenty-nine (29) feet. For the purpose of this Ordinance, a travel trailer shall not be deemed a MOBILE HOME.

**TREE:** Any self-supporting woody plant which visually produces one main trunk, and a more or less distinct and elevated head with many branches that typically reach at least fifteen (15) feet in maturity.

**TREE CONSERVATION:** Tree conservation incorporates both tree preservation and tree planting efforts and as required by Chapter 122 of the Code and the Public Facilities Manual.

**TRUCK RENTAL ESTABLISHMENT:** Building and premises for the rental and ancillary minor servicing of truck, utility trailers and related items generally used by persons to move their personal and household belongings. Such trucks and trailers shall be limited to those vehicles which have only two (2) axles, which have a maximum box length of seventeen (17) feet, are no